OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997

(INCLUDING IMMIGRATION REFORM)

Volumes 1-3

H.R. 3610

PUBLIC LAW 104-208
104TH CONGRESS

REPORTS, BILLS, DEBATES, AND ACT

Social Security Administration

Office of the Deputy Commissioner for Legislation and Congressional Affairs

PREFACE

This 3-volume compilation contains historical documents pertaining to P.L. 104-208, the "Omnibus Consolidated Appropriations Act of 1997." The books contain congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

- Differing versions of key bills
- Committee reports
- Excerpts from the Congressional Record
- The Public Law

This history is prepared by the Office of the Deputy Commissioner for Legislation and Congressional Affairs and is designed to serve as a helpful resource tool for those charged with interpreting laws administered by the Social Security Administration.

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3. Legislative Bulletin No. 104-21 (SSA/ODCLCA), House Passes Immigration Reform Legislation--March 29, 1996

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IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, the clerk will report calendar No. 361, S. 1664.

The assistant legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship

or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The acting majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that no amendment relative to the minimum wage be in order to the immigration bill during today's session of the Senate.

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

Mr. LOTT. I yield the floor, Mr. President.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to thank the chairman of the Judiciary Committee, Senator HATCH, for his superb work in this area. I have not always agreed with my good friend from Utah with regard to immigration issues, legal and illegal. And I say, too, to his fine staff after some early misunderstandings, they have certainly been excellent to work with. I appreciate that. To Senator Strom THURMOND who was chairman when I started this rather unique work, always helpful, always supportive, always there; to my old friend companion and colleague from Massachusetts, Senator KENNEDY, who served as chairman of the committee when I came here in 1979, who then served as the ranking member, then as chairman, then as ranking member, and it certainly is much more fun having him as ranking member than as chairman! I have thoroughly enjoyed the experience and have the greatest regard personally for him. We have worked together on these issues doggedly and persistently for 17 years.

It is a case of, in some ways, new players on an old field of battle. During my 17½ years in the Senate, I have literally spent weeks on the floor of this historic Chamber debating immigration reform legislation. Whether it was legislation to provide legalization for long-term illegals or to prohibit the knowing employment of undocumented workers, legislation I sponsored and which this body debated in the mid-eighties, or whether it was legislation Senator KENNEDY and I sponsored to increase immigration by nearly 40 percent in 1990, it has always been a terribly difficult issue for all the Members of this body. We know that no matter how we vote on immigration issues, we are going to assuredly upset and create anguish among segments of our constituencies.

But immigration policy is a critically important national issue, and Congress must deal with it. It is not for the States to deal with.

Immigration accounts for 40 percent, or more, of our population growth, which pleases some and distresses others.

Immigrants come here and work hard and they work cheap, which pleases some and distresses others.

Immigrants bring cultural diversity, which pleases some and distresses others.

And that is the nature of the immigration policy debate. Powerful, powerful forces tear at the country.

There are some members of our society who believe immigration is an unalloyed good. They consider it maybe something like good luck; you simply cannot have too much.

Other segments of the population believe that immigration should be severely restricted, if not eliminated altogether. They see America changing in ways that they particularly—to them—do not wish to see.

I deeply believe that immigration is good, it is good for America, but I firmly believe that this is not an eternally inevitable result. It depends upon those of us in the Congress and in the other branches of Government to make it work. Immigration policy must be designed and administered to promote the national interest or it may not have that effect.

So Congress created the U.S. Commission on Immigration Reform in the 1990 act. The Commission was chaired by that remarkable woman, Barbara Jordan, a powerfully articulate and splendid woman of such great good common sense and civility and intelligence.

That Commission is composed of a truly impressive group of immigration experts. Lawrence Fuchs, who was the executive director of the Select Commission on Immigration when I started in this field, along with Senator KENNEDY, Senator Mathias, Senator DeConcini on that select commission. The other names are people who are deeply respected in the United States: Michael Teitelbaum, Richard Estrada, Robert Charles Hill, Nelson Merced, Harold Ezell, Warren Leiden, and Bruce Morrison, a former Congressman.

That Commission had labored for more than 4 years, holding a very large number of hearings and consultations around the United States of America, and issuing two reports—two reports—one on controlling illegal immigration and one on reforming legal immigration.

I have heard some people in the debate and in the country say, "Where did all of these disturbing ideas come from? Where did this issue come from, this discussion about the preference system and this one about chain migration?" and about a verification system, as if it were all some scheme that was presented by some of the fringe elements of American society. Each and every one of the proposals in each and every one of the bills presented has come from or out of the Select Commission on Immigration and Refugee Policy or the Jordan Commission.

They are not disturbing, they are not sinister; they are real. They come from a group of people that I have just described who I think you could surely say are very mainstream Americans. They are from both sides of the issue.

The Commission labored and found that—and I quote—"a properly regulated system of legal immigration is in the national interest of the United States." The Commission also noted, however, that there are negative impacts. It proposed a reduction—a reduction—in the total level of immigration. That is who is suggesting the reduction.

The Jordan Commission strongly recommended that the family immigration visas go to those who are of the highest priority in order to promote a strong and intact "nuclear family." A "nuclear family"—would that we could have a better description than "nuclear family"—but it is the one we think of as the tight-knit family; the spouse and minor children. Surely we want to be certain that we unite those people, but that we also have measures adopted to ensure that family reunification does not create financial burdens on the taxpayers of this country.

I thoroughly support those findings and recommendations. I have tried to follow them very carefully and very honestly in the legislation that I have sponsored.

Regarding the issue of control of illegal immigration, the Commission reported—and I quote:

> The credibility of immigration policy can be measured by a simple yardstick; people who should get in, do get in—people who should not get in, are kept out—and people who are judged deportable are required to leave.

That seems pretty sensible, pretty darn clear, actually. Pretty Jordan-like, I think.

Mr. President, I am pleased to report that the committee bill will measure up very well by that standard, by that yardstick. S. 1664 will provide additional enforcement personnel and detention facilities. It will authorize a series of pilot projects on systems to verify eligibility to be employed and to receive public assistance. It will also make improvements in both birth certificates and drivers licenses in order to reduce fraud.

The bill will provide additional incentives, additional investigative authority, and heavier penalties for document fraud and alien smuggling. It will streamline exclusion and deportation procedures. It will establish special procedures to expedite the removal of criminal aliens. There are additional enforcement-related provisions. It is a good illegal immigration control bill. I urge my colleagues to support it.

The committee has also reported a legal immigration reform bill which, I regret to say, does not carry out the major recommendations of the Commission on Immigration Reform chaired by Barbara Jordan and does very little to address the problems and weaknesses in our present legal immigration policy. There might have been some great expectations of that at one time.

I am reminded of a story of my good friend Senator HOWELL HEFLIN, who is certainly wont to tell a story or two from time to time, especially the "Notie" Hawkins variety stories and others that I am sure we have all heard from time to time and that we never tire of. At least I do not. So one has to give credit when you have heard and retell a good story, but you only do that once. The second time you just do not say anything. And the third time you claim it for yourself.

So the story is that this attractive elderly couple, both of whose spouses had passed away, were on a long airline flight together, very long. They were sitting there enjoying visiting with each other. They were in their late seventies. They talked about their children and grandchildren and their interests and things that excited and spurred them both on to a full life. And they had dinner, and they visited some more. And after a highly convivial evening and long flight, they landed. The lady reached over and patted the gentleman on the knee and said, "You know, it has been wonderful. You remind me of my third husband." And he said, "How many have you had?" She replied sweetly, "Two." You can think about that one when you get home. But that is called great expectations.

That is what was there with regard to legal immigration reform, at least in accordance with what Barbara Jordan and her commission had reported to us.

Yet what we have here is something that will not solve our problems with regard to legal immigration. These are the most vexing and the most troubling results. These deficiencies are the ones that give rise to proposition 187, ladies and gentlemen. These are the omissions that will see proposition 187's come to life in every single State in the Union unless we "do something" at the Federal level. We are doing very little in the area of legal immigration and badly need changes there.

Then you want to observe the various proposals passed either incrementally or on immigration reform measures which allow States to deny or impose charges for elementary and secondary public education for illegal alien students. These will also be part of a very vexatious debate. Do we continue to give support to the illegal community and deny it to the American citizen community? That will be a good test. If you want to be sure that we provide various things to mothers who are here illegally, then where is the money coming from that offsets that? Who is paying for that? If you want to relieve in a compassionate way a sponsor from having to pay for the person they bring over here and we sometimes say we cannot do that—heavens no, for the fellow cannot afford that.

But, you see, ladies and gentlemen, you have to remember that you cannot bring an immigrant legally to the United States unless the sponsor agrees, and also the immigrant, that they will not become "a public charge." That has been on our books since 1882—1882.

This bill, these bills, tighten that singular requirement in an excellent way. We do say now that the affidavit of support has teeth and, indeed it does. That is a very excellent step. What we find in at least half a dozen or more States of our Union —and yet we just cannot say that is for six States alone to deal with; or that we do not need to do a national bill; no, that would be a true flight from reality. In half a dozen or more States, current high levels of immigration are perceived as causing, rightly or wrongly, some very serious social and governmental problems.

Do they take more out than they put in? Do they leave more in than they take out? Well, it depends on what side you are on. Do they pull their share? Do they really take the jobs Americans do not want, or with millions lesser employed in the United States, and having done a welfare reform bill, will there not be many people looking for work—all questions that will never go away, ever.

We are informed that in the California public school system subjects are taught in 100 different foreign languages. California must construct a new school building every day to keep up with immigrant student enrollment. It is not only illegal immigration, which is about 300,000 entries a year, but also our historically high level of legal immigration, about 1 million a year in the current years, that have given credence and impetus to the widespread view that immigration is out of control—perhaps even more tragically, beyond our control.

I do sincerely believe that if Congress fails to act to address these very real and reasonable concerns of the American people, there is a very strong possibility—and we have all been warned about this by the select commission, and by the Jordan Commission—we will lose our traditionally generous immigration policy. The American people will demand a halt to all immigration. They will not stand still for the Congress-knows-best approach, as some would have us take this route on this burning issue.

For these and other reasons, I will, at an appropriate time, offer an amendment to provide a modest, temporary reduction in legal immigration. It matters not one whit to me what the vote is on that, but we will vote on that issue. It will attempt to reduce immigration to a level approximately 10 percent below current level and hold it at that level for 5 years—a breathing space, if you will. For the first time in more than 50 years, there will be no increase in legal immigration over a 5-year period. At the end of the 5 years, the numbers and the priority system will return to exactly what they are under the present law—no change, back to business as usual.

During this 5-year breathing space, the visas will go first to the closest of family members of citizens of the United States of America. They will go first to citizens. Then they will go to the closest family members of permanent resident aliens, and then to other immigrants. Any that remain will fall down logically to the lowest priority of family immigrants. We can expect many amendments and several days of debate and much disagreement, but despite the emotion, fear, guilt, and racism that is involved in the immigration issue, we have always—historically, at least—had a good, clean, honest, civil debate on immigration in this body. I trust it will be no different this week.

Republicans will disagree among themselves, I can assure you. Democrats will disagree among themselves, I assure you. I will have serious disagreements with my friend TED KENNEDY, and my friend, Senator SPENCER ABRAHAM of Michigan, who is a fine addition to this body and adds greatly to the debate of this issue. This is not and never should be and never has been a partisan issue. Anyone taking it to that level is making a serious mistake. You will find that in the rollcall votes. There is no partisanship involved in immigration reform.

I want to commend the new members of the Judiciary Committee and the subcommittee of both parties, Senators KYL, FEINSTEIN, ABRAHAM, DEWINE, FEINGOLD, and THOMPSON. They bring a special vigor, intelligence, energy, and passion to the game. I like that.

Just a couple of things, and then we will go forward and proceed with our work. I want everyone to be aware of the usual fare that will be presented as the menu is spread before the Senate in this debate. First, the Statue of Liberty—that will always be a rather thorough, impressive, rich debate, but we are not talking about the Statue of Liberty, because the words of Emma Lazarus, do not say on the base, "Send us everybody you have, legally or illegally." That is not what it says. We hear that. I hope the American people can hear that one and remember that we are seeing in this country groups of people who are in enclaves where they never learn or speak any other language. They are in New York, they are in San Francisco, they are in Los Angeles. We read about those things daily. That will not be improved by doing nothing.

Then we will hear—this is always a rich tapestry in itself—that we are all children and grandchildren of immigrants. We will all hear that. I can tell my story and everybody in this Chamber can tell theirs. We are not talking about that. We are not talking about populating a country and settling the West. We are talking about people in the United States who are brooding about illegals in their midst and show it in every poll, and then show it at the polls.

We had a man running for the Presidency of the United States who, perhaps if he were in the race, would pick

up 17 to 20 percent of the vote based on a lashing out about immigration or a move toward xenophobia, just as has happened in Germany, with a person receiving 17 to 20 percent of the vote, or in France, with another man with such views garnering 17 percent to 20 percent of the vote. Those things are out there. There is no question about them being out there.

My grandfather came here from Holland. His parents died at the age of 6. He was orphaned. He was a ragamuffin in the streets of Chicago with a tin cup, as far as I can find. Every one of us can tell that kind of story. Then he went to work as a clerk for the railroad, and he went west. Horace Greeley was right, "Go West, young man." He did. He not only ended up working on the railroad, he ended up running and owning a coal mine in a little town named Kooi, WY—named after him. He was, in every sense, an American success. He died a very happy man after giving birth to my mother, and assuring the wonderful heritage I have. We can all tell those stories, and we can go on to the Irish relatives, the German relatives. All of us can tell these stories—the stories of persecution, the stories of horror, the stories of pogroms. Those are real. Those are stories of inspiration of which we can take—I think we shall call "judicial notice."

One other thing we should take judicial notice of, we are the most generous country on Earth. I have heard the phrase, "why, why would we turn inward? What are we doing?" What is American about that? Mr. President, we take more refugees in than all the rest of the world combined. We take in more immigrants than all of the rest of the world combined—combined. All immigrants, refugees, the whole spectrum.

Then we will see on the menu, passionate words about some national ID card, which has never escaped the menu, as far as I have ever known in my 17 years here. Some have played that card with a better look at a poker hand than any I can remember. I remember particularly a Congressman from California who was certainly vigorous in his pursuit of his feelings and the depth of his internalization of that. We have never talked about a national ID card in the entire time I have been working on this issue. I have put it in every single bill, that there would not be a national ID card, under no circumstances. Yet, I still hear it bandied about.

In fact, one group of worthies has even spread a curious little packet about which describes the Smith-Simpson bar code tattoo, which is certainly a grisly looking thing. But that chap must, I think, keep his day job, for he has wasted a lot of energy to try to put that kind of tilt on what we are trying to do.

We all know why employer sanctions did not work in the 1986 bill. Employer sanctions did not work because so many engaged into a cottage industry of making phony documents. We have employer sanctions but we did not want to put the burden on the employer. So we said, whatever document you are shown, the employer, cannot be responsible for the validity of it. So they just took them. I always love to explain my own here because it costs 100 bucks. We picked it up on the streets of Los Angeles. ALAN KOOI SIMPSON, Turlock, CA, a very distinguished person of less than hirsute appearance reflected here on the card. And here is my phony Social Security card. I do not know what other poor soul shares the same number with me—maybe none. But that is why nothing worked. That is why, in this bill, something will work.

I think we will keep those provisions—I hope so—because we are not talking about national tattoos. We are not talking about Nazi Germany. We are not talking about an error-filled national data base. We are not talking about a mess of an administration in some other agency of the Government. We are talking about "doing something" about illegal immigration. And the oddest thing to me is that the people who seem to really want to do something to illegal, undocumented people—other than thumb screws or the rack—as I often hear them speak, have failed to realize that the one thing you can do that does work and is humane is a more secure counterfeit-resistant card, or verification, or something like a telephone verification, where you slide it through some kind of electronic device, some type of computer link, or similar process. All of that can be studied under this bill in the form of pilot programs.

I will try to make an amendment that those pilot programs not simply be authorized, but that six or seven of them be required to be looked at, and then "of course" a vote before they would ever go into effect. We cannot get there without this. You cannot do something with illegal immigration and moan and whine and shriek about it day and night and not do something appropriate with some kind of counterfeit-resistant, tamper-resistant card, and also doing something with impostors who use the card and those who are gaming the system. That, I hope, will become a very clear fact of this debate.

And then I hope we do not hear too much about the "slippery slope," because I have not seen any editorials about the fact that when you go to drop your bags at the airport, somebody asks you for a picture ID. It is not even an agent of anybody, I would guess, except the airline. But I have not seen any editorials that that is the first step, the first slide down the slippery slope toward a national ID. So it is with the American public—at least in airline travel. I do not know what it is on the bus lines, but I have a hunch that not many people here ride the bus lines. Maybe they do, but I wonder if they ask that there. If they do or if they do not, is that the first step? Is that the slippery slope toward a national ID? I think people choose to hear only what they will with regard to that.

Finally, we will hear about placing the burden on the employers. Why the argument, "Are we doing this to the employers of America? How can we do this and make them the watchdogs of America and make them do the work of a failed Federal Government?" Fascinating. Without employers, we would have no ability to administer the Internal Revenue resources, because the employer gathers up the withholding tax. I have not seen any editorials on that as to the burden on employers.

And now it is curious to me that I also saw an editorial the other day that said that what will happen if the bill is passed is that the American employers will find out they will have to ask somebody whether they are authorized to work. I tell you, that editorial writer has to have drilling rock instead of brain, because that one is on the books already. Since the 1986 bill, you have had to present to the employer the fact that you had an I-9, which is a one-page form authorizing you to work in the United States of America. It has been on the books now for 9 years. Did anybody miss that? I think not.

So you are going to find that that is exactly what employers already have been doing. We are trying to say—and I hope we can get this in; we will see—that if we go to a pilot program and the Attorney General finds that it is accurate and it works, and it is reliable, you will then not need to do the I-9. Skip it right there. Throw it out. But employers are the core of anything we can do with regard to immigration. We are trying to lessen the burden on employers.

The occupant of the chair cited to me a case of an employer in Alaska several years ago who asked the person in front of him for additional documents and therefore was charged with discrimination. We have corrected that completely. Not only that, we do not let them ask for 29 different documents. We have it down to six. And we say there has to be an intent to discriminate before you get nailed for it simply by asking someone for an additional document. And remember—I hope you can hear this in the clatter of the debate—that whatever we do in the way of the identifier, or more secure system, or whatever it is, will be used only twice in the course of human life—when you get a job, or when you go on some kind of public assistance, period. Whatever we have will not be carried on the person, will not be used for law enforcement, will not be any part of any other nefarious Big Brother scheme. That gets lost in the process along with so much that gets lost in the process. What we are trying to do is relieve the burden on employers. We think we can do that.

Then we do something with birth certificates. I hope we can retain that. I

think we have a good amendment which will offset the cost of that so we do not make that an unfunded mandate, because the birth certificate is the breeder document of the first order. You get the birth certificate and, with that, you go on to get the driver's license. Social Security card. You can check the obituary columns and find out the death and go get the birth certificate. These things must be corrected.

Legal immigration reform is certainly not the most popular cause that I have been involved in in my 17½ years, yet I have often been involved in such causes. What we are trying to do there is simply stop the phenomenon of chain migration. Chain migration is rather simple as you define it. There is a preference system. Remember that if you are a U.S. citizen, you can bring in your spouse and minor children, and they are not any part of a quota system. Yet they are computed in the entire scope of how many come to the United States. And then you can bring in adult, unmarried children. And also adult, married children. And then we have minor children and spouses of permanent resident aliens. Then we have brothers and sisters of U.S. citizens.

What we are saying is let us take in the spouses and minor children first, and not let somebody bring in on a single-person petition 30, 40, 50, 60, or 70 relatives—all from one U.S. citizen. That is called "chain migration."

I commend the Jordan Commission report to those of you who wish to read about that phenomenon, and see whether you would "join in" in doing something about that.

As I say, it is not a partisan issue. None of these tough ones will be partisan issues. I am sure the Democrats will caucus, and the Republicans will caucus, and we will pound each other around, and at the end of it we will realize that it is the Nation's business, and that it is always very difficult.

But one thing I want to make very clear. I note that since I will be exiting the Chamber at the end of this year, some will speak of this as "SIMPSON's swan song." This bird has never looked like a swan—neither me nor the legislation. It is about a corollary of legislative activity that my friend from Massachusetts has learned well through the years. Any time you look obsessed about a piece of legislation, you are history. I can tell you that. Yet we have come further in these two bills than we have in 10 years. There are people on my side in this one who, if I had said those things 10 years ago, or 5, they would have run me out of town on a rail.

So we have some good things there. But I can assure you of this: Win, lose, or draw, up or down, I did not come here simply to have my name attached to immigration legislation. That is about the biggest political loser in the history of man. It never helped me get a single vote in three races for the U.S. Senate. In fact, people said, "What are you doing? What are you up to? Forget it. It does not affect us."

But it does fall upon those of us from the smaller States and districts, from areas such as Senator McCarran of Nevada, and Representative Walters of the 16th District of Pennsylvania, or Senator SIMPSON, and Mazzoli of Kentucky. The KENNEDYs of this body cannot handle this issue; the FEINSTEINs of this body cannot handle this issue; the Wilsons—when he was here—cannot handle this issue because their constituents will not allow them to do it. Yet this is one issue, one burning issue, that will not go away.

So be assured that your angular, western representative will not be chagrined in any sense with whatever this eventually looks like. But we are surely going to have a good debate. We are going to throw it all in there, get it mashed around. And if I come up with a vote of 92 to 8 on the losing side, that is fine with me. But we are going to have a vote, and we are going to have a debate. We are going to talk about things that the American public is talking about. And that is, "What are you going to do about illegal immigration so that our social systems are not overwhelmed?" And answer their question, "You told us the first duty of a sovereign nation was to control its borders, and you did not do it. Why? You told us that you would do things in the national interest, and you did not do it. Why?" And also watch what they do for themselves. People from States that do not have any real tough immigration problems at all are thinking about proposition 187 type laws. And that is disturbing.

So I hope that we pay careful attention, have a good, rich debate, and not think of swans but maybe of turkeys, or of eagles, because there is a little of each of them in all of this. There are some soaring like-eagle parts in this. And there are some things that do not match any kind of other bird activity.

But this is one that will not go away. It seems to me it is best that we address it while we are all here and in a knowledgeable, civil way, and I look forward to the debate. I look forward particularly to working with newer members of the committee, the subcommittee, and with my friend, TED KENNEDY.

I think it was either Henry James or William James who said, "To do a thing be at it." And we are at it. It is an election year. But anyone who wants to use this one for pure partisan political advantage is making a most serious mistake, it is much bigger than that.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that legislative fellows Tom Perez, Bill Fleming, and Liz Schultz be granted floor privileges during the debate on the immigration bill.

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

Mr. SIMPSON. Mr. President, I ask unanimous consent that John Ratigan be granted floor privileges during the pendency of S. 1664.

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

Mr. KENNEDY. Mr. President, I would be glad to yield for a moment to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3667

(Purpose: To express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget)

Mr. DORGAN. Mr. President, first of all, I understand the Senator from Massachusetts wishes to give an opening statement. I appreciate his indulgence. My son is having a birthday party in about 20 minutes. I promised I was going to be there, and I intend to keep that promise.

I wish to offer a sense-of-the-Senate resolution and want to do that. But before I do that, if the Senator from Massachusetts would indulge me for about 3 minutes, let me say that the Senator from Wyoming has done extraordinary work in the Congress over these years. The Senator from Wyoming mentioned SIMPSON and Mazzoli. He is talking about himself, ALAN SIMPSON, and Romano Mazzoli, with whom I worked in the House of Representatives. They have left their mark on immigration and will again with this legislation. Much of what the Senator from Wyoming has done with respect to illegal immigration is going to be very, very important, and I commend him for his work.

We will have, of course, difficult amendments. But we will work through those. And I hope at the end of the day we will pass some legislation that moves in this direction that will be good for this country.

Now that I have said nice things about the Senator from Wyoming, he will probably now be upset with me for offering a sense-of-the-Senate amendment. But let me tell him that I will certainly agree to a time limit that is very short. I expect tomorrow we will have a vote on this.

The only reason I am constrained to offer this on behalf of myself, Senator DASCHLE, Senator REID, Senator HOLLINGS, Senator FORD, Senator CONRAD, and Senator FEINGOLD is because this will be the only opportunity to do so prior to the majority leader bringing up a constitutional amendment to balance the budget.

The majority leader has announced that he intends to take up his motion to reconsider the vote by which the balanced budget amendment was defeated. Some have said he will do it this week; if not this week, perhaps next week. Under the rules, there will

be no debate on the balanced budget amendment this time around.

So in order to have the Senate go on record on this issue prior to that, it was required that I offer a sense-of-the-Senate amendment. My amendment is very simple. I will send it to the desk. It simply indicates:

It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Because of the circumstances, there would have been no intervening opportunity to discuss this. I will offer this amendment, ask that it be sent to the desk, and that it be immediately considered by the Senate.

Before the clerk reads it, let me say that I do not intend to hold up the immigration bill, and I intend to agree to any reasonable short time agreement. Understand that this does not relate to the underlying bill, but also understand that this will be the only opportunity prior to a vote that Senator DOLE has already announced to the Senate and the country that he intends to require of us. It will be the only opportunity prior to that time for us to register on this question.

Mr. President, I ask for the immediate consideration of my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD proposes an amendment numbered 3667.

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

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

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.

It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as we begin to consider reforms in our Nation's immigration laws, our thoughts also are with our Immigration Commissioner, Doris Meissner, and her children, Chris and Andy, as they cope with the loss of a husband and father. Chuck Meissner was serving ably as the Assistant Secretary of Commerce and he was on Secretary Brown's plane when it crashed in Croatia just 10 days ago. I know that the thoughts and prayers of all of us in the Senate go out to the Meissner family during this very difficult time.

At the outset of this debate on immigration reform, I commend the chairman of the Immigration Subcommittee, Senator SIMPSON, for his able leadership on this landmark legislation, as well as for his able leadership over many years on the many difficult issues involved in immigration.

Senator SIMPSON has always approached these issues thoughtfully and fairly and with an open mind. He is steadfast in his commitment to what he believes is best for America. And I know that all Senators of both parties join in expressing admiration and appreciation for his efforts.

As we consider immigration reform today, we must be mindful of the important role of immigration in our history and our traditions. Immigrants bring to this country a strong love of freedom, respect for democracy, commitment to family and community, fresh energy and ideas, and a strong desire to become a contributing part of this Nation.

As President Kennedy wrote in 1958 in his book, "A Nation of Immigrants":

There is no part of our nation that has not been touched by our immigrant background. Everywhere immigrants have enriched and strengthened the fabric of American life

Those ideals are widely shared and bipartisan. As President Reagan said in his final speech before leaving the White House:

We lead the world because, unique among nations, we draw our people—our strength—from every country and every corner of the world. . . .

Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.

Across the years, both Republicans and Democrats have been true to these ideals.

Three decades ago, I stood on this floor to manage one of my first bills, which became the Immigration Act of 1965. I believed strongly then, as I do now, that one of the greatest sources of our success as a country is that we are a nation of immigrants. And I remain as convinced today as I was then that immigration under our laws is as beneficial and as needed in America today as it was in 1965 or at any other time in our history.

In 1965, it was clearly time for change in our immigration laws. We eliminated the vestiges of the racist and discriminatory national origins quota system that had denied immigration opportunities to so many for so long based on where they came from.

In the years since then, we have acted several times to strengthen and reform the immigration laws to deal with changing times, changing problems, and changing circumstances.

Congress also passed important reforms in 1986 and 1990. In 1986, the Immigration Reform and Control Act of 1986 set us on the course of removing the job magnet for illegal immigration. That landmark law, sponsored by Senator SIMPSON, made it illegal for the first time for employers to hire illegal immigrants. The reforms that we will consider today build upon that historic change in our immigration laws. And it legalized the status of over 2.7 million undocumented immigrants who had set down roots in America.

The Immigration Act of 1990—which Senator SIMPSON and I sponsored together—was the most sweeping reform of our immigration laws in 66 years. It overhauled our laws regarding legal immigration, the bases for excluding and deporting aliens, and naturalization.

THE CURRENT PROBLEM OF ILLEGAL IMMIGRATION

Today, the paramount problem we face is to deal with the continuing crisis of illegal immigration. As Barbara Jordan reminded us, "We are a country of laws. For our immigration policy to make sense, it is necessary to make distinctions between those who obey the law, and those who violate it." And that's what we must do today.

The Immigration Service estimates that the permanent illegal immigrant population in the United States is now about 4 million, and that the number increases by 300,000 each year. That number is a net figure. The INS estimates that over 2 million illegal immigrants cross our borders each year. About half of them enter legally as tourists or students, but then stay on illegally, long after their visas have expired.

About 1.7 million of the 2 million illegals remain only briefly in this country to work or visit friends and relatives. But 300,000 stay on as part of the remnant illegal alien population.

The illegal immigrants are easily exploited. They tolerate low pay and poor working conditions to avoid being reported to the INS. Their presence depresses the pay and working conditions of many other Americans in the work force. They compete head-to-head in the job market with Americans just entering the work force and with working American families struggling to make ends meet.

Part of the answer to this problem is the increased support in this bill for

border patrols in order to prevent the entry of illegal aliens.

But jobs are far and away the biggest magnet attracting illegal aliens to the United States, and we cannot turn off that magnet at the border. We must do more to deny jobs to those who are in the country unlawfully. The most realistic way to turn off the magnet is contained in the provisions that Senator SIMPSON and I sponsored which require the President to develop new and better ways of identifying those who are eligible to work in the United States.

After 3 years of pilot tests, the President is required to present a plan to Congress for a new approach that will deny jobs to illegal immigrants, will be easy for employers to use, will not cause increased employment discrimination, and will protect the privacy of American citizens.

Our provisions state clearly that this system will not involve a national ID card. And our provision provides added insurance by requiring that any plan the President develops must be approved by Congress before it can go into effect.

REFUGEES AND ASYLUM

A further goal for immigration reform is to provide safe haven for refugees fleeing persecution. We should not place arbitrary caps on the number of refugees we decide to bring to the United States for resettlement. The Immigration Subcommittee chose instead to let this number to continue to be set annually, under the terms of the Refugee Act of 1980, and in cooperation with other governments. I was pleased to join with Senator GRASSLEY in addressing this issue in the subcommittee.

We should also oppose arbitrary limits on how long those fleeing persecution can wait before applying for asylum after they enter the United States. The Immigration and Naturalization Service has already made dramatic progress in addressing the abuses that have plagued our asylum system in recent years. In the past year alone, the number of asylum applications has dropped by 57 percent.

Mr. President, this chart indicates what progress has been made in the very recent years. Going back to 1994: asylum claims, 120,000; the completed cases, 60,000.

This year, in 1995, INS received 53,000 new asylum claims and completed 126,000 cases. This is as a result of a variety of different, very constructive actions that have been taken by the INS.

The blue line represents those completed cases. The red lines represent the new claims. So, clearly we see the asylum claims decline by 57 percent as productivity doubles in 1995. Clearly we are making important progress in this area. It has been as a result of a great deal of time consuming, exacting, hard work that has been initiated by the INS. Enormous progress has been made.

We will hear this issue debated. It seems to me we are on the right track already with the INS reforms, and the kinds of suggestions that have been included in the current legislation should give many of us pause.

I commend, in particular, Senator DEWINE, who made a strong case that a 30-day asylum application deadline, originally proposed in the legislation, would exclude those who face the gravest persecution. They are the ones who take many months to organize their affairs, contact an attorney, and gain the confidence to approach the INS with their painful and tragic stories. I believe the 1-year deadline adopted by the committee is a reasonable way to accommodate such humanitarian cases.

The bottom line is that the cases where there appears to be the greatest validity of the persecution claims—the ones involving individuals whose lives would be endangered by a forced return to their particular countries—are often the most reluctant to come forward. They are individuals who have been, in the most instances, severely persecuted. They have been brutalized by their own governments. They have an inherent reluctance to come forward and to review their own stories before authority figures. Many of them are so traumatized by the kinds of persecution and torture that they have undergone, they are psychologically unprepared to be able to do it. It takes a great deal of time for them to develop any kind of confidence in any kind of legal or judicial system, after what they have been through, and to muster the courage to come forward.

That conclusion has been reached by a number of those who have been studying this particular problem. The initial proposal of requiring that there be action taken within 30 days of the person's arrival in the United States failed to understand what the real problem is—and fails to understand the remarkable progress that INS has made in this particular area.

I remain concerned that the so-called expedited exclusion procedures in the legislation will cause us to turn away true refugees. Under this procedure, when a refugee arrives at a U.S. airport with false documents and requests asylum, that person can be turned away immediately if the INS officer believes the person does not have a credible claim. There is no hearing, no access to counsel, not even a requirement for an interpreter.

If it were not for the courageous efforts of Raoul Wallenberg in providing false documents to Jews fleeing Nazi Germany during World War II, many thousands of persecuted refugees would have had no means of escape. This provision runs the risk of turning away all those whom the Raoul Wallenbergs of the future seek to assist.

All we have to do is review the recent history in El Salvador and Nicaragua, and be reminded of some of the egregious kinds of circumstances have been revealed here in the last week or 10 days by members of the religious community, to understand what the real conditions were. To think that an individual who might be able to get out of that oppressive atmosphere with some false documents, with a very legitimate fear of persecution, and come to the airports of this country and be turned away summarily and sent right back on the next plane, is something that I think deserves reevaluation during the course of this debate.

PUBLIC ASSISTANCE

In addition, the immigration reforms in this bill will reduce access to public assistance by illegal immigrants. Illegal immigrants should have access to assistance only in limited situations, where the public health or similar overriding public interest clearly requires it. For example, they should have emergency medical care, immunization, treatment for infectious diseases. These benefit all, because they relate to the public health and are in the public interest. Where the public interest is not served, we should not provide the public assistance to illegal immigrants.

A main issue, however, is how to deal with public assistance for illegal immigrant children in public schools. In an extraordinarily unwise and inhumane action, Republicans in the House, at the urging of Speaker GINGRICH, voted to give States the option to expel such children from their schools. We all know why illegal immigrants come here. As I have said, the magnet is jobs. It is ludicrous to argue that anyone would uproot their family, pay exorbitant sums to a smuggler to cross the border and risk their lives in the effort, all so their children can attend public schools in the United States.

A study by the Committee on Illegal Aliens during the Ford administration concluded that "the availability of work and the lack of sanctions for hiring illegal aliens is the single most important incentive for migration." That has been the conclusion of the Ford administration, the Jordan Commission, the Hesburgh Select Commission on Immigration and Refugee Policy—all have found that the magnet is jobs. That is what we ought to focus on. That is where we ought to give our attention.

As I indicated, this finding was confirmed by the Hesburgh Commission in 1981, and again more recently by the Jordan Commission, which found that "employment opportunity is commonly viewed as the principal magnet which draws illegal aliens to the United States."

We are making steady progress in finding new and better ways of denying jobs to illegal immigrants. It is a serious mistake, and hypocritical, for Republicans in Congress to oppose or weaken this bill's requirement on employers, who are at the heart of the problem, and then punish innocent children, who are not the problem, by expelling them from school. So, I urge the Senate to reject the Speaker's attempt to make Uncle Sam the bully in the schoolyard.

That kind of policy is not only cold and cruel, it is also shortsighted and counterproductive. It may cost money for those children to attend school. But, if they do not, society will end up paying for it in other ways. Police will have major new crime problems on their hands from children out of school and on the streets and into gangs. Teachers will have to start checking the papers of all pupils, whether they are citizens or not. Before starting school each year, children across America would be required to bring documents to school to prove they are American citizens or legal immigrants.

All across America, teachers will have to learn to distinguish between the new green card and the old invalid ones. They must know what refugee documents, passports and valid Social Security cards look like.

School administrators and police have already spoken strongly against this proposal. They are the ones who must deal with the crime and other social problems that will inevitably develop.

What we are basically doing is requiring our schoolteachers, in many different school districts, to turn into police officers and truant officers. Teachers are there to teach children. They have enough challenges to face every day without adding this burden to them. Now, to put the burden on every one of these schoolteachers to become truant officers, and effectively policemen, is unacceptable public policy.

The case has been made by the law enforcement officials, who say you are either going to pay one way or the other. You are going to pay for the students who are going to the schools or you are going to pay for it in terms of crime and a host of other social problems if they do not go to school.

You can imagine, too, Mr. President, a mother who comes over to this country with a child who is a toddler. She brings the child here, then has a baby here in the United States who is an American citizen. That American citizen child goes to the school and his older brother or sister, who is an illegal immigrant, does not. That child is out on the street. That is a wonderful situation, which we are going to absolutely face in this kind of proposal.

The parents would not leave America just because their children cannot go to school. The parents have no choice. They came here because they could not find work at home and they will not go away as long as they can get away with working here illegally and I urge the Senate to reject any such cruel and mindless attempt to punish the children for the sins of the parents.

CONSIDERING ILLEGAL AND LEGAL IMMIGRATION SEPARATELY

In general, this bill does not address the issues of legal immigration. The Senate Judiciary Committee voted 12 to 6 to consider those issues separately and the House of Representatives voted 238-to-183 to do the same. I expect we will have a vote on legal immigration matters later in the debate. I plan to oppose such a move. We must not allow our rightful concerns about illegal immigration to create an unwarranted backlash against legal immigrants who enter under our laws, play by the rules, raise their families, pay their taxes, and contribute to our communities. Combining these issues in a single bill creates precisely that unacceptable possibility. Addressing these matters separately does not mean deferring legal immigration reforms indefinitely. Reforms are required in legal immigration. It is my hope that we can address them soon, but separately.

SAFETY NET FOR LEGAL IMMIGRANTS

In fact, this bill does contain certain provisions relating to legal immigration, and I voted against the entire bill in the committee because of these provisions. They go too far in denying a safety net to legal immigrants. These legal immigrants enter under our laws, play by the rules, pay taxes, contribute to our communities and also serve in the armed services. They deserve a safety net when they fall on hard times.

The record is very complete, Mr. President, that those who are the legal immigrants do not have a greater dependency in terms of these supportive programs than Americans, with the exception of the SSI Program for the elderly. But in these other areas, I can give as many studies that demonstrate that legal immigrants make greater contributions—in terms of paying taxes, by participating in the community, by payroll taxes, by sales taxes, by all of the other factors—than they absorb from the system. If we need to, we will have an opportunity to examine the various studies when we come to the particular amendments. But I do believe the legal immigrants deserve a safety net when they fall on hard times, and I support the provisions in this bill to make sponsors more accountable for the immigrants that they sponsor.

Senator SIMPSON is right not to ban legal immigrants from any program. Instead, the bill's deeming provisions count the immigrant sponsor's income as part of the immigrant's own income in determining whether the immigrant meets the eligibility guidelines for public assistance. For the first time, however, the deeming provision would be broadened by the bill to apply to every means-tested program.

Under the current law, deeming applies only to SSI, AFDC, and food stamps. But under this bill deeming would apply to scores of other programs including school lunches, homeless shelters, community clinics, and even one of the most important means of protecting the public health, the Medicaid Program. Under this bill, illegal immigrants get emergency Medicaid, immunization, treatment of communicable diseases, disaster assistance, and certain other types of aid—no questions asked. But legal immigrants who come here under our laws and play by the rules can get this assistance only after they go through the complicated deeming process. That gives illegal aliens a benefit that legal immigrants cannot receive. It is unfair, and I intend to offer an amendment to correct this injustice.

I am also concerned with the denial of Medicaid to legal immigrants unless they overcome the deeming hurdle. As a practical matter, deeming means that virtually no legal immigrant will get Medicaid assistance. Experience has shown that deeming is very effective in denying access to public assistance programs. I am particularly concerned that this will hurt children and expectant mothers.

I also believe legal immigrants who have served in our Armed Forces should also have a Medicaid safety net for their families in hard times.

Legal immigrants can join the Armed Forces. We have over 20,000 legal immigrants in the Armed Forces today. That young person, who might not have been able to get into college, comes back from Bosnia and wants to go to college and then makes an application and goes to that college and gets a Pell grant for 1 year—for 1 year. And then that young person graduates. He might have been a 19- or 20-year-old kid that for 1 year took the Pell grant. And as a result of that single action, for the rest of his life, he is subject to deportation—immediate deportation. This could occur even after he had served honorably in the Armed Forces.

There may be a lot of heat about doing something about illegal immigration, Mr. President, but that is one of the most extraordinary positions for this country to take. We have a Volunteer Army, certainly now, but when we did not have a Volunteer Army, we had the draft. Legal immigrants are subject to the draft. Some had gone to Vietnam. A number of them were actually killed. Now we are saying if, at any time in the future, they have any particular need, in order to get a benefit, they are going to have the deeming process for the purposes of that particular program.

That is going to be true with regard to the Stafford loans as well. These are programs that are repaid. These are not considered to be welfare programs. They are education programs. We will come back to that issue later in the discussion. These are matters that need attention and focus and amendments.

FAMILY IMMIGRATION

Our immigration laws must continue to honor the reunification of families. I agree it is necessary and appropriate to reduce the number of legal immigrants coming to the United States each year. Obviously, the door is only partly open now and can fairly be closed a little more without violating the Nation's basic ideals of our immigrant heritage and history.

But in achieving such reductions, we must keep certain fundamental principles in mind. We must continue to reunite families. We must remain committed especially to the reunification of immediate family members. Spouses and minor children and parents should be together.

I also believe our citizens should have the ability to bring their adult brothers and sisters to America. We should act to reduce the troubling backlogs that have kept husbands, wives and children separated for many years.

The Judiciary Committee adopted an amendment, which Senator ABRAHAM and I proposed, to reduce overall legal immigration, to establish new priorities for family-based immigration. Our proposal would make visas available to more distant family members only if the more immediate family categories do not need them. For example, brothers and sisters would not get visas as long as there are backlogs of spouses and children.

In this way, we address the concern raised by many about chain migration, the ability of a citizen to bring in a brother, who in turn brings in his wife and children. Once his wife is a citizen, she can then bring in her parents and other family members, and there is an endless chain of immigration. We ought to address that issue.

We believe the amendment that was accepted by the Judiciary Committee recognizes the important recommendations by the Jordan Commission that said give focus and attention to the immediate families. We have done that. We have defined that in a way that we think also includes clearing up of the backlog before there can be any consideration of reunification by the brothers and sisters.

The Kennedy-Abraham proposal solves the problem of family categories that create these chains. These are categories that Senator SIMPSON proposed for total elimination. Our proposal says that these categories remain, but they get visas only if the closer family categories do not need them. And our proposal reduces the level of legal immigration below current law.

After the committee's adoption of the Kennedy-Abraham amendment, the Immigration and Naturalization Service released higher projections of the number of family immigrants expected to enter this country over the next few years. Even under these new projections, our amendment reduces the total immigration below current law. However, we will modify our proposal to provide added insurance that it does fall below the current law.

Mr. President, some in this debate will praise the contributions of immigrants with one breath and then propose to slash family immigration in the next breath.

They say, "We want your skills and ingenuity, but leave your brothers and sisters behind. We want your commitment to freedom and democracy, but not your mother. We want you to help us rebuild our inner cities and cure diseases, but we do not want your grandchildren. We want your family values, but not your families." I urge the Senate to reject this hypocrisy and treat immigrant families fairly.

DIVERSITY IMMIGRATION

Mr. President, reforms in legal immigration also must retain the diversity program established in the Immigration Act of 1990. This small but important program provides visas to countries that have low immigration to the United States and are shortchanged by our immigration laws. A number of countries made good use of this program in the past 6 years. These countries otherwise would have little or no immigration to the United States, such as Poland, South Africa, and Ireland. The Judiciary Committee agreed to retain the program, but reduced the number of visas available each year from 55,000 to 27,000.

PROTECTING AMERICAN WORKERS

Increasingly, Mr. President, in recent years we have come to realize that our immigration laws do not adequately protect working families in America. Reforms are urgently needed here. I intend to offer them at the appropriate time. In spite of the net creation of more than 8 million new jobs in the economy over the past 3 years, and in spite of continued low unemployment and inflation, and in spite of steady economic growth—job dislocations and stagnant family income are leaving millions of American working families anxious and unsettled about their future.

Since 1973, real family income has fallen 60 percent for all Americans. More than 9 million workers permanently lost their jobs from 1991 to 1993. Even as new jobs are created, other jobs have been steadily disappearing at the rate of about 3 million a year since 1992.

In the defense sector alone, more than 2 million jobs have been lost since the end of the cold war. About 70 percent of laid-off workers find another job, but only a third end up in equally paying or better jobs. What we are witnessing is a wholesale slide toward the bottom for the American worker. According to Fortune Magazine, the percentage of workers who said their job security was good or very good declined from 75 percent in the early 1980's, to 51 percent in the early 1990's. In a 1994 survey of more than 350,000 American workers, the International Survey Research Corp. found that 44 percent of American workers fear they may be fired or laid off. In 1990, the figure was only 20 percent.

For the first time ever there are more unemployed white-collar workers than blue-collar workers in America. Yet most of the foreign workers who come in today under our immigration laws are for white-collar jobs. With corporate downsizing and outsourcing, a quarter of the American work force is dependent on temporary jobs for a living. Yet under the immigration laws, we admit hundreds of thousands of foreign workers for so-called temporary jobs which are defined in the immigration laws as jobs that can last up to 6 years.

As working families in America try to put food on the table, employers are bringing in hundreds of thousands of foreign workers into good, middle-class jobs. Yet in most cases they are not even required to offer the jobs to Americans first. We understand that they are bringing in the foreign workers from overseas without even the requirement to offer those jobs to Americans first.

As American workers become increasingly concerned about job security and putting their children through college, it is perfectly legal under the immigration laws for employers to lay off qualified American workers and replace them with foreign workers and offer them a lower wage.

A new study released last Friday by the Labor Department's inspector general proves that the current means of protecting American workers under the immigration law simply do not work. Charles Masten, the inspector general, reported to Labor Secretary Reich:

> The programs do not protect U.S. workers' jobs or wages from foreign labor. Moreover, we found [that the] Department of Labor's role under the current program design amounts to little more than a paper shuffle for the program and a rubber stamping of applications. We believe program changes must be made to ensure that U.S. workers' jobs are protected and that their wage levels are not eroded by foreign labor.

The report of the inspector general is astounding. He found that 98.7 percent of workers whom employers are supposedly bringing into the United States are in fact already here. So when employers go through the charade of trying to recruit Americans first, the foreign worker is already here 98 percent of the time. And 74 percent of those foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first. Do we understand that? So 74 percent of the foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first.

Among workers that employers sponsor as immigrants, 10 percent never worked for the sponsoring employer. Once they got their green card, they immediately went to work for someone else. Of those who did actually work for the sponsoring employer, fully one-third left the job within 1 year. In effectively 60 percent of the cases, employers do not even bother to fill the job again once the immigrant leaves. In most cases in which the employer does refill the job, an American is hired 75 percent of the time.

These figures prove that the jobs are offered as a sham to get a particular immigrant a green card once they go through this hocus-pocus. That is a sham. They already have the worker in

place. As I will point out later, only 5 Americans out of 28,000 that have applied for these jobs, if they were basically offered them, have ever gotten the job. So they are filled with foreign workers. There is a reasonable chance that they have fired American workers previously.

Then once those workers are working and have gone through this process, they leave. They leave the employment, and then the employer goes out and gets somebody else. It is basically a sham. It places American workers at an enormous disadvantage. The inspector general says that over the period of his audit, the employment service referred 28,000 U.S. workers for interviews for 10,000 jobs that employers wanted to give to immigrants, and only five U.S. workers got the jobs. That is outrageous. These figures apply to the category of "permanent immigrant workers."

But the inspector general also found rampant abuse of American workers in the temporary worker program. There are two programs, Mr. President. There is the permanent program, where we have the authorization of up to 140,000 of what will be called the best and the brightest. I am going to come back to that. A more modest figure was approved here in 1990, but came out of the conference at the 140,000.

Some of those entering—for example, the Nobel laureate types—really are the best and the brightest. They can come into the United States without any requirement by the employer to recruit U.S. workers first. That is defined currently into law. I support that program.

All other permanent employment-based immigrants have go through the labor certification process—a procedure of reaching out to American workers.

That whole process is a sham. That whole process is a sham. That is what the IG report has pointed out—that 97 percent of the workers are already in their jobs and that they have been working there already for some period of time. Out of 28,000 applications, only 5 Americans got the job. And once the foreign workers get their permanent status, they can then leave because they effectively have their work permit, their green card. They can go for some other job. It is a revolving door. It is a sham in terms of protecting American workers.

The second program is for what is called the temporary workers. Up to 65,000 come in each year, though the number varies from year to year. For those individuals to enter—all we need is an employer to say that this individual has either the equivalent of a college education or 2 years of work experience. They do not have to go out or even go through the process to try to get American workers. Once they are in there, they can be in there for 6 years. That is a temporary job. What happens is they come in on a temporary worker visa. they stay for the 6 years allowed, they want to be here permanently, so they ask their employer, "Look, I've been 6 years in my job. Will you go for one of the permanent ones for me?" The employer says, "OK. I know you have worked for us. I will make that application." Once they get it, they get the green card and go out the door.

That is effectively what is happening. It is a sham protection, something which is absolutely wrong and has to be redressed.

Now, Mr. President, I want to just take a moment of the time of the Senate to really get into where we are on these issues of the permanent work force and the temporary work force. This chart shows the permanent work force, the provision that said we need to open up the work force to let these best and the brightest come on into the United States of America. I remember that debate very clearly here. I believe it was the Senator from Pennsylvania, Senator SPECTER, who offered it at that time as part of the Immigration Act of 1990.

The Department of Labor did surveys of which industry employees could help energize the American economy at that time. Those would be individuals who, when placed in a particular industry, could multiply jobs because they were the best minds, and had special training and ability, and could add that special kind of insight, expertise, knowledge, and creativity to expand employment. It was perceived at that time, according to the National Science Foundation, that we were going to have critical shortages of scientists during that period of time. That is why Congress adopted the 140,000 number.

Now, looking at who has been included under the "Best and the Brightest" under this chart. As this chart reveals, very few are actually the best and brightest—the Nobel Laureate-type or some unique type of academician or expert. These are let in without labor screening.

The rest are let in here through the sham process of requiring employers to recruit U.S. workers first.

We took the time to go and see who these are. It is very interesting who they are: 12.9 percent are cooks; 10 percent are engineers on this chart; professors, 7.3 percent; also includes accountants and auditors, auto repair, tailors, jewelers. The area of "computer-related" is 17.8 percent; 31 percent are all less than 1 percent of those coming in here.

Mr. President, we have seen, as most recently the National Science Foundation has pointed out, the figures of 6 or 8 years ago, having shortages in various skills, they now find did not come about. Today, we have 60,000 qualified unemployed American engineers. Yet about 6,000 foreign engineers came in as immigrants. We have 60,000 Americans who are qualified for that position. They are never given the opportunity to really try for that position.

What is wrong with American workers? What is wrong with those? Nonetheless, we have heard the power of many of the business interests who said, "Do not tamper with that particular provision. Do not tamper with it because it will effectively stop our economy."

Mr. President, we ought to look and see that today under the more recent studies that have been done all indicate that with the exception of that very small group of the best and brightest—that amounts to about 20,000, which includes their families—we really do not need the sham recruitment requirement that is in current law. We certainly ought to establish a way to make sure that we will ask and find out if there are Americans ready, willing, and able to do this job before we bring in the foreign workers.

Now, Mr. President, looking at the other provision, where we talk about the temporary workers—the alleged temporary worker provision; 65,000 can come in each year under the immigration law. This chart gives an idea, in the black, which are the temporary workers, of the salaries they make. Look at the salaries they are making. If you take the two columns together, which is about 85 or 90 percent of all of the workers that come on in here as the temporaries, they are making less than $50,000.

Where are all the geniuses? Where are the Albert Einsteins that keep coming in here? Where are all of these people, when close to 90 percent of them are making less than $50,000? It is only the small numbers that come in up at this level that are the ablest and most gifted, the ones that really provide the impetus in terms of the American economy. They ought to be able to come on in to this country and provide their skills.

Mr. President, when we get down to it, we find that the great numbers are basically white-collar kinds of jobs—$50,000—that is a good salary. And they are effectively displacing the Americans from these solid, good, middle-class jobs.

Mr. President, let us look now at who is coming in under the temporary worker program. These are individuals where all the employer has to say is that the individual coming over has completed college or had 2 years of experience, and the employers provide what are called "attestations" that they will pay them a reasonable wage. These are the temporaries. Half of them are physical therapists. Mr. President, 50 percent of them are physical therapists. It was true that we had a shortage of physical therapists at one time. But our labor market is recovering now.

Mr. President, 23 percent are computer-related. The rest fall into a wide variety of different categories.

Mr. President, when we have 50 percent in this program who are physical therapists when so many community colleges and other fine schools and State universities are producing them today, individuals who want and deserve to be able to have a crack at the

job, and we are bringing that kind of percentage in here, it does not make sense. It does not make sense, Mr. President. We are effectively denying good, decent jobs to Americans that want to work, can work, have the skills to be able to work, so that others—foreigners—can come in.

What happens, Mr. President, is that those who come in under this program that I just mentioned here, the H-1 Program, are exploited. Why? Because they cannot leave the job that they are on. If they leave, they are illegal. So once they sign up, they are stuck with that employer for the whole 6 years, with no guarantee that they will have to receive any level of wages. Once you bring that person in, you can lower their wage—absolutely lower their wage—and get away with it. You can deny them any benefits at all.

What we will hear from the other side is that there can be an investigation of their conditions on being exploited. The only thing you have to do is get a complaint from someone. Well, who in the world is ever going to complain when they know once they complain they can be thrown out of the country? Under the Republican proposal, the Department of Labor cannot interfere even if they have reason to believe there is exploitation on this, unless they receive a complaint. Anything else has been prohibited under the Republican proposal.

Mr. President, this is a matter, I believe, of importance and consequence to working families. These are important jobs where Americans are available. In each of these categories, except at the very top level of immigration, there are more than enough Americans who are available for those jobs, and who want those jobs. Those are good jobs. Still, we find that they are unable to compete. I think that is wrong.

No piece of legislation ought to go through here that has that kind of depressing effect on wages, because, as I mentioned before, once someone enters under the H-1B program, they can drive the wages right down. They can replace American workers. Once employers get the foreign worker in, they can drive the wages down, which they more often do than not. We have had testimony in our Subcommittee that supports that. We had the testimony of a small businessman down in southern Texas that supplied workers for a number of companies in Texas who came up and asked him to replace his American workers with foreign workers in order to drive his costs down. It is absolutely wrong. We will have a chance on this legislation to work it through.

I see others that want to speak on the measure. Let me move toward a final item. Mr. President, with regard to the employment programs, as I mentioned before, both the IG from the Labor Department and the testimony is really quite complete. This is an area that ought to be addressed because of its impact in terms of American workers and the fact that it really, when we look behind the curtain of these programs, you find out there are good jobs that Americans are qualified for and that they deserve.

There are two, and only two, legitimate bases for employment-based immigration.

First, it can bring the world's best and brightest into our country to create jobs and improve our competitive position. We should welcome legitimate scientists, legitimate business leaders, legitimate artists and performers without hesitation. They enhance our economy, create jobs for U.S. workers, enrich our cultural life, and strengthen our society.

Second, employment-based immigration can meet skills shortages that arise in a growing economy, particularly an economy like ours that relies heavily on scientific and technological innovation for its growth and success. In certain circumstances, an employer's demand for skills cannot be met with sufficient speed or in adequate quantity by U.S. workers. In these circumstances, foreign workers can fill the skills gap, while the domestic labor market and the education and job training system adjust to the rising demand for workers with new or different skills.

Clearly, there are legitimate purposes for employment-based immigration. But we must also recognize that allowing employers to bring in foreign workers has an adverse effect on U.S. workers. Remaining globally competitive should never mean driving down the wages of U.S. workers and increasing their growing sense of insecurity in the workplace.

Instead, in reforming the employment-based immigration programs, we must assure that U.S. workers have a fair opportunity to get and keep good jobs and raise their family incomes. Four changes in the current system are needed to give U.S. workers this assurance of fairness and opportunity.

First, we must protect U.S. workers who already have good jobs from being laid off and replaced with foreign workers. With all the talk of job insecurity, corporate and defense downsizing, and stagnant family income, working families have a right to know that the immigration laws are not being abused to take away their jobs.

Second, we must give U.S. workers who have the skills and are willing, available, and qualified for these jobs a fair opportunity to be recruited for those jobs. Maintaining a strong and growing economy requires that U.S. workers obtain the training they need to merit global competition, and that they have a fair opportunity to use their skills in high-wage, high-skill jobs. We cannot expect working families to improve their economic status if we post "Road Closed" signs on the road to higher standards of living.

Third, when a job can be filled by a U.S. worker with a reasonable amount of training within a reasonable period of time, we must assure that the U.S. worker has a fair opportunity to obtain that training and get that job.

Fourth, and more generally, we must give U.S. workers a better chance at getting high-wage, high-skill jobs, without shutting off the safety valve of access to foreign labor markets that some employers may need to meet demands that U.S. workers cannot supply in sufficient quantity or with sufficient speed.

THE PERMANENT IMMIGRANT WORKER PROGRAM

There are two ways for employers to obtain foreign workers for jobs in the United States. The workers can be admitted permanently and become lawful permanent residents through the permanent immigrant worker program. Or, they can be admitted temporarily through one of several temporary, or nonimmigrant, worker programs.

Under current law, 140,000 foreign workers can be admitted into the United States each year through the Permanent Immigrant Worker program. These workers can run the gamut in skills from the most advanced Nobel Prize scientist to unskilled housekeepers and busboys.

One of the most significant changes we made in our system of legal immigration in 1990—the last time we attempted to reform employment-based immigration—was to increase by nearly threefold the numerical ceiling on employment-based immigrants. The number rose from 54,000 to 140,000 each year, and the changes also favored higher skilled immigrants. We did so because of dire warnings of serious high-skill labor shortages that we were all concerned would harm our economic growth, global competitiveness, and our potential to create high-skill, high-wage jobs for U.S. workers.

But these labor shortages never developed. In fact, actual use of the employment-based immigrant program for skilled workers has never come close to reaching the new ceiling level, and it has declined in the last 2 years. The closest we came to the ceiling was in 1993 when nearly 27,000 visas were used for Chinese students under the now-expired Chinese Student Protection Act. Another 10,000 visas were used for unskilled workers.

Use of the employment-based immigrant program for skilled workers and unskilled workers over the last 5 years has been well below the ceiling. In 1993, we admitted a total of 110,130. In 1994, we admitted 92,604, a 16-percent reduction from the previous year. In 1995, we admitted 73,239, a 21 percent reduction from the previous year. In sum, the numbers are well below the cap, and they have also been declining in each of the past several years.

At a time when we are seeking moderate reductions in legal immigration and reducing the visas available for reunifying families, we should also be reducing the employment-based immigration—especially when the positions are not being used and the trend-line is down. It is not fair that the whole

weight of the reductions in the number of legal immigrants should be borne by families and diversity immigrants.

Reducing the ceiling on employment-based immigration is not the same as cutting employment-based immigration. In fact, the reform I intend to propose—adjusting the cap on employment-based immigration from 140,000 to 100,000—would allow actual employment-based immigration to grow by one-third in future years—from 75,000 in 1995 to 100,000. Under current law and the pending bill, the program would nearly double in size.

It is clear that we went too far in 1990 when we increased the ceiling on employment-based immigration to 140,000. The three-fold increase was not needed and has not been approached by actual use. We should pare it back to the more reasonable number of 100,000, as recommended by the Jordan Commission and the Clinton administration. That line still allows reasonable growth in this category, and it also protects our national interest in economic growth, global competitiveness, and domestic job creation.

But immigration is about a great deal more than numbers. It is fundamentally about people. When we consider employment-based immigration, we must have a clear understanding of the kind of people we are admitting to our country and what skills and abilities they are bringing in with them.

Under current law, we divide permanent immigrant workers into two categories: immigrants who are subject to labor certification and immigrants who can be admitted without labor certification.

Labor certification is supposed to serve as a requirement that employers first recruit U.S. workers for a job, before seeking immigrant workers. Some workers are so exceptional that we should admit them regardless of the state of the domestic labor market. But employers should be permitted to obtain other foreign workers only if no U.S. workers with similar skills are willing, available, and qualified for the jobs into which the immigrant workers will be placed.

Those who are not subject to labor certification fit into the best and brightest category. In 1995, the category included 1,200 aliens of extraordinary ability, including recipients of major honors, great commercial success, or leadership positions in their field; more than 1,600 outstanding professors and researchers; almost 4,000 multinational executives and managers; and almost 3,000 special immigrants, who are primarily outstanding clerics.

The best and brightest are the job creators, men and women whose contributions to our country will undoubtedly be dramatic and substantial. We should welcome them without hesitation. Current law permits it, and should remain unchanged.

The workers subject to labor certification, on the other hand, are rarely the best and brightest. They are skilled workers, workers with advanced degrees or baccalaureate degrees. Under current law, up to 10,000 of them can be unskilled workers.

There is no reason for employers in this country to bring in unskilled immigrant workers. There is an abundance, even an overabundance, of unskilled U.S. workers looking for work. The Judiciary Committee supported my amendment almost unanimously to delete the unskilled category from the permanent immigrant worker program. Plainly, unskilled immigrants do not fit into either of the two categories of workers who should be welcomed into our country—the best and brightest and workers needed to fill skills shortages.

Apart from unskilled workers, the immigrants subject to labor certification are professionals with advanced degrees, professionals with baccalaureate degrees, and skilled workers. They may be needed to satisfy skill shortages. But employers may also put these workers in competition with thousands of U.S. workers for jobs that could be filled from the domestic work force.

Employers use these permanent immigrant workers to fill many positions—cooks, computer programmers, engineers of all types, teachers, retail and wholesale managers, accountants and auditors, biologists, auto repair mechanics, university professors, and tailors.

One useful measure of the skill level of these workers is their salaries. Employers tell the Labor Department how much they plan to pay the skilled immigrants they are seeking. Eighty percent of the jobs for foreign workers subject to labor certification pay $50,000 a year or less. Fewer than 3 percent of these jobs pay $80,000 or more.

A small number of employers use this employment-based immigration program to seek out the best and brightest, but it is clearly the exception, not the rule. A large number of working families in Massachusetts and across the United States would be gratified to have an opportunity to earn $50,000 a year working in computer programming. It is vitally important that we make certain that employers use this immigration program only to fill jobs for which qualified U.S. workers are not available.

We must have a labor certification process which actually results in employers successfully recruiting U.S. workers for these skilled jobs. At present, the Department of Labor certifies an employer's application for an immigrant worker based on a complex, labor-intensive, and expensive preadmission screening system. The current system does not and cannot assure that the conditions required for certification are actually achieved when the immigrant worker is employed. The Commission on Immigration Reform estimated that labor certification costs employers $10,000 per immigrant for administrative, paperwork, and legal costs.

To bring in these skilled immigrants, an employer must demonstrate that it was unsuccessful in finding a qualified U.S. worker to do the job, and that the job will pay at least the locally prevailing wage. Any employer who uses this employment-based immigration system will tell you that it takes a long time and an excessive amount of documentation.

The basic problem with this labor certification system is not that it is expensive and time consuming, but that it does not assure that able, available, willing, and qualified U.S. workers get the jobs. In fact, there is very little genuine recruitment.

Consider the case of Tony Rosaci and the members of his local union. Tony is the secretary-treasurer of Iron Workers Local Union No. 455 in New York City. The members of this local union helped build New York. They were the backbone of the effort to rehabilitate the Statue of Liberty. But when well-qualified members of the local union responded to more than 65 help wanted ads placed in New York newspapers by employers seeking permanent immigrant workers, they were rejected each time in favor of foreign workers. There were 65 referrals of qualified U.S. workers, and 65 rejections.

The story of Tony Rosaci's union members is not the exception. The Labor Department inspector general found that in all of the cases where employers complete the labor certification process, their recruitment efforts do not result in a U.S. worker getting the job in 99.98 percent of the cases—99.98 percent. That means a U.S. worker gets hired only 1 in 5,000 times. The system isn't working. It is badly broken.

U.S. workers do not have a fair opportunity to get these jobs because, in the overwhelming majority of cases, there is already a foreign temporary worker in the job who is trying to adjust to permanent status. The image that we all have of foreign workers waiting in their home countries until they are admitted to the United States under the employment-based immigration system is a fallacy.

In 1994, 42 percent of labor certified workers who gained permanent admission came directly from the temporary worker program. Some unknown additional number are either working illegally for their employer, or simply leave the country for a short period of time to expedite their application for permanent admission to the United States.

The Labor Department estimates that as many as 90 percent or more of the foreign workers admitted permanently to the United States have worked for the same employer who is helping the worker adjust to permanent status. Simply put, U.S. workers cannot get these jobs, because foreign temporary workers or illegally employed foreign workers are already in these jobs.

Employers use the labor certification system to make it look as though they are engaging in genuine recruitment. In reality, they intend all along to keep the foreign workers who are already working for them. Employers frequently create position descriptions for which only the incumbent worker can qualify. As a result, referrals of well-qualified U.S. workers in response to advertisements for these jobs—the humiliating experience shared by the members of Tony Rosaci's local union and thousands of other U.S. workers—waste everyone's time and add insult to injury for U.S. workers.

This system is a sham. It must be changed to give U.S. workers the fair opportunity they deserve to get these high-wage, high-skill jobs, and assure the public that the employment-based immigration system serves its stated purpose.

U.S. workers deserve a fair and genuine opportunity to get and keep high-wage, high-skill jobs before they are filled by the foreign temporary workers who will later become permanent immigrant workers. The best opportunity for U.S. workers to get these good jobs is at the front end of employment-based immigration—before foreign temporary workers fill the vacancy.

To achieve this goal, we must reform the temporary worker program—the principal path through which foreign skilled workers are admitted to the United States. We must add a requirement that employers recruit U.S. workers, before the jobs can be filled with foreign temporary workers.

But we must also change the permanent program. Instead of requiring the Department of Labor to conduct meaningless labor certification for every employer, the Department's Employment Service should instead target its enforcement to the employers most likely to present a problem. In this way, employers who play by the rules or who are not in a problem industry would not be subjected to labor certification. Employers who seek to adjust a worker's status from temporary to permanent, and who demonstrate that they engaged in a bona fide but unsuccessful recruitment effort before filling the job with a foreign temporary worker, would not be required to go through labor certification.

These reforms, combined with effective enforcement by the Labor Department, should help give U.S. workers a fairer chance at these jobs, and free employers from participation in a sham labor certification process.

UNDERSTANDING THE TEMPORARY WORKER PROGRAM

In order to fully understand the permanent immigrant program, it is necessary to understand the principal nonimmigrant employment-based program, called the H-1B Program. This program permits U.S. employers to bring into the United States skilled workers with college or higher degrees. The program is capped at 65,000 new visas each year, but employers can keep such workers in the United States for up to 6 years. Thus, there can be almost 400,000 H-1B workers in the United States at one time.

The program was originally conceived as a means to meet employers' temporary needs for unique, highly skilled professionals. But many employers use the program to bring into the United States relatively large numbers of foreign temporary workers with little or no formal training beyond a 4-year college degree. The typical foreign temporary worker is not a one-of-a-kind professor or a Ph.D. engineer as some news stories suggest and the business lobby would have us believe.

For fiscal year 1994, employers' applications for health care therapists—primarily physical therapists and occupational therapists—accounted for one-half—49.9 percent—of all H-1B jobs. Computer-related occupations accounted for almost one-quarter—23.9 percent—of these jobs. As with the permanent program, wage data from H-1B applications indicate that almost two-thirds—65 percent—of H-1B jobs pay $40,000 or less, and almost 3 out of 4—75 percent—jobs pay $50,000 or less.

Under current law, there is no obligation for employers to try to recruit qualified U.S. workers for these jobs. The only thing the employer must do is submit a one-page form. Employers must give the title of the job, the salary they intend to pay, and attest to four facts: First, they will pay the higher of the actual wage paid to similarly employed workers or the prevailing wage; second, they are not the subject of a strike or lockout; third, they have posted the requisite notice for their U.S. workers; and fourth, the working conditions of similarly employed U.S. workers will not be adversely affected.

This form is the only requirement. No other documentation is required of the employer. Current law gives the Labor Department 7 days to review these one-page forms, and prohibits the Department from rejecting the forms unless they are incomplete or have obvious inaccuracies. In simple terms, the H-1B Program is an open door for 65,000 skilled foreign workers to enter the United States each year.

This is one reason why Americans are so cynical about our immigration laws. This system is intended to help U.S. employers remain competitive in the face of technological change and competitive global markets. Instead, the system permits employers to bring in foreign temporary workers regardless of whether qualified U.S. workers are available, or even if U.S. workers are currently holding the jobs into which the foreign temporary workers are going to be placed. We must reform the H-1B Program.

S. 1665 "REFORMS" TAKE US IN THE WRONG DIRECTION

Unfortunately, the reforms currently contained in the legal immigration bill are inadequate if our goal is to assure U.S. workers a fair opportunity to get and keep high-wage, high-skill jobs.

Over my objections and those of many other Democratic Members, the Judiciary Committee stripped out many sensible reforms to the employment-based programs. The Judiciary Committee then made changes for foreign temporary professional workers. The changes were touted by their sponsors as providing layoff protection to American workers, and as giving the Department of Labor latitude in investigating companies that rely on temporary foreign workers.

The current bill does neither of these things. In fact, anyone who looks carefully at the current bill will conclude that it does just the opposite.

S. 1665 embraces the agenda of corporate America at the expense of American workers. The changes in the H-1B Program would have the overall effect of further weakening protections for U.S. workers from unfair competition with foreign workers, even though the protections in the existing program are already demonstrably inadequate. Current law does not require U.S. employers to recruit in the domestic labor market first, nor does it prohibit employers from hiring foreign workers to replace laid off U.S. workers in the same job.

To the contrary, S. 1665 provides no protection from employers who fire U.S. workers and hire foreign workers. In fact, S. 1665 is an endorsement of laying off U.S. workers in favor of foreign workers. We must strengthen current law to stop this from happening—not weaken current law and invite it to happen more.

The failure to protect U.S. workers from layoffs is not the only area in which this bill fails to protect U.S. workers. If S. 1665 becomes law existing worker protections would not apply to the large majority of employers who use the H-1B program;

Employers would be subject to lower wage payment requirements for foreign workers; and,

The Labor Department's enforcement ability to protect U.S. workers and foreign workers would be sharply curtailed.

In sum, the bill goes in exactly the wrong direction by making an already troublesome H-1B program even worse.

Instead, we need genuine reform of the H-1B program to protect U.S. workers and give them a fair opportunity to get and keep high-wage, high-skill jobs.

First, as with the program for permanent immigrants, we should make it illegal to lay off qualified American workers and replace them with temporary foreign workers.

Recent case histories have gained wide public attention because they are shocking to all of us. Syntel, Inc., is a Michigan company with more than 80 percent foreign temporary workers, primarily computer analysts from India. In its business operations, Syntel contracts to provide computer personnel and services to other companies. In New Jersey, Syntel contracted

with American International Group, a large insurance company, to provide computer services. Linda Kilcrease worked for AIG.

One day, without notice, AIG fired Linda along with 200 of her co-workers and replaced them with foreign temporary workers from Syntel. Adding insult to injury, Linda and her coworkers were forced to train their replacements during their final weeks on the job.

David Hoff was a database administrator in Arizona with Allied Signal, a defense contractor. David was asked to train two foreign workers to do his job. When he realized the company was about to replace him, he left the job and refused to train his foreign replacements.

Julie Cairns-Rubin worked for Sealand Services, a major shipping and trucking company, writing and maintaining computer software systems for the company's finances. She worked during the day and took night classes for advanced computer skills. Her training, hard work, and dedication were supposed to give her greater job security. Instead, Sealand fired Julie and replaced her with a foreign worker. Now Julie is unemployed.

Julie Cairns-Rubin, David Huff, and Linda Kilcrease should be rewarded for their skills and working hard for their employers. They are supposed to live the American dream. But the H-1B program under current law turns the American dream into the American nightmare, and S. 1665 makes this nightmare even worse.

John Martin owns a high-technology firm in Houston. He has been under pressure from clients to lay off his U.S. workers and bring in cheaper foreign workers at lower wages in order to cut costs. He refused, and has lost contracts to cheaper, H-1B firms as a result. John is an employer trying to play by the rules. But he can't compete with firms bringing in cheaper foreign labor.

Our law permits and encourages this behavior. Public outrage at such widely publicized layoffs are tarnishing our entire immigration system and adding to the growing sense of insecurity felt by U.S. workers. There is no legitimate justification for laying off U.S. workers and replacing them with foreign workers, and our immigration laws should prohibit it.

A second needed reform is to require employers to recruit for U.S. workers first, before being allowed to apply for a temporary foreign worker. Current law does not contain this simple, common sense principle—and it should.

Most employers who use the H-1B program say they are continuously recruiting in the domestic labor market, and would prefer hiring U.S. workers. So this change should not impose any hardship or additional burden on these employers.

This reform is simple and straightforward. Employers applying for a foreign worker under the H-1B program would have to check one additional box on their application form attesting that they have taken and are taking steps to recruit and retain U.S. workers—which employers assure us they are already doing.

The employer would attest that it had recruited in the domestic labor market using industry-wide standard recruitment procedures. Government would not mandate this standard.

If high-technology industries recruit quickly to win business, then that's the industry-wide standard that should be recognized under the immigration laws. This step will not delay firms which need workers quickly. But it will make sure that American workers get first crack at these good jobs.

The employer would also confirm that its recruitment offered the locally prevailing wage or the wage it actually pays similar workers, whichever is higher. Employers hiring foreign workers are already required, under current law, to pay these workers the higher of the actual or locally prevailing wage, so this reform imposes no new wage obligation. The reform would merely establish that the employer recruited U.S. workers by offering the same wages and other compensation that it would be obligated to pay to its foreign workers. That's only fair to U.S. workers.

This reform does not establish any new prevailing wage system. Under current law, employers must ascertain and promise to pay at least the locally prevailing wage. Employers can go to their State employment security agency to get the prevailing wage. Or, under current law, employers can rely on an "independent authoritative source" or another "legitimate source" for prevailing wage data. They are not required to come to the government to get this information under current law, and nothing I intend to propose would change that.

The employer would also attest that its domestic recruitment was unsuccessful. In other words, the employer need only state that it could not find a qualified U.S. worker for the job. Employers already tell us they face the problem of being unable to find available U.S. workers. It is this failure in the domestic labor market that the H-1B Program is supposed to address.

There are certain circumstances in which we would all agree that an employer should not be required to seek a U.S. worker. Existing law exempts from labor certification—and thereby from any recruitment requirement—foreign workers of extraordinary ability, outstanding professors and researchers, certain multinational executives and managers, and renowned clerics. These are truly the best and the brightest. They are Nobel-level scientists, the tenure-track professors, and top researchers. They should be admitted to the United States because they are unique and because there is no dispute that they will improve our society and increase our competitiveness. If we can get them, we should admit them.

If H-1B workers qualify under the permanent worker program as individuals with "extraordinary ability" or an "outstanding professor or researcher," the employer could also hire them and bring them into the United States as H-1B workers, without having to engage in domestic recruitment. This is a reasonable accommodation of the concerns expressed by the business community, without jeopardizing U.S. workers.

In every other case, however, we are short-changing U.S. workers and our own national interests if we don't expect employers to recruit in the U.S. for jobs for which they are seeking foreign workers.

The third and final change I propose to the H-1B Program is to reduce the term of the visa from 6 years to 3 years. This is supposed to be a temporary visa, but most Americans would call it a permanent job. In fact, Americans from 25 to 34 years of age change jobs every 3½ years. Those age 35 to 44 change every 6 years.

Importing needed skills should usually be a short-term response to urgent needs, while adjusting to quickly changing circumstances.

Reducing the terms from 6 years to 3 years will also reduce the maximum number of foreign temporary workers in the country at any one time from about 400,000 to about 200,000. The 3-year period will also assure that these temporary workers are, indeed, temporary.

This change is important not only for U.S. workers who already have the skills for good jobs, but also for those who would like to acquire the necessary skills. The labor market will correct imbalances in the demand and supply of needed skills if it receives the proper signals. Allowing foreign temporary workers to stay in the United States for 6 years sends the wrong signal. The only valid, long-term response to skills shortages is training U.S. workers. A 3-year stay will promote skills training and job opportunities for qualified U.S. workers, and help overcome the wage stagnation affecting so many working families.

GIVING THE LABOR DEPARTMENT THE ENFORCEMENT AUTHORITY IT NEEDS

I have discussed a long list of reforms that are needed in the permanent worker program and the H-1B Temporary Worker Program. These reforms can help assure that employment-based immigration is fair to U.S. workers. It is vital that we enact these reforms. But they will be nothing more than empty words in the United States Code if the Labor Department does not have the enforcement authority to assure widespread compliance.

We must end the current mismatch of enforcement authority. The Department of Labor has the power to respond to complaints, initiate investigations, and conduct audits under the temporary worker program, although S. 1665 would unwisely curb these powers. However, under the permanent program, the authority of the Department

ends once the immigrant arrives on our shores. After the worker is here, there is little the Department can do to ensure that employers pay the prevailing wage and meet other terms and conditions of employment.

We must give the Department essentially the same post-admission enforcement powers for permanent foreign workers that it already has for temporary workers. Often, the temporary workers become permanent workers. The Department of Labor ought to have the same power to assure compliance after the workers convert to permanent resident status as before.

Such enforcement powers are important as a safeguard for workers' rights. They also ensure that the recruitment mechanism functions properly. To ensure that these requirements are met, the Labor Department must have the ability to seek out and identify employers that violate the law, assure that U.S. and foreign workers are protected or made whole, and impose penalties that will deter future violations and promote compliance.

Finally, we should also require payment of additional fees to cover the Labor Department's costs of administering the certification requirements and enforcement activities. Taxpayers should not have to foot the bill for the cost of providing employers with foreign workers.

Immigration has served America well for over two centuries. Its current troubles can be cured. If we fail to act responsibly the calls for Buchananism and Fortress America will only grow louder and more irresponsible. To protect our immigrant heritage, we must stop illegal immigration. We must end the abuses of American workers under our current immigration laws, and enact the many other reforms needed to strengthen this vital aspect of our history and our future.

Mr. President, I yield the floor at this particular time.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have a unanimous-consent request.

I ask unanimous consent that a letter from the Congressional Budget Office addressed to me as chairman of the Subcommittee on Immigration, dated April 15, 1996, be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

HON. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested by your staff, CBO has reviewed a possible amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996, which was reported by the Senate Committee on the Judiciary on April 10, 1996. The amendment would alter the effective date of provisions in section 118 that would require states to make certain changes in how they issue driver's licenses and identification documents. The amendment would thereby allow states to implement those provisions while adhering to their current renewal schedules.

The amendment contains no intergovernmental mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments. In fact, by delaying the effective date of the provisions in section 118, the amendment would substantially reduce the costs of the mandates in the bill. If the amendment were adopted, CBO estimates that the total costs of all intergovernmental mandates in S. 1664 would no longer exceed the $50 million threshold established by Public Law 104-4.

In our April 12, 1996, cost estimate for S. 1664 (which we identified at the time as S. 269), CBO estimated that section 118, as reported, would cost states between $80 million and $200 million in fiscal year 1998 and less than $2 million a year in subsequent years. These costs would result primarily from an influx of individuals seeking early renewals of their driver's licenses or identification cards. By allowing states to implement the new requirements over an extended period of time, the amendment would likely eliminate this influx and significantly reduce costs. If the amendment were adopted, CBO estimates the direct costs to states from the driver's license and identification document provisions would total between $10 million and $20 million and would be incurred over six years. These costs would be for implementing new data collection procedures and identification card formats.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a document from the Congressional Budget Office setting forth the estimated budgetary effects of the pending legislation be printed at this point in the RECORD, and I further note that the reference in this letter to S. 269, as reported by the Senate Committee on the Judiciary on April 10, 1996, means that these estimates apply to the legislation pending before the Senate as S. 1664.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 12, 1996.

HON. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed federal, intergovernmental, and private sector cost estimates for S. 269, the Immigration Control and Financial Responsibility Act of 1996. Because enactment of the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

The bill would impose both intergovernmental and private sector mandates, as defined in Public Law 104-4. The cost of the mandates would exceed both the $50 million threshold for intergovernmental mandates and the $100 million threshold for private sector mandates specified in that law.

CBO's estimate does not include the potential cost of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. As noted in the enclosed estimate, the drafting of this provision leaves many uncertainties about how the program would work and therefore precludes a firm estimate. The potential costs could, however, be significant.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to Federal laws relating to immigration. Provisions having a potentially significant budgetary impact are highlighted below.

Title I would:

Direct the Attorney General to increase the number of Immigration and Naturalization (INS) border patrol agents by 700 in fiscal year 1996 and by 1,000 in each of the fiscal years 1997 through 2000; in addition, the number of full-time support positions for border patrol agents would be increased by 300 in each of the fiscal years 1996 through 2000;

Authorize appropriations of such sums as may be necessary to increase the number of INS investigator positions by 600 in fiscal year 1996 and by 300 in each of the fiscal years 1997 and 1998, and provide for the necessary support positions;

Direct the Attorney General and the Secretary of the Treasury to increase the number of land border inspectors in fiscal years 1996 and 1997 to assure full staffing during the peak border-crossing hours;

Authorize the Department of Labor (DOL) to increase the number of investigators by 350—plus necessary support staff—in fiscal years 1996 and 1997;

Direct the Attorney General to increase the detention facilities of the INS to at least 9,000 beds by the end of fiscal year 1997;

Authorize a one-time appropriation of $12 million for improvements in barriers along the U.S.-Mexico border;

Authorize the Attorney General to hire for fiscal years 1996 and 1997 such additional Assistant U.S. Attorneys as may be necessary for the prosecution of actions brought under certain provisions of the Immigration and Nationality Act;

Authorize appropriations of such sums as may be necessary to expand the INS fingerprint-based identification system (IDENT) nationwide;

Authorize a one-time appropriation of $10 million for the INS to cover the costs to deport aliens under certain provisions of the Immigration and Nationality Act;

Authorize such sums as may be necessary to the Attorney General to conduct pilot programs related to increasing the efficiency of deportation and exclusion proceedings;

Establish several pilot projects and various studies related to immigration issues, including improving the verification system for aliens seeking employment or public assistance;

Provide for an increase in pay for immigration judges;

Establish new and increased penalties and criminal forfeiture provisions for a number of crimes related to immigration; and

Permit the Attorney General to reemploy up to 100 federal retirees for as long as two years to help reduce a backlog of asylum applications.

Title II would:

Curtail the eligibility of non-legal aliens, including those permanently residing under

color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits;

Extend the period during which a sponsor's income is presumed or deemed to be available to the alien and require deeming in all federal means-tested programs, not just the ones that currently practice it;

Deny the earned income tax credit to individuals not authorized to be employed in the United States; and

Change federal coverage of emergency medical services for illegal aliens.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized, enacting S. 269 would increase discretionary spending over fiscal years 1996 through 2002 by a total of about $3.2 billion. Several provisions of S. 269, mainly those in Title II affecting benefit programs, would result in changes to mandatory spending and federal revenues. CBO estimates that the changes in mandatory spending would reduce outlays by about $7 billion over the 1996–2002 period, and that revenues would increase by about $80 million over the same period. These figures do not include the potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens; these costs could amount to as much as $1.5 billion to $3 billion a year.

The estimated budgetary effects of the legislation are summarized in Table 1. Table 2 shows projected outlays for the affected direct spending programs under current law, the changes that would stem from the bill, and the projected outlays for each program if the bill were enacted. The projections reflect CBO's March 1996 baseline.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 269

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated authorization level	0	709	472	580	596	615	633
Estimated outlays	0	286	467	663	580	600	621
MANDATORY SPENDING AND RECEIPTS							
Direct spending:							
Estimated budget authority	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated outlays	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated Revenues	0	14	13	12	13	13	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

The costs of this bill fall within budget functions 550, 600, 750, and 950.

TABLE 2.—ESTIMATED EFFECTS OF S. 269 ON DIRECT SPENDING PROGRAMS

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
PROJECTED SPENDING UNDER CURRENT LAW								
Supplemental Security Income	24,510	24,017	27,904	30,210	32,576	37,995	34,515	40,348
Food Stamps [1]	25,554	26,220	28,094	29,702	31,092	32,476	33,847	35,283
Family Support Payments [2]	18,086	18,371	18,800	19,302	19,930	20,552	21,240	21,932
Child Nutrition	7,465	8,011	8,483	9,033	9,597	10,165	10,751	11,352
Medicaid	89,070	95,737	104,781	115,438	126,366	138,154	151,512	166,444
Earned Income Tax Credit (outlay portion)	15,244	18,440	20,191	20,894	21,691	22,586	23,412	24,157
Receipts of Employer Contributions	−27,961	−27,025	−27,426	−27,978	−28,258	−29,089	−29,949	−31,025
Total	151,968	163,771	180,827	196,601	212,994	232,839	245,328	268,491
PROPOSED CHANGES								
Supplemental Security Income		0	−100	−340	−500	−570	−500	−560
Food Stamps [1]		0	−10	−30	−40	−45	−45	−70
Family Support Payments [2]		0	−10	−15	−15	−20	−20	−25
Child Nutrition		0	0	0	−5	−20	−20	−25
Medicaid [3]		0	−115	−339	−460	−550	−600	−640
Earned Income Tax Credit (outlay portion)		0	−216	−214	−218	−222	−224	−229
Receipts of Employer Contributions		0	1	2	1	0	0	0
Total		0	−450	−927	−1,237	−1,427	−1,409	−1,549
PROJECTED SPENDING UNDER S. 269								
Supplemental Security Income	24,510	24,017	27,804	29,870	32,076	37,425	34,015	39,788
Food Stamps [1]	25,554	26,220	28,084	29,672	31,052	32,431	33,802	35,213
Family Support Payments [2]	18,086	18,371	18,790	19,287	19,915	20,532	21,220	21,907
Child Nutrition	7,465	8,011	8,483	9,033	9,592	10,145	10,731	11,327
Medicaid [3]	89,070	95,737	104,666	115,108	125,906	137,604	150,912	165,804
Earned Income Tax Credit (outlay portion)	15,244	18,440	19,975	20,680	21,473	22,364	23,188	23,928
Receipts of Employer Contributions	−27,961	−27,025	−27,425	−27,976	−28,257	−29,089	−29,949	−31,025
Total	151,968	163,771	180,377	195,674	211,757	231,412	243,919	266,942
Changes to Revenues		0	14	13	12	13	13	13
Net Deficit effect		0	−464	−940	−1,249	−1,440	−1,442	−1,562

[1] Food Stamps includes Nutrition Assistance for Puerto Rico. Spending under current law includes the provisions of the recently-enacted farm bill.

[2] Family Support Payments includes spending on Aid to Families with Dependent Children (AFDC), AFDC-related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS).

[3] Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

Notes.—Assumes enactment date of August 1, 1996. Estimates will change with later effective date. Details may not add to totals because of rounding.

6. Basis of estimate: For purposes of this estimate, CBO assumes that S. 269 will be enacted by August 1, 1996.

SPENDING SUBJECT TO APPROPRIATIONS

The following estimates assume that all specific amounts authorized by the bill would be appropriated for each fiscal year. For programs in the bill for which authorizations are not specified, or for programs whose specific authorizations do not provide sufficient funding, CBO estimated the cost based on information from the agencies involved. Estimated outlays, beginning in 1997, are based on historical rates for these or similar activities. (We assumed that none of the bill's programs would affect outlays in 1996.)

The provisions in this bill that affect discretionary spending would increase costs to the federal government by the amounts shown in Table 3, assuming appropriation of the necessary funds. In many cases, the bill authorizes funding for programs already authorized in the Violent Crime Control and Law Enforcement Act of 1994 (the 1994 crime bill) or already funded by fiscal year 1996 appropriations action. For example, the additional border patrol agents and support personnel in title I already were authorized in the 1994 crime bill through fiscal year 1998. For such provisions, the amounts shown in Table 3 reflect only the cost above funding authorized in current law.

In the most recent continuing resolution enacted for fiscal year 1996, appropriations for the Department of Justice total about $14 billion, of which about $1.7 billion is for the INS.

TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS ACTION

(By fiscal years, in millions of dollars)

	1997	1998	1999	2000	2001	2002
Estimated authorization levels:						
Additional Border Patrol agents	...	...	97	97	100	103
Additional investigators	97	152	159	165	171	178
Additional inspectors	24	32	34	35	37	39
Additional DOL employees	27	29	30	31	33	34
Detention facilities	418	187	187	194	198	204
Barrier improvements	20	...	...	...	...	...
Additional U.S. Attorneys	23	46	48	49	51	52
IDENT expansion	87	22	22	22	22	22
Deportation costs	10	...	...	...	...	...
Pilot programs	2	3	2	2	2	...
Pay raise for immigration judges	1	1	1	1	1	1
Total	709	472	580	596	615	633
Estimated Outlays	286	467	663	580	600	621

REVENUES AND DIRECT SPENDING

S. 269 would have a variety of effects on direct spending and receipts. The most significant effects would stem from new restrictions on payment of federal benefits to aliens, in Title II of the bill. That title would curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits. It would require that all federal means-tested programs weigh sponsors' income (a practice known as deeming) for a minimum of 5 years after entry when gauging an immigrant's eligibility for benefits, and would require an even longer deeming period—lasting 10 years or more after arrival—for future entrants. It would make sponsors' affidavits of support legally enforceable. These provisions would save money in federal benefit programs. Partly offsetting those savings, the bill proposes one major change that could add to federal costs—a provision that is apparently intended to require the federal government to pay the full cost of emergency Medicaid services for illegal aliens. However, ambiguities in the drafting of that provision prevent CBO from estimating its effect. Although the provisions affecting benefit programs dominate the direct spending implications of S. 269, other provisions scattered throughout Titles I and II would have small effects on collections of fines and penalties and on the receipts of federal retirement funds.

Fines. The imposition of new and enhanced civil and criminal fines in S. 269 could cause governmental receipts to increase, but CBO estimates that any such increase would be less than $500,000 annually. Civil fines would be deposited into the general fund of the Treasury. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

Forfeiture. New forfeiture provisions in S. 269 could lead to more assets seized and forfeited to the United States, but CBO estimates that any such increase would be less than $500,000 annually in value. Proceeds from the sale of any such assets would be deposited as revenues into the Assets Forfeiture Fund of the Department of Justice and spent out of that fund in the same year. Thus, direct spending from the Assets Forfeiture Fund would match any increase in revenues.

Supplemental Security Income. The SSI program pays benefits to low-income people with few assets who are aged 65 or older or disabled. According to tabulations by the Congressional Research Service (CRS), the SSI program for the aged is the major benefit program with the sharpest contrast in participation between noncitizens and citizens. CRS reported that nearly one-quarter of aliens over the age of 65 receive SSI, versus about 4 percent of citizens. The Social Security Administration states that about 700,000 legal aliens collect SSI (although some unknown fraction of those "aliens" are really naturalized citizens, whose change in status is not reflected in program records). About three-quarters of alien SSI recipients are immigrants legally admitted for permanent residence, who must serve out a waiting period during which their sponsor's income is "deemed" to them before they can go on the program. That waiting period was lengthened to 5 years in 1994 but is slated to return to 3 years in October 1996. The other one-quarter of alien recipients of SSI are refugees, asyelees, and PRUCOLs.

S. 269 would prevent the deeming period from returning to 3 years in October 1996. Instead, the deeming period would remain at 5 years (for aliens who entered the country before enactment) and would be lengthened to 10 years or more for aliens who enter after the date of enactment. Specifically, for a future entrant, deeming in all federal means-tested programs would last until the alien had worked for 40 quarters in Social Security-covered employment—a condition that elderly immigrants, in particular, would be unlikely ever to meet. By requiring that all income of the sponsor and spouse be deemed "notwithstanding any other provision of law," S. 269 would also nullify the exemption in current law that waives deeming when the Social Security Administration (SSA) determines that the alien applicant became disabled after he or she entered the United States.

Data from SSA records show very clearly that many aged aliens apply for SSI as soon as their deeming period is over, though such a pattern is much less apparent among younger aliens seeking benefits on the basis of disability. CBO estimates that lengthening the deeming period from 3 years to 5 years (or longer), and striking the exemption from deeming for aliens who became disabled after arrival, would save about $0.1 billion in 1996, and $0.3 billion to $0.4 billion a year in 1997 through 2002. Nearly two-thirds of the savings would come from the aged, and the rest from the disabled.

S. 269 would also eliminate eligibility for SSI benefits of aliens permanently residing under color of law (PRUCOLs). That label covers such disparate groups as parolees, aliens who are granted a stay of deportation, and others with various legal statuses. PRUCOLs currently make up about 5 percent of aliens on the SSI rolls. CBO assumes that some would successfully seek to have their classification changed to another category (such as refugee or asylee) that would protect their SSI benefits. The remainder, though, would be barred from the program, generating savings of about $0.5 billion over 7 years.

Food Stamps. The estimated savings in the Food Stamp program—$0.2 billion over 7 years—are considerably smaller than those in SSI but likewise stem from the deeming provisions of S. 269. The Food Stamp program imposes a 3-year deeming period. Therefore, lengthening the deeming period (to 5 years for aliens already here and longer for future entrants) would save money in food stamps. S. 269 contains a narrow exemption from deeming for aliens judged to be at immediate risk of homelessness or hunger. Because the Food Stamp program already denies benefits to most PRUCOLs, no savings are estimated from that source.

Family Support. The provisions that would generate savings in SSI and food stamps would also lead to small savings in the AFDC program. The AFDC program already deems income from sponsors to aliens for 3 years after the alien's arrival. S. 269 would lengthen that period to at least 5 years (longer for future entrants). The $0.1 billion in total savings over the 1997–2002 period would stem overwhelmingly from the lengthening of the deeming period. Savings from ending the eligibility of PRUCOLs are estimated to be just a few million dollars a year.

Child Nutrition. S. 269 would require that the child nutrition program begin to deem sponsors' income to alien schoolchildren when weighing their eligibility for free or reduced-price lunches. Child nutrition does not employ deeming now. It does, however, take parents' income into account when determining eligibility. CBO therefore assumed that savings in child nutrition would stem mainly from the minority of cases in which a relative other than a parent (say, a grandparent or an aunt) sponsored the child's entry into the United States. CBO assumed that it would take at least two years to craft regulations and implement deeming in school systems nationwide, therefore precluding savings until 1999. Savings of about $20 million a year would result once the deeming provision took full effect.

S. 269 explicitly preserves eligibility for the child nutrition program for illegal alien schoolchildren. CBO assumed, however, that the stepped-up screening that would be required to enforce deeming for legally admitted children would lead some illegal alien children to stop participating in the program, because their parents would fear detection.

Medicaid. S. 269 would erect several barriers to Medicaid eligibility for recent immigrants and future entrants into this country. In most cases, AFDC or SSI eligibility carries Medicaid eligibility along with it. By restricting aliens' access to those two cash programs, S. 269 would thereby generate Medicaid savings. Medicaid now has no deeming requirement at all; that is, program administrators do not consider a sponsor's income when they gauge the alien's eligibility for benefits. Therefore, it is possible for a sponsored alien to qualify for Medicaid even before he or she has satisfied the SSI waiting period. S. 269 would change that by requiring that every means-tested program weigh the income of a sponsor for at least 5 years after entry. Under current law, PRUCOLs are specifically eligible for Medicaid; S. 269 would make them ineligible.

To estimate the savings in Medicaid, CBO first estimated the number of aliens who would be barred from the SSI and AFDC programs by other provisions of S. 269, CBO then added another group—dubbed "noncash beneficiaries" in Medicaid parlance because they participate in neither of the two cash programs. The noncash participants who would be affected by S. 269 essentially fall into two groups. One is the group of elderly (and, less importantly, disabled) aliens with financial sponsors who, under current law, seek Medicaid even before they satisfy the 3-year wait for SSI; the second is poor children and pregnant women who could, under current law, qualify for Medicaid even if they do not get AFDC. CBO multiplied the estimated number of aliens affected times an average Medicaid cost appropriate for their group. That average cost is significantly higher for an aged or disabled person than for a younger mother or child. In selecting an average cost, CBO took into account the fact that relatively few aged or disabled aliens receive expensive long-term care in Medicaid-covered institutions, but that on the other hand, few are eligible for Medicare. The resulting estimate of Medicaid savings was then trimmed by 25 percent to reflect the fact that—if the aliens in question were barred from regular Medicaid—the federal government would likely end up paying more in reimbursements for emergency care and for uncompensated care. The resulting savings in Medicaid would

climb from $0.1 billion in 1997 to about $0.6 billion a year in 2000 through 2002, totaling $2.7 billion over the 1996—2002 period.

One of the few benefits for which illegal aliens now qualify is emergency Medicaid, under section 1903(v) of the Social Security Act. Section 212 of S. 269 is apparently intended to make the federal government responsible for the entire cost of emergency medical care for illegal aliens, instead of splitting the cost with states as under the current matching requirements of Medicaid. However, the drafting of the provision leaves several legal and practical issues dangling. S. 269 would not repeal the current provision in section 1903(v). It would apparently establish a separate program to pay for emergency medical care. Although it stipulates that funding must be set in advance in appropriation acts, it also provides that states and localities would therefore have an open-ended right to reimbursement, notwithstanding the ceiling implied in an appropriation act.

S. 269 orders the Secretary of Health and Human Services (HHS), in consultation with the Attorney General, to develop rules for reimbursement. Emergency patients often show up with no insurance and little other identification; therefore, if HHS drafted stringent rules for verification, it is possible that very few providers could collect the reimbursement. On the other hand, if HHS required only minimal identification, providers would have an incentive to classify as many patients as possible in this category because that would maximize their federal reimbursement. S. 269 does not state whether reimbursement would be subject to the usual limits on allowable charges in Medicaid, or whether providers could bill the federal government for their full cost. Nor is it clear whether the program would use the same definition of emergency care as in Medicaid law.

Although the budgetary effects of Section 212 cannot be estimated, some idea of its potential costs can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would cost approximately $1.5 billion to $3 billion per year. That estimate assumes that Medicaid would continue to use its current definition of emergency care and its current schedule of charges. It also assumes that states would seek to classify more aliens and more services in this category, in order to collect the greatest reimbursement.

Similarly, section 201 of the bill is meant to qualify certain mothers who are illegal aliens for pre- and post-partum care under the Medicaid program. In general, poor women who are citizens or legal immigrants can now get such care through Medicaid, but illegal aliens cannot. Although the bill would authorize $120 million a year for such care, the new benefit would in fact be open-ended because of the entitlement nature of the Medicaid program. CBO does not have enough information to estimate the provision's cost, which would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence.

Earned Income Tax Credit. S. 269 would deny eligibility for the Earned Income Tax Credit (EITC) to workers who are not authorized to be employed in the United States. In practice, that provision would work by requiring valid Social Security numbers to be filed for the primary and secondary taxpayers on returns that claim the EITC. A similar provision was contained in President Clinton's 1996 budget proposal and in last fall's reconciliation bill. The Joint Committee on Taxation estimates that the provision would reduce the deficit by approximately $0.2 billion a year.

Other programs. Entitlement or direct spending programs other than those already listed are estimated to incur negligible costs or savings over the 1997–2002 period as a consequence of S. 269. The foster care program does not appear on any list of exemptions in S. 269; but since the program does not employ deeming now, and since it is unclear how deeming could be made to work in that program (for example, whether it would apply to foster care children or parents), CBO estimates no savings. CBO estimates that the bill would not lead to any significant savings in the student loan program. The Title XX social services program, and entitlement program for the states, is funded at a fixed dollar amount set by the Congress; the eligibility or ineligibility of aliens for services would not have any direct effect on those dollar amounts.

S. 269 would have a small effect on the net outlays of Federal retirement programs. Section 196 of the bill would permit certain civilian and military retirees to collect their full pensions in addition to their salary if they are reemployed by the Department of Justice to help tackle a backlog of asylum applications. CBO estimates that about 100 annuitants would be affected, and that net outlays would increase by $1 million to $2 million a year in 1997 through 1999.

CBO judges that S. 269 would not lead to any savings in Social Security, unemployment insurance, or other federal benefits that are based on earning. S. 269 would deny benefits if the alien was not legally authorized to work in the United States. Since 1972, however, the law has ordered the Social Security Administration to issue Social Security numbers (SSNs) only to citizens and to aliens legally authorized to work here. A narrow exception is "nonwork" SSNs, granted for purposes such as enabling aliens to file income taxes. Since all work performed by aliens who received SSNs after 1972 is presumed to be legal, and since verifying the work authorization of people who received SSNs before 1972 is an insuperable task, CBO estimates no savings in these earnings-related benefits.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because several sections of this bill would affect receipts and direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−450	−927
Change in receipts	0	14	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

8. Estimated impact on State, local, and tribal governments: See the enclosed intergovernmental mandates statement.

9. Estimated impact on the private sector: See the enclosed private sector mandates statement.

10. Previous CBO estimate: On March 4, 1996, CBO provided an estimate of H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. However, the deeming restrictions proposed in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last 5 years as well as to future entrants—would result in larger savings in many benefit programs. Also, projected discretionary spending under S. 269 would be less than under H.R. 2202.

In 1995, CBO prepared many estimates of welfare reform proposals that would have curtailed the eligibility of legal aliens for public assistance. Examples include the budget reconciliation bill (H.R. 2491) and the welfare reform bill (H.R. 4), both of which were vetoed.

11. Estimate prepared by: Mark Grabowicz, Wayne Boyington, Sheila Dacey, Dorothy Rosenbaum, Robin Rudowitz, Kathy Ruffing, and Stephanie Weiner.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported, by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make changes and additions to federal laws relating to immigration.

5. Private sector mandates contained in the bill: Several provisions of the bill would impose new requirements on the private sector. In general, the private sector mandates in S. 269 lie in three areas: (1) provisions that affect the transportation industry, (2) provisions that affect aliens within the borders of the United States, and (3) provisions that affect individuals who sponsor aliens and execute affidavits of support. The estimated impacts of these mandates do not include any costs imposed on individuals not within the borders of the United States.

6. Estimated direct cost to the private sector: CBO estimates that the direct costs of private sector mandates identified in S. 269 would be less than $100 million annually through 1999, but would rise to over $100 million in 2000 and $300 million in 2001. In 2002 and thereafter, the direct costs would exceed $600 million annually. The large majority of those costs would be imposed on sponsors of aliens who execute affidavits of support, such costs are now borne by the federal government and state and local governments for the provision of benefits under public assistance programs. Assuming enactment of S. 260 this summer, CBO expects that the mandates in the bill would be effective beginning in fiscal year 1997.

Basis of estimate

Title I, subtitle A—Law enforcement

Section 151 would impose new mandates on the transportation industry—in particular, those carriers arriving in the U.S. from overseas. Agents that transport stowaways to the U.S., even unknowingly, would be responsible for detaining them and for the costs associated with their removal. This mandate is not expected to impose large costs on the transportation industry. Over the last two years a total of only about 2000 stowaways have been detained.

Section 154 would require aliens who seek to become permanent residents to show documented proof that they have been immunized against a list of diseases classified as "vaccine-preventable" by the Advisory Committee on Immunization Practices. That requirement would impose costs on aliens who were not immunized previously or were unable to document that they had been immunized. Some of the costs might be paid for by state and local governments through public clinics. The total cost of the mandate to

aliens residing in the United States would be expected to be less than $40 million a year.

Section 155 would impose two new requirements on aliens in the U.S. who seek to adjust their status to permanent resident for the purpose of working as nonphysician health care workers. First, those aliens would be required to present a certificate from the Commission on Graduates of Foreign Nursing Schools (or an equivalent body) that verifies that the alien's education, training, license, and experience meet standards comparable to those required for domestically trained health care workers employed in the same occupation. Second, those aliens would be required to attain a certain score on a standardized test of oral and written English language proficiency.

The aggregate direct costs of complying with the new requirements imposed on nonphysician health care workers would depend on several factors: the number of aliens that attempt to adjust their status to permanent resident for the purpose of becoming a nonphysician health care worker; the costs of obtaining proof of certification and of taking an English language test; and the cost of conforming to the higher standard for those not initially qualified who would attempt to do so. At this point CBO does not have quantitative information on these factors but we do not believe that the aggregate direct costs of these mandates would be substantial. Nevertheless, for certain individuals the cost of meeting these requirements would be large.

Title II—Financial responsibility

Title II would impose new requirements on citizens and permanent residents who execute affidavits of support for legal immigrants. At present, immigrants who are expected to become public charges must obtain a financial sponsor who signs an affidavit of support. A portion of the sponsor's income is then "deemed" to the immigrant for use in the means-test for several federal welfare programs. Affidavits of support, however, are not legally binding documents. S. 269 would make affidavits of support legally binding, expand the responsibilities of financial sponsors, and place an enforceable duty on sponsors to reimburse the federal government or states for benefits provided in certain circumstances.

Supporting aliens to prevent them from becoming public charges would impose considerable costs on sponsors, who are included in the private sector under the Unfunded Mandates Reform Act of 1995. CBO estimates that sponsors of immigrants would face over $20 million in additional costs in 1997. Costs would grow quickly, however. Over the period from 1998 to 2001, assuming that affidavits of support would be enforced, the costs to sponsors of immigrants would exceed $100 million annually and would total about $500 million during the first five years that the mandate would be effective.

Other provisions

Several other provisions in S. 269 would impose new mandates on citizens and aliens but would result in little or no monetary cost. For example, Title II contains a new mandate that would require sponsors to notify the federal and state governments of any change of address. CBO estimates that the direct cost of these provisions would be minimal.

Section 116 of Title I would change the acceptable employment-verification documents and authorize the Attorney General to require individuals to provide their Social Security number on employment forms attesting that the individual is not an unauthorized alien. CBO estimates that the direct costs of complying with that requirement would also be minimal.

Section 181 of Title I would add categories of aliens who would not be permitted to adjust from non-immigrant to immigrant status. Any alien not in a lawful immigrant status would not be allowed to become an employment-based immigrant. Also, aliens who were employed while an unauthorized alien, or who had otherwise violated the terms of a nonimmigrant visa, would not be allowed to become an immigrant. Although these provisions would have significant impacts on certain members of the private sector, there would be no direct costs as defined by P.L. 104-4.

7. Previous CBO estimate: On March 13, 1996, CBO prepared a private sector mandate statement on H.R. 2202, the Immigration in the National Interest Act of 1995, which was ordered reported by the House Committee on the Judiciary on October 24, 1995.

8. Estimate prepared by: Daniel Mont and Matt Eyles.

9. Estimate approved by: Joseph R. Antos, Assistant Director for Health and Human Resources.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill Number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill Status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to federal laws relating to immigration. The bill would also require changes to the administration of state and local transportation, public health, and public assistance programs. Demonstration projects for verifying immigration status and for determining benefit eligibility would be conducted in a number of states, pursuant to agreements between those states and the Attorney General. Section 118 would require state and local governments to adhere to certain standards in the production of birth certificates, driver's licenses, and identification documents. Sections 201 and 203 would limit the eligibility of many aliens for public assistance and other benefits. In addition, Title II would authorize state and local governments to implement measures to minimize or recoup costs associated with providing certain benefits to legal and non-legal aliens.

5. Intergovernmental mandates contained in bill:

State and local governments that issue birth certificates would be required to use safety paper that is tamper- and counterfeit-resistant, comply with new regulations established by the Department of Health and Human Services (HHS), and prominently note on a copy of a birth certificate if the person is known to be deceased.

State agencies issuing driver's licenses or identification documents would be required either to print Social Security numbers on these items or collect and verify the number before issuance. They would also be required to comply with new regulations to be established by the Department of Transportation (DOT).

State employment security agencies would be required to verify employment eligibility and complete attestations to that effect prior to referring an individual to prospective employers.

State and local agencies administering public assistance and regulatory programs would be required to:

Deny eligibility in most state and local means-tested benefit programs to non-legal aliens, including those "permanently residing under color of law" (PRUCOL). (PRUCOLS are aliens whose status is usually transitional or involves an indefinite stay of deportation);

Weigh sponsors' income (a practice known as deeming) for 5 years or longer after entry when gauging a legal alien's eligibility for benefits in some large federal means-tested entitlement programs;

Request reimbursement from sponsors via certified mail and in compliance with Social Security Administration regulations if notified that a sponsored alien has received benefits from a means-tested program;

Notify, either individually or publicly, all ineligible aliens who are receiving benefits or assistance that their eligibility is to be terminated; and

Deny non-legal aliens and PRUCOLs the right to receive grants, enter into contracts or loan agreements, or receive or renew professional or commercial licenses.

State and local governments would be prohibited from imposing any restrictions on the exchange of information between governmental entities or officials and the Immigration and Naturalization Service (INS) regarding the immigration status of individuals.

6. Estimated direct cost of mandates on State, local, and tribal governments:

(a) *Is the $50 Million Threshold Exceeded?* Yes.

(b) *Total Direct Costs of Mandates:* CBO estimates that these mandates would impose direct cost on state, local, and tribal governments totaling between $80 million and $200 million in fiscal year 1998. In the four subsequent years, mandate costs would total less than $2 million annually. State, local, and tribal governments could face additional costs associated with the deeming requirements in each of the 5 years following enactment of the bill; however, CBO cannot quantify such costs at this time.

S. 269 also includes a number of provisions that, while not mandates, would result in significant net savings to state, local, and tribal governments. CBO estimates these savings could total several billion dollars over the next five years.

(c) *Estimate of Necessary Budget Authority:* Not applicable.

7. Basis of estimate: Of the mandates listed above, the requirements governing birth certificates and driver's licenses would impose the most significant direct costs. The bill would require issuers of birth certificates to use a certain quality safety paper when providing copies to individuals if those copies are to be acceptable for use at any federal office or state agency that issues driver licenses or identification documents. While many state issuers are adequate quality safety paper, many local clerk and registrar offices do not. The bill also requires states either to collect Social Security numbers from driver's license applicants or to print the number on the driver's license card. While a significant number of states currently use Social Security numbers as the driver's license number, the most populous states neither print the number on the card nor collect if for reference purposes.

For the purposes of preparing this estimate, CBO contacted state and local governments, public interest groups representing these governments, and a number of officials from professional associations. Because of the variation in the way state and local governments issue birth certificates, we contacted clerks and registrars in eleven states in an effort to assess the impact of the birth certificate provisions. To estimate the cost of the driver's license requirements, we contacted over twenty state government transportation officials. Most state and local governments charge fees for issuing driver's licenses and copies of birth certificates. Those governments may choose to use revenues from these fees to pay for the expenses associated with the mandates. Under Public Law

104-4, however, these revenues are considered a means of financing and as such cannot be counted against the mandate costs of S.269.

Mandates with significant costs

Birth Certificates. Based on information from state registrars of vital statistics, CBO estimates that 60 percent of the approximately 18 million certified copies of birth certificates issued each year in the United States are printed on plain bond paper or low quality safety paper. CBO assumed that state and local issuing agencies needing to upgrade the quality of the paper would spend, on average, about $0.10 per certificate. In addition, CBO expects the bill would induce some individuals holding copies of birth certificates that do not conform to the required standards to request new birth certificates when they would not have otherwise done so. CBO estimated that issuing agencies across the country would experience a 20 percent increase in requests for copies of birth certificates for at least five years. On this basis, CBO estimates that the birth certificate provisions in the bill would impose direct printing and personnel costs on state and local governments totaling at least $2 million per year in each of the five years following the effective date of the provision. In addition, some state and local governments would have to replace or modify equipment in order to respond to the new requirements. CBO estimates these one-time costs would not exceed $5 million.

Driver's Licenses. Less than half of the states include Social Security numbers on all driver's licenses or perform some type of verification with the Social Security Administration. In fact, the states with the highest populations tend to be the states that do not have these requirements, and some state laws prohibit the collection of Social Security numbers for identification and driver's license purposes. CBO estimates that of the 185 million driver's licenses and identification cards in circulation, less than 40 percent would be in compliance with the requirements of S. 269. Any driver's license or identification card that does not comply with those requirements would be invalid for any evidentiary purpose.

Given the common use of these documents as legal identifiers, CBO assumed that at least half of those individuals who currently have driver's licenses or identification cards that do not meet the requirements of S. 269 would seek early renewals. CBO assumed that states would face additional printing costs of between $0.75 and $1.20 per document, increased administrative costs resulting from the influx of renewals, and, for some states, one time system conversion costs. We estimate that direct costs, assuming a limited number of additional renewal requests, would total $80 million in the first year. If more people sought early renewals, total costs could easily approach $200 million in the first year.

The driver's license provisions in the bill would be effective immediately upon enactment. Because of the significant processing and administrative changes that states would face under these requirements, CBO has assumed that states would establish procedures for compliance in the year following enactment. Consequently, the additional expenditures resulting from reissuing licenses and identification cards would occur in 1998.

Provision of Public Assistance to Aliens. It is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104-4. In entitlement programs larger than $500 million per year, an increase in the stringency of federal conditions is considered a mandate only if states or localities lack the authority to modify their programs to accommodate the new requirements and still provide required services. In some programs—such as Aid to Families with Dependent Children (AFDC) and Food Stamps—some states may lack such authority and any new requirements would thus constitute a mandate. Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the federal government. Any additional costs, however, would be offset at least partially by reduced caseloads in some programs.

Mandates with no significant costs

Many of the mandates in S. 269 would not result in measurable budgetary impacts on state, local, or tribal governments. In some cases—eligibility restrictions based on non-legal status and death notations on birth certificates—the bill's requirements simply restate current law or practice for many of the jurisdictions with large populations and would thus result in little costs or savings. In others—sponsor reimbursement requests and preemption of laws restricting the flow of information to and from the INS—the provisions would result in minor administrative costs for some state and local governments, but even in aggregate, CBO estimates these amounts would be insignificant.

The provision requiring agencies to notify certain aliens that their eligibility for benefits has been terminated would impose direct costs on state and local governments. CBO estimates such costs would be offset by savings from caseload reduction resulting from the notifications. Another provision—state job service verification of employment eligibility—may result in significant administrative costs; however, those costs are funded through federal appropriations.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local, and tribal governments: S. 269 contains many additional provisions that, while not mandates or changes to existing mandates, could have significant impacts on the budgets of state and local governments. On balance, CBO expects that the provisions discussed in this section would result in an overall net savings to state and local governments.

Means-tested Federal programs

S. 269 would result in significant savings to state and local governments by reducing the number of legal aliens receiving means-tested benefits through federal programs, including Medicaid, AFDC, and Supplemental Security Income (SSI). These federal programs are administered by state or local governments and have matching requirements for participation. Thus, reductions in caseloads would reduce state and local, as well as federal, outlays in these programs. CBO estimates that the savings to state and local governments would exceed $2 billion over the next five years. These are significant and real savings, but in general, the state and local impacts of these federal programs are not defined as mandates under Public Law 104-4.

S. 269 would reduce caseloads in means-tested federal programs primarily by placing stricter eligibility requirements on both recent and future legal entrants. The bill would lengthen the time sponsored aliens must wait before they can go on AFDC or SSI, and, most notably, apply such a waiting period to the Medicaid program. S. 269 would also deny many means-tested benefits to PRUCOLs. Illegal aliens are currently ineligible for most federal assistance programs and would remain so under the proposed law.

Means-tested State and local programs

It is likely that some aliens displaced from federal assistance programs would turn to assistance programs funded by state and local governments, thereby increasing the costs of these programs. While several provisions in the bill could mitigate these costs—strengthening affidavits of support by sponsors, allowing the recovery of costs from sponsors, and authorizing agencies to deem in state and local means-tested programs—CBO expects that such tools would be used only in limited circumstances in the near future. At some point, state and, particularly, local governments become the providers of last resort, and as such, we anticipate that they would face added financial pressures on their public assistance programs that would at least partially offset the savings they realize from the federal programs. Because these state and local programs are voluntary activities of those governments, increases in the costs of these programs are not mandate costs.

Medicaid

Emergency Medical Services. Section 212 of S. 269 is apparently intended to offer state and local governments full reimbursement for the costs of providing emergency medical services to non-legal aliens and PRUCOLs on the condition that they follow verification procedures to be established by the Secretary of Health and Human Services, after consultation with the Attorney General and state and local officials. Existing law requires that state and local governments provide these services and, under current matching requirements, pay approximately half of the costs. Ambiguities in the drafting of the provision prevent CBO from estimating its effect.

While no reliable totals are available of the amounts currently spent to provide the services, areas with large alien populations claim that this requirement results in a substantial drain on their budgets. For example, California, with almost half the country's illegal alien population, estimates it spends over $350 million each year on these federally mandated services. Although CBO cannot estimate the effects of Section 212 on state and local governments, some idea of its potential effects can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would increase federal Medicaid payments to states by $1.5 billion to $3 billion per year.

Pre- and Post—Partum Care. The bill would allow certain mothers who are non-legal aliens to qualify for pre- and post-partum care under the Medicaid program. CBO does not have enough information to estimate the potential budget impacts to state and local governments of this provision. Such impacts would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence in the United States.

10. Previous CBO estimate: On March 13, 1996, CBO prepared an intergovernmental mandates statement on H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. H.R. 2202 did not, however, include any of the requirements relating to driver's licenses, identification documents, or birth certificates that appear in S. 269. In addition, the deeming restrictions in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last five

years as well as to future entrants—would produce larger net savings in many benefit programs.

11. Estimate prepared by: Leo Lex and Karen McVey.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. SIMPSON. Mr. President, I yield to the Senator from Ohio.

Mr. DEWINE. Mr. President, let me first state that I want to congratulate my colleague from Wyoming, as well as my colleague from Massachusetts, for not just the work they have done on this bill, but, frankly, for the work they have done over the years on this very tough, very contentious, very difficult, but very important issue of immigration.

I have heard my colleague from Wyoming say on several occasions, as we have debated this bill in committee, that this is not really a bill or an issue that anyone gets a lot out of politically, and certainly not someone from the State of Wyoming. I certainly concur in that and understand that. I want to congratulate him for really doing the tough work of the U.S. Senate—work that began in the 1980's with the previous bill and continues on today. It is work that is many times not rewarded politically, certainly not appreciated many times, and is many times very controversial. I congratulate him for that.

This has been a contentious bill. We have had contentious debate in committee. The Senator from Wyoming and I have agreed on some issues and disagreed on other issues. I imagine that agreement and disagreement is probably going to continue on the floor today, tomorrow, and maybe for the rest of the week. Let me state that I do appreciate very much his tremendous work, as well as the work of Senator KENNEDY and, frankly, the work of all of the members of the subcommittee, some of whom have been involved in this task now for well over a decade.

Mr. President, we are here on the floor today to discuss a fundamental issue, a fundamental issue affecting the future of our country. Unlike most bills that come before Congress, this immigration bill really gets to the question of our national identity. Unlike most bills, this bill really speaks to who we are as a people, who we are as a nation. Quite frankly, also unlike most bills we deal with, the impact of this bill is going to be felt in 2 years, 5 years, 10 years, 20 years, and 30 years, because when you make a determination of who comes into this country and who does not come into this country, the consequences are profound, they are everlasting, and we have seen that, frankly, throughout the long history of our country.

Mr. President, in the darkest days of the cold war, back when Brezhnev was still ruling what was then known as the Soviet Union, Ronald Reagan gave a historic address to the British Parliament. It was in that famous speech in June 1982 that President Reagan predicted, "The march of freedom and democracy will leave Marxism and Leninism on the ash heap of history." Many of us remember how controversial that statement was at the time. Some in this country considered it unnecessarily provocative, and thought that it would inflame our enemies for really no good purpose. Mr. President, it may have been provocative, but it was absolutely, beyond a shadow of a doubt, prophetic. It was true. In that speech, Ronald Reagan was trying to unify the West. He wanted to unify the forces of freedom for what he knew, as others did not, would be the climactic days of the struggle against communism.

In the last resort, what President Reagan appealed to in that speech was really our sense of identity, who we were, who we are. This is what he said:

Let us ask ourselves: What kind of a people do we think we are? And let us answer: Free people, worthy of freedom and determined not only to remain so, but to help others gain their freedom, as well.

Ronald Reagan expressed, better than any political leader of my lifetime, a sense of what America really is—"the city on a hill, the land, the country of the future." When Ronald Reagan was a boy growing up in Illinois, he could still find Civil War veterans to talk to. In our time, over a century after the death of Abraham Lincoln, Ronald Reagan reminded us that America was still the last best hope of Earth. We must never, never forget this, Mr. President.

To turn our backs on this legacy—this legacy of hope, optimism, openness to the future—would be more than a mistake in policy. It would, I believe, Mr. President, truly be a diminution of who we are as a people. That is what I believe this immigration debate is all about. It is the same question Ronald Reagan asked to the British Parliament: "What kind of people do we think we are?"

Mr. President, America's immigration policy defines who we are. It defines who gets into this country and who does not get in. In the process, it says a lot about our national values. Mr. President, we have been working on this bill in the Senate Judiciary Committee for a number of weeks. I believe we made some progress in revising the bill to reflect what I believe are the basic American values. First, the committee split the portions of the bill dealing with illegal immigration. An amendment was offered by Senator ABRAHAM, myself, Senator KENNEDY, Senator FEINGOLD, and others, to split the bill. The committee did, in fact, split the bill. It divided the bill into those sections dealing with the treatment of persons who are in the United States illegally from those provisions that cover legal immigration. I support this split because I believe that the problem of illegal immigration is substantially different from the issues raised by our legal immigration policy. And, therefore, these two issues, in my opinion, should be treated separately. They are distinct. I intend later on to say more about this important issue.

Mr. President, in considering the illegal immigration bill, I voted for tough penalties for those who violate our immigration laws, and I voted to expedite the deportation of those violators. I am also proud to say that I sponsored an amendment to block the imposition of unreasonable time limits on persons seeking asylum from repressive and often life-threatening foreign regimes. Our amendment sought to restore the status quo.

Today, immigration authorities cannot enter farm property without a search warrant. The bill before the committee would have changed that and would have allowed them to enter property—to enter a farm—without that search warrant. I sponsored an amendment to make sure they did not get that evasive new power.

Further, Mr. President, I cosponsored an amendment with Senators ABRAHAM and FEINGOLD that would have removed from the bill a provision that establishes a national employment verification system and a national standards for birth certificates and driver's licenses. I believe that these provisions are unduly intrusive. And, quite frankly, I believe they are unworkable. I further believe they would cost taxpayers millions and millions and millions of dollars. Again, Mr. President, I intend to say a great deal more about this later on.

Let me turn to the legal immigration bill. On the legal immigration bill, with Senators ABRAHAM and KENNEDY, I cosponsored an amendment to allow legal immigrants to bring their families to join them here in the United States. The bill, as originally written, tried to change the law allowing U.S. citizens to bring their families to America. The bill would have permitted, as written, U.S. citizens to bring in only their spouses, minor children, and in rare cases their parents. Under that provision, as the bill was written before the amendment—I bring this up because I am sure this issue is going to come back again—a U.S. citizen under that provision of the bill as written would have been permitted to bring some children in but not others. I believe that is bad national policy. It undermines the family structure. And, frankly, in the history of civilization there has never been a stronger support structure than the family.

I also supported amendments that would continue to allow universities and businesses to bring in the best and the brightest to enrich our country. I intend to return to that issue as well later.

Mr. President, in all of our deliberations in the Judiciary Committee, I have stressed one key fact about America—the fact that throughout our national history, throughout our history, the effect of immigration on this country has been positive. Immigration has helped form the basis for our prosperity and our national strength. It has

made our country and the world a better place.

I tried to approach these difficult issues keeping in mind that a fair, controlled but open immigration policy is in our national interest. I believe we have made the first significant steps in this bill in the committee, in the amendment process, toward that goal.

Mr. President, even though we managed to improve the bill in a number of ways, I still have some problems with the present bill. In the name of protecting our borders, this bill would impose serious burdens on law-abiding American citizens, and it would move America away from its extremely valuable centuries-old tradition of openness to new people and new ideas.

Let me now go through the bill and lay out some of the particular concerns I have about the bill as it is currently before us today.

First, let me start with the very contentious issue of verification—the verification of employment. To begin with, the bill would create a massive time-consuming and error-prone bureaucracy. As originally written, the bill called for a process under which every employer would have to contact the Immigration and Naturalization Service and Social Security Administration to verify the citizenship of every prospective employee. My colleague from Ohio, Congressman STEVE CHABOT, called this 1-800-BIG-BROTHER. I think he is right. We did succeed in taking that provision out of the bill, or at least taking part of it out of the bill. But the long-term plan remains the same. In fact, the bill now contains a provision calling for numerous entitlement programs to do the very same thing.

I have had some experience in dealing with this kind of extremely large computerized database. My experience is from my time as Lieutenant Governor in Ohio when we were dealing with the criminal record system database. I contend that what I have learned from trying to improve, correct, and refine the criminal database is very applicable and very relevant to this whole discussion about our attempt to create a database for employees and employers.

When I was Lieutenant Governor, I was responsible for improving Ohio's criminal database so that the police could have ready access to a suspect's full criminal record history. When I started on this project, I was shocked to discover that in the State of Ohio—these figures are true in most States—only about 5 percent of the files, 5 percent of the computer information you got in a printout when you talked about a suspect, it put a suspect's name in and only about 5 percent of the information was accurate in regard to important facts—5 percent.

In criminal records, we are dealing with a database that we all know is important, that the people know is important, that we take a great deal of care in maintaining, and that is limited to the relatively small number of citizens who are actually criminals. In fact, when we deal with the criminal record system, we know that literally life and death decisions are being made based on the accuracy of that criminal record system, and we have spent hundreds of millions of dollars to bring it up to date, to make it more accurate, and yet we still know that it is highly error prone. We still know the accuracy level is very, very low.

Mr. President, I shudder to think what the inaccuracy rate will be in a database big enough to include every single citizen and noncitizen residing in this country. I shudder to think of what the accuracy or the inaccuracy level will be when we are dealing with a database where life and death decisions are not actually being made but, rather, where employment decisions are being made. The database will be unreliable. It would be time consuming, and it would be expensive.

In fact, the only way to make a database more reliable is frankly to make it more intrusive, and that clearly is what will happen. Once the pilot projects are running and we determine how inaccurate that information is, once the complaints start coming in from prospective employees and from employers who are dialing the 1-800 number, or putting the information in and we find out how inaccurate that is, there will be pressure to change it. And the pressure will be to make it, frankly, more intrusive—more information, more accurate. I believe that it would clearly lay the groundwork for a national system within 3 years.

Let me turn, if I can, Mr. President, to my second concern about this bill. That concerns the national standards for birth certificates and drivers' licenses. Yes, you have heard me correctly. In this Congress where we have talked about returning power to the States, returning authority to the States, this bill calls for national, federally imposed and federally enforced standards for birth certificates and drivers' licenses. Here is what the bill says as written, as it is on the floor today.

Section 118. Improvements in Identification-Related Documents.

(a) Birth certificates.

1. Limitation on Acceptance. (A) No Federal agency, including but not limited to the Social Security Administration and the Department of State—

Listen to this:

and no State agency that issues driver's licenses or identification documents. may accept for any official purpose a copy of a birth certificate, as defined in subparagraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

Continuing the quote:

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services. after consultation with the Association of Public Health Statistics and Information Systems. and shall include but not be limited to.

(i) certification by the agency issuing the birth certificate, and.

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

Mr. President, I am going to talk about this later, but I think it is important to pause for a moment and look at what this section does because it does in fact tell each State in the country, each local jurisdiction what it has to do in regard to issuing birth certificates. It in essence says for the 270 million people in this country the birth certificate you have is valid; you just cannot use it for anything. It is valid, it is OK, but if you want to take a trip and you want to get a passport, you have to go back to wherever you were born and have them issue a new birth certificate that complies with these national standards.

Think about it. Think about what impact this is going to have on the local communities, the cost it is going to have. Think about the inconvenience this is going to bring up for every American who uses a birth certificate to do practically anything—getting a driver's license, for example. And look at the language again. Not just no Federal agency may accept for any official purpose a copy of a birth certificate unless it fits this requirement but then the language goes on further and says no State agency.

So here we have the Federal Government saying to 50 States, no State agency shall be allowed to accept a birth certificate unless it fits the standards as prescribed by a bureaucrat in Washington, DC. Tenth amendment? Unbelievable, absolutely unbelievable. There are clear constitutional law problems in regard to this. Senator THOMPSON, who is on the committee, raised these issues in the committee and it is clear that this section has some very major constitutional law problems.

Here is in essence what this means. The Federal Government will tell every citizen that his or her birth certificate is no longer good enough for any of the major purposes for which it is used—not good enough for traveling, not good enough for getting married, not good enough for going to school, not good enough for getting a driver's license. How about constituent problems? We are all going to have to hire more caseworkers back in our home States when this goes into effect just to answer the phone and listen to people complain about this. How many people every year turn 16 and get their driver's license? How many people every year want to travel overseas, want to get a passport? Try telling them that birth certificate you got stuck in the drawer back home you used 5 years ago for something else, "Yes, it is still OK. you cannot use it, you have to go get a new one." Absolutely unbelievable.

(Mr. CRAIG assumed the chair.)

Mr. DEWINE. This bill would require every local county to redo its entire

birth certificate system in a new federally mandated format. The Federal Government will be telling Greene County, OH, everything to do with the certificate right down to what kind of paper to use. And the bill goes even further. Not only does it deal with birth certificates, it also deals with driver's licenses, and here is what the bill says. Let me quote.

Each State's driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation.

It continues.

Neither the Social Security Administration nor the passport office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

That means every State will have to issue federally mandated driver's licenses. It is my opinion this whole section of the bill, section 118, should be deleted.

Now, I understand what my friend from Wyoming is trying to accomplish here. And it is a laudable goal. I understand what other proponents are trying to accomplish. Most States would have no problem I think with an attempt to improve their driver's license. In fact, in my home State of Ohio we have come up in the last several years with a process that was put in place when I was Lieutenant Governor, with a brand new driver's license system, so when your license comes up for its normal renewal you have what we believe at least is a tamperproof driver's license. I understand, and I think most States want to move in that direction, most States are in fact moving in that direction, but to mandate this from Washington with the tremendous costs, and not just the costs but the unbelievable disruption and inconvenience I think is just a serious mistake. There is some great irony that this Congress, which has very legitimately and correctly been so concerned about turning power back to the States, should in this case be saying not only are we not turning power back to the States, we are taking power; we are taking a basic ministerial function of government, issuing a birth certificate, a basic function of State government and county government, local government, and saying, "We are going to tell you how to do it, and if you don't do it our way, you can't use that document even for State purposes." To me that is just wrong. It is taking us in the wrong direction.

Mr. President, this Congress has revived this great tradition, American tradition of State and local and individual freedom as enshrined in the 10th amendment.

To impose this huge new burden on individuals and on local communities will surely violate that principle. In fact, if we can think back that far, 15, 16 months ago, one of the first bills passed by this Congress was legislation to try to limit unfunded mandates. If this provision is not an unfunded mandate, I do not know what is. It is going to cost the States a lot of money to comply. And it is going to cost taxpayers, both through what it has cost the States, but also through what it is going to cost them in getting new birth certificates, new drivers' licenses.

According to the Congressional Budget Office, these mandates would impose direct costs on States, direct costs on States and local communities of between $80 million to $200 million. Those of us who used to work at State and local government know that $80 to $200 million is an awful lot of money. It is real money.

Finally, leaving decisions regarding what features these documents should contain to Federal bureaucrats—and that is what this bill does, not to Congress but to Federal bureaucrats—I believe is unwise and potentially dangerous. Under the current language of this bill, as we consider it today, the Department of Health and Human Services and the Department of Transportation could develop standards even more intrusive and even more costly than those spelled out in the original legislation, because, really, the way the bill is written today, they have more freedom, more flexibility—the bureaucrats do.

I do not believe the setting of standards like these should be left to the Federal bureaucracy with nothing more than a requirement that they consult with outside groups. The bill does not provide for any congressional review of the standards, nor does it impose any limit on what HHS and DOT can mandate. The provision is ill-conceived and contrary to any reasonable concern for our liberties. I will urge it be deleted.

Let me turn now to another area of concern. That has to do with the issue of asylum. The bill, as written, says something to people who want to apply for asylum in America, and says it, really, for the first time in our history. I want to emphasize this. For the first time in our history, this is what we will be saying to people who apply for asylum: You must now apply for asylum within a set period of time.

That may sound reasonable. First of all, it is contrary to what we have done previously in the long history of this country. And, I think, on closer examination, as we go through this, it will become clear why this seemingly innocent provision will inevitably lead to some very, very great hardships for some of the most abused people in the world. It says that an asylum seeker must apply within 1 year of arriving in this country or else get a special exception from some bureaucrat for "good cause." You get an exception for good cause. What constitutes good cause for an exception is, again, up to the Federal bureaucracy to define.

I think this is a terrible solution. It is a solution for a problem that does not exist. I will talk about this in a moment. But, if we had been on the floor a few years ago, no one could say there was not a problem with the processing of asylums, with the number of applications for asylum, because there was. But, frankly, changes have been made in the system, changes which have corrected the problem. There is not a massive influx of asylum seekers into America and there is already a reasonable judicial process to determine which applicants are worthy of admission. Only about 20 percent of asylum seekers get in, one of five gets in anyway, through this normal, regular process. The system, frankly, is not broken, and trying to fix it could and would, in my opinion, do serious harm to people who are trying to escape oppression, torture, and even death in their native lands.

If you talk, as I have, to people in the asylum community, people who deal with these issues and who deal with these people every day, they will tell you that some of the most heartwrenching cases involve people who are so emotionally scarred by torture that it takes them more than a year to come forward and seek asylum. Under the original bill, aliens seeking asylum would have been required to file for such asylum within 30 days of arriving in the United States. Along with Senators KENNEDY, FEINGOLD, ABRAHAM and others, I worked to defeat this provision during our work in the committee. We were able to do that and to change it and to extend it to 1 year. This 1-year provision still causes problems. Let me talk about that.

First, since the Immigration and Naturalization Service imposed new asylum application regulations in late 1994, the flagrant abuses of the asylum process have been substantially reduced already.

Second, it turns out that it is the people most deserving of asylum status, those under threat of retaliation, those suffering physical or mental disability, especially when abused resulting from torture, who would most be hurt by the imposition of any filing deadline.

The committee did make the change. It made the change to strike the 30-day provision by a vote of 16 to 1. But I believe we do need to go further and we need to restore the bill and the law to the status quo. The committee passed an amendment by the distinguished Senator from Colorado [Mr. BROWN]. Senator BROWN's language is currently in the bill, and I believe, as I said, it is far better than the original 30-day limit. But I do remain convinced the arguments that were so simple and compelling against the 30-day time limit are equally compelling against the provision as it stands now. Let me talk about that.

First, because the asylum system works, and works pretty well—I do not think there is any dispute about that—we simply do not need a time limit for

asylum seekers. As I stated, we acknowledged several years ago the asylum system was in fact broken and there were serious problems. Under the old system, people could get a work authorization simply by applying for asylum. That is what they did, and that was the hole.

This opportunity became a magnet, even for those who had absolutely no realistic claim for asylum. But the INS changed this. When the INS changed its rules in late 1994, it stopped automatically awarding work permits for those filing for asylum, and it got rid of a great deal of the problem. The INS then began to require an adjudication of the asylum claim before it awarded work authorizations. It also, at the same time, began resolving asylum claims within 180 days.

The results are significant. According to the INS, in 1994, before the new rules were put in place, 123,000 people claimed asylum. In 1995, after the new rules were established, only 53,000 people even applied for asylum. Instantly you went from 123,000 who applied one year, the next year down to 53,000; that is a 57 percent decline in just 1 year.

Also, the INS reports it is now completing 84 percent of the new cases within 60 days of filing and 98 percent, virtually all new cases, within 180 days of filing. Maybe that is why the administration, the INS, opposed any time limit on filing. The new system works. It is not broken. It does not need to be fixed.

The new system works, and the new deadlines would—and here I quote the INS Commissioner. Here is what she says. The new proposal would "divert resources from adjudicating the merits of asylum applications to adjudication of the timeliness of filing." So what the INS is saying is that we fixed this problem, it is working, do not give us another mandate. Do not shift us over here, so we have to have separate adjudications about the timeliness and then go over and adjudicate the merits. Let us proceed the way we are doing today. It is working.

Point No. 2, why we really should not have this time limit. This, to me, is the most compelling, because the facts are the most worthy cases for asylum would be excluded if we impose a deadline.

Among those excluded would be cases of victims of politically motivated torture and rape, the very people who need more time to apply, the very people who deadlines would hurt the most. These are the people who have suffered a great trauma that prevents them from coming forward. These are the people who fear that coming forward for asylum would threaten their families and friends in their home countries. These are the two types of people, Mr. President, for whom time is important.

Time can cure the personal trauma and culture shock that prevents them from seeking asylum. Time can allow conditions to change back home. A time limit—any time limit—will place these people at risk.

Let us talk now about some real people.

One man, whose name is Gabriel, had a father who was chairman of a social democratic party in Nigeria. His father was arrested many times. His half-brother was executed for opposing the military regime. Gabriel participated in a student demonstration. He was arrested and imprisoned back home for 8 months. He was tortured by guards who carved the initials of the ruling general into his stomach and then sprayed pepper on the wounds. They whipped him, and they forced him to drink his own urine.

Gabriel fled to the United States and, understandably, he was terrified that if he applied for asylum, he would be sent back to Nigeria where he could be murdered. He only applied for asylum after he was arrested by the INS, 5 years after coming to America.

Let me give another example—and the list goes on. Another man was a member of his country's government in exile, elected in a democratic election that was later annulled. When the military took over his country, many of the members of the government were tortured and imprisoned. This particular man fled his country and came to the United States where he sought the United Nations' help in restoring democracy at home. He sought residence in other countries, and he was concerned that application for asylum in this country would be used for propaganda purposes by the military at his home country.

Fifteen months after arriving in the United States, he did seek asylum. Although he was highly educated, although he was proficient in the English language, it took this man over 2 months to file that application. He was finally granted asylum in the United States, but to this day, he has asked that his name, that his home country and the fact that he sought asylum be held in the strictest confidence. He is still fearful.

A third example. Another man was a political dissident against the regime in Zaire. He published an article about the slaughter of students who had demonstrated against the regime, and that was one of the political offenses that ultimately landed this man in jail. In prison, the guards beat him, the guards raped him. When he came to the United States, he was simply unable to talk about his story. His Christian beliefs did not permit him to use the words necessary to describe the terrible tortures he had undergone. It was only after many meetings with legal representatives that he was finally able to tell his story. He finally applied for asylum over a year after entering the United States.

Those are just three examples, Mr. President. There really is practically no end to these examples, practically no end to worthy cases that would be foreclosed should we decide to apply deadlines. I know proponents of a time limit will argue that the bill does contain an escape clause, and it does on paper, the good-cause provision. But I think it is significant to point out that under this good-cause provision, the burden is on the applicant to show good cause. And the question of what constitutes good cause is really another problem with the bill.

In the report language, it says good cause "could include"—note that, Mr. President, not "must" or "should" but "could" include—"circumstances that changed after the applicant entered the United States"—I am quoting now—"or physical or mental disability, or threats of retribution against the applicant's relatives or other extenuating circumstances."

The report, as written, would allow the issuance of Federal regulations that might exclude the very type of applicants that the committee specifically intended to include. I believe that we should reject the time limit outright. We are not really talking about mere legalisms here. I think what is at stake is a fundamental reassertion of a truly basic, bedrock value of America: the opportunity to apply for asylum, the opportunity to use this country as a refuge.

I think it is important to note, as I did a moment ago, that there is not a problem. The INS has already taken care of this problem. What this bill does is create a problem—not for us, but what it will do is create a problem for people who are among the most abused, who have suffered the most and who seek freedom in this country.

I am reminded in this context of another story that President Reagan used to tell. He said, "Some years ago, two friends of mine were talking with a Cuban refugee who had escaped from Castro. In the midst of the tale of horrible experiences, one friend turned to the other and said, 'We don't know how lucky we are.' One Cuban stopped and said, 'How lucky you are? How lucky you are? I have someplace to escape to.'"

At this point, as he told the story, President Reagan looked out at America and drew his conclusion, and this is what he said: "Let's keep it that way."

Mr. President, let us keep it that way. Let us keep the light on over the door of America for some people who very desperately need that light, who need that hope.

Let me turn to another issue, and that is amendments that we may see on the floor concerning family. I want to turn now to some other provisions in the original bill that we managed to alter and change in committee but that may come up on the floor as amendments.

One of the most important of these issues had to do with the meaning of family. The original bill fundamentally changed the definition of a nuclear family. The original bill said to U.S. citizens that they could continue to bring their children to America but

only—this is to U.S. citizens now, said to U.S. citizens—they could continue to bring their children to America but only if the children are under 21, and they could only bring their parents to America if the parents are over 65 and the majority of their children live in America.

The original bill even went so far as to say that if a child was a minor but that child was married, that child could not come to this country either. You could not bring that minor child to the country if he or she decided to get married.

Mr. President, in a time when everyone agrees that the fundamental problem in America is a family breakdown—I do not think anyone on the floor disagrees with that—I think it is senseless to change the law to help break up families.

In the committee I kind of related this to my own life and my own experience and pretended for a moment with my family situation, if I was a new citizen in this country, if I had come from another country and was a naturalized citizen. Frankly, Mr. President, in my situation I have trouble saying that my 4-year-old daughter Anna—or Anna who is going to in 2 days become 4 years old—is a central part of my nuclear family, but my 28-year-old son Patrick is not; he is now part of my extended family; my 27-year-old daughter, Jill, she is not part of my nuclear family anymore, she is part of my extended family. That is what the bill had originally said.

Finally, the bill also originally said—I cannot understand this either—that MIKE DEWINE, as an only child I could bring my parents into the country if they are over 65, but my wife Frances DeWine could not bring her parents into the country because she is one of six. She, as one of six, she could not bring her parents into the country—only if a majority of her siblings actually lived in the United States and were citizens in the United States. Again, it does not make any sense. I think we are going to end up revisiting this issue. I think it is going to come back up.

Mr. President, at a time when Congress has acted to rein in public assistance programs, I do not believe we should deprive people the most basic support structure there is, their immediate family. It just does not make sense. Mr. President, we took these family limitation provisions out of the bill in committee. I hope that we will be able to sustain this on the floor and we will not change this.

Let me turn finally to one more issue, that has to do with the linkage of this bill. I believe it was a mistake in the original bill to combine the issues of legal and illegal immigration. For my colleagues watching on TV or on the floor who are not on the committee, we separated this in committee. What you have before you are two separate, distinct bills. I think it should stay that way because the issue of illegal immigration is decidedly distinct from the issue of legal immigration.

I think that the biggest mistake of the original bill was to combine the issues of legal and illegal immigration. Illegal immigrants are lawbreakers. That is the fact. Frankly, Mr. President, no society can exist that allows disrespect for the law.

On the other hand, legal immigrants are people who follow the law. They are an ambitious and gutsy group. They are people who have defined themselves by the fact they have been willing to come here, play by the rules, build a future, and take chances. To lump them in, Mr. President, legal immigrants, with people who violate the law is wrong. We simply should not do it. Historically Congress has treated legal immigration and illegal immigration separately. Father Hesburgh in his 1981 report indicated that Congress should control illegal immigration, while leaving the door open to legal immigration.

Congress has in fact done this over the years and kept the issue separate. In 1986 Congress dealt with illegal immigration. In 1990 Congress dealt with legal immigration. In fact, Mr. President, the very immigration bill that is before us today started its legislative career as a piece of legislation separate from the bill covering legal immigration. It was only late in the subcommittee markup that the bills became joined.

These issues, Mr. President, have been treated separately for many years. They have been treated separately for one simple reason—they present different issues. They are different. To treat them together is to invite repetition of numerous totally false stereotypes. The combining of the bills leads, I think, to the merging of the thought process into a great deal of confusion.

Let me give an example. Say, for example, that aliens are more likely than native-born Americans to be on welfare and food stamps or Medicaid. But the fact is, Mr. President, this generalization is not true about legal immigrants. The statement I just made is wrong in regard to legal immigrants. If you separate out the legal immigrants, you find when you are talking about legal immigrants that they are no more likely than native-born Americans to be applicants of social welfare services. In fact, legal immigrants who become naturalized citizens are less likely—let me repeat—less likely to go on public assistance than native-born Americans. That is what the facts are.

Now, a recent study, Mr. President, points to the same fact. It found that foreign-born individuals were 10 to 20 percent more likely than native-born Americans to need social services. That is an alarming statistic, if you just stop there. But if you go further, and if you exclude refugees from the total, the foreign-born individuals are considerably less likely to do so than native-born citizens. Again, the point I made a moment ago.

Let us turn, Mr. President, to another dangerous stereotype frequently asserted. That is, that one-half of our illegal immigration problem stems from people who first came here legally. Let me repeat it. Let me repeat this. The statement is made that one-half of our illegal immigration problem stems from people who first came here legally. Well, that is true.

That is a true statement. But it is only true as far as it goes. In fact, Mr. President. it is a very misleading statement. What the people who say this are talking about is not legal immigrants who stay here and somehow become illegal; they are talking instead about students and tourists who had the right to visit America legally. They never were legal immigrants in the classic sense. They had the legal right to be here, but they were not legal immigrants. These are students, tourists who come here legally, and then who stay and do not leave when they are supposed to leave. That is a huge problem in this country. But it is not a problem of legal immigrants.

These people who are creating this problem were never legal immigrants. By definition, Mr. President, legal immigrants are people who are allowed to stay. Legal immigrants by definition are here legally. They are not the problem.

Mr. President, this is also an important source of confusion on the question of whether immigration is rising rapidly. Some people claim, for example, that legal immigration is skyrocketing. They base their contention on INS numbers that include as legal immigrants illegal immigrants who are made legal by the 1986 Immigration Reform and Control Act.

Mr. President, if you take the total number of legal immigrants and subtract those that were illegal before the 1986 act, you find that legal immigration has been holding at fairly constant levels. That is what the facts are.

Let me just give an example, Mr. President. In the 1990's, we have had about 2.8 immigrants for every 1,000 Americans. Is that a lot? Well, we could judge for ourselves. The first two decades of the century, to make a comparison, the rates were 10.4 per 1,000 and 5.7 per 1,000.

Mr. President, I do not think knowing what we know now, that it would have been wise to say in 1910 that there were too many immigrants coming into America. It was precisely that generation of immigrants at the turn of the century that coincided with America's transition from the periphery of world events to the status of a global superpower.

Mr. President, let me stop. I have almost concluded, but let me stop at this point to yield to my friend, Senator SIMPSON from Wyoming.

Mr. SIMPSON. Mr. President, I appreciated very much my friend, the Senator from Ohio, yielding. I certainly would yield additional time. But

we have a time constraint with the ranking member and would like to, at the direction of the majority leader, present some amendments for disposition tomorrow. So, with that explanation, let me proceed.

Mr. SIMPSON. Mr. President, I ask unanimous consent that amendments numbered 3669, 3670, and 3671 be temporarily laid aside in the order in which they were offered and that they be made the pending business at the request of the majority leader after notification of the Democratic leader.

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

Mr. SIMPSON. I further ask that it be in order for me to ask for the yeas and nays on the three amendments, with one showing of seconds.

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

Mr. SIMPSON. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the Dorgan amendment recur as the pending amendment.

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

AMENDMENT NO. 3672 TO AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3672 to Amendment No. 3667.

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

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

The amendment is as follows:

Strike all after the word "Sec." and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. KENNEDY. Mr. President, I was reading that it be made the pending business at the request of the majority leader after notification of the Democratic leader. I am sure that will all be done in good faith. But I understand that notification of the Democratic leader includes that if a Member of our party would like to speak and address those amendments, I assume that would be respected. I make that assumption.

Mr. SIMPSON. Mr. President, I certainly make that assumption. I understand it to be notification and agreement by the Democratic leader.

Mr. KENNEDY. I thank the Chair. As far as the discussion then on that measure, I know there are other Members that want to address the Senate on other matters. I see the Senator from South Carolina, who wanted to speak, as well, on the issue of Senator DORGAN's amendment.

Mr. SIMPSON. If I may, I believe Senator DEWINE had not concluded his remarks when I requested the floor. I appreciate very much his willingness to do that so we could get those amendments before the body. How much more time does Senator DEWINE need?

Mr. DEWINE. I probably have 6, 7, or 8 minutes.

Mr. SIMPSON. I appreciate that. Then we will yield to Senator HOLLINGS for a discussion on the Dorgan amendment and temporarily go off of this measure. I thank the Senator from Ohio very much for his courtesies in enabling us to go forward with an agenda for tomorrow.

Mr. DEWINE. Mr. President, let me conclude my general comments about this bill today. I think America's greatness has been created, generation after generation, by driven self-selected individuals who came here as legal immigrants. We can think of names such as Albert Einstein, from Ohio, someone like George Olah who came here from Budapest in 1957 and taught at Case-Western Reserve, and won the Nobel Prize for chemistry in 1994. The original bills as introduced actually said to people like Einstein and Olah, "Get lost, you can come to the U.S., but only if you jump through a whole bunch of bureaucratic hoops from the State Department and the Labor Department."

A lot of these provisions were, in fact, changed in committee. Mr. President, I think we really do not need to be making it any harder for these talented, energetic people to come and help us build our great country. In fact, Mr. President, we became the richest, most powerful nation in the history of the world by doing exactly the opposite—by encouraging them to come.

No, Mr. President, America's immigration problem is not the high-quality researchers and professors wading the Rio Grande in the dead of night or scrambling over a fence to avoid the Border Patrol.

We should and can crack down on illegal immigration. That is a law enforcement issue. We should not allow that effort to serve as a Trojan horse for other measures—measures that would hurt America's future by rejecting the very finest and most noble traditions of America's past.

To reverse course on immigration, as some might recommend, is to say that America from now on will define itself as a country that is fearful of change, afraid of competition, and convinced that her best days are past. That is not the attitude that made America the greatest country the world has ever seen. An America that thinks itself as weak and threatened is not the America that I see. It is not the America that we Americans believe in. It is not the America that a dirt poor Irishman named Dennis DeWine saw—saw in his dream as he left County Galway 150 years ago to escape the potato famine in Ireland. We do not know a lot about my great-great-grandfather. All we know for sure is that he came over to America from Galway. It is pretty clear, though, that Dennis DeWine came here with guts and with ambition, but probably with very little else. He took a chance on America, and America took a chance on him because America back then thought big thoughts about itself and what great riches lay in the ambition—in the ambition of people who are willing to take risks. That is the kind of America we need to be, not a closed America that views itself as a finished product but an America that is open to new people, new ideas, and open to the future.

Mr. President, I began this speech by talking about how Ronald Reagan expressed better than any other political figure of our era the truest sense of what America stands for. I think it would be appropriate for me to conclude these remarks about America's immigration policy and about America's identity with another great story, one that President Reagan recounted more than once in his Presidency. In fact, he found it so moving that he even included it in his farewell address 9 days before he left the White House. Here is the way Ronald Reagan told the story.

> I have been reflecting on what the past 8 years have meant, and mean, and the image that comes to mind, like a refrain, is a nautical one—a small story about a big ship and a refugee and a sailor. It was back in the early 1980's at the height of the boat people, and a sailor was hard at work on the Carrier *Midway* which was then patrolling the South China Sea. The sailor, like most American servicemen, was young, smart, and fiercely observant. The crew spied on the horizon a leaky little boat, and crammed inside were refugees from Indochina hoping—hoping to get to America. The *Midway* sent a small launch out to bring them to the ship and to safety. And as the refugees made their way through the choppy seas, one of them spied the sailor on deck. He stood up and called out to him. He yelled, "Hello, American sailor. Hello, freedom man"—a small moment with a big meaning, a moment a sailor could not get out of his mind. Neither could I, because that is what it is to be an American.

Mr. President, as we debate this bill, I think we will need to remind ourselves that that still is what it means to be an American. It always was, and let us pray that it always will be. Even at the very beginning of our history, back when we were a very small country, we were always a country with a very big meaning, a country whose future was unlimited, a country that believed in people and believed in their capacity to make the world a better place. What a legacy, what an awesome responsibility, a responsibility for our generation and for every generation.

I, along with some of my other colleagues, will be working to make sure that our immigration reform bill remains true to this legacy and true to the values that made America a beacon for all humanity.

Mr. President, I will conclude these remarks at this point, and again thank my colleague from Wyoming for his courtesy and for his work not only on this bill, but on this issue now for well over a decade.

Mr. SIMPSON. Mr. President, I thank the Senator from Ohio. He has been very involved, very articulate, and I appreciate the participation very much.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank the distinguished chairman of our committee, the Senator from Wyoming.

I say a word about immigration in that we opened up a school this morning for some 525 additional Immigration and Naturalization agents—the plan and plot as we work in the appropriations side of this particular problem. And I serve on the what we call the State, Justice, Commerce Subcommittee of Appropriations. For the past 25 years we have been trying to keep up with the problem as we have seen it. We work with the leadership of the Senator from Wyoming, the Senator from Massachusetts, Senator KENNEDY. And this morning, as I say, we opened up that school for some 525 agents at the old Navy yard facility in Charleston that we closed a couple of years ago.

A word should be said about our distinguished Commissioner of Immigration and Naturalization, Doris Meissner. She could not be with us, of course, because of the loss of her husband in that fatal crash going into Dubrovnik last week. Chuck Meissner, the Assistant Secretary of Commerce in charge of International Trade, was on that plane, that tragic loss. I talked to Commissioner Meissner and said that I know we have the scheduled opening of the school, but we ought to call that off. She said, "No, it is really an emergency situation. While I cannot be there, I will be represented by Ms. Sale, Chris Sale, the Deputy Commissioner, and the other authorities, and we are ready to go, and we want to make sure that we have at least these agents trained and ready to go to work by August." Chris Sale was there, and we opened the school in the most adequate fashion.

The American public and the U.S. Senate should understand that this problem is much like trying to drink water out of a fire hydrant. Go down to San Ysidro, CA, down there by San Diego where 46 million automobiles and 9 million pedestrians were stuck

and inspected by the Immigration and Naturalization Service last year. We are totally understaffed for the problems of the illegal immigrants coming into the Nation and making their demands upon State and Federal spending.

So it is not a casual commendation that I give to the leadership of the Senator from Wyoming because I worked with him on the Simpson-Mazzoli bill years back. He has been in the trenches working for years trying to bring the National Government ahead and on to the problem, so that it would not increase into this emergency, more or less, at this particular time.

Having said that, Mr. President, let me say a word about an underlying amendment of Senator DORGAN from North Dakota, myself, and others relative to spending Social Security trust funds. I can go into detail which I will to make the record here, but let me bring it right up to the spending habits of the National Government with respect to trust fund amounts. When we passed in 1983 the increase in Social Security taxes, we could not have possibly voted that tax increase save and excepting to maintain the integrity of the Social Security trust fund. In fact, the intent was not only to maintain its integrity but to maintain a surplus. We talked openly, and you refer back to the record, of the Greenspan commission report, that if these increases in taxes were carried out, we would have a surplus that would easily take care of the baby boom generation into the year 2050.

But otherwise has occurred. What we have been doing, in a shameless fashion, is spending the Social Security trust moneys on the deficit. We have been obscuring the size of the deficit by the use of those trust funds. It was $63 billion last year, if I remember correctly. Last year the CBO report was a $481 billion surplus. So if you add the $63 billion I guess it would be in the terms of a $544 billion surplus, over one-half trillion surplus funds in the Social Security trust. But, ah, now we have today's, or last week I should say but it is dated April 15, Time magazine, and I wish to quote because here is what really happens to the so-called trust funds. It is on page 27 of April 15, 1996, Time magazine, entitled "Odyssey of a Mad Genius." I refer to the article on page 27, "Beltway Robbery." This has to do with highway trust funds, not Social Security, but the similarity is so stark in its reality that it must be brought to the attention of my fellow Senators here this afternoon. I quote:

In a Washington out to cut Federal spending, 12-term Congressman Bud Shuster is an unrepentant pork barrel spender. Now it appears the Chairman of the House Transportation and Infrastructure Committee has converts. More than half his colleagues including a heavy majority of those reform-minded GOP freshmen, are backing a bill that would lift constraints on highway and airport projects. If the trust and budgeting act is passed by the House next week, it would give Shuster's committee great latitude to tap some $33 billion in transportation trust funds. The measure has mobilized a formidable lobbying coalition, uniting organized labor and big and small business, State and local governments, and such an esoteric trade association as the Precast-Prestressed Concrete Institute. Their goal is not only to pass it but also a vetoproof 289 votes. Supporters argue rightly that the money would go where it was intended—building roads and upgrading the airports. But the supposedly untapped funds are actually an accounting figment. Using them would increase the deficit or force greater cuts in other programs. Budget Committee Chairman John Kasich and Appropriations Chairman Bob Livingston are vehemently opposed. Attempts by Newt Gingrich to reconcile them and Shuster have come to naught. Meanwhile, Federal Chairman Alan Greenspan broke with his custom of staying neutral to advise against passage.

Now, is that not a remarkable report? One line in there, and I quote it again:

But the supposedly untapped funds are actually an accounting figment.

This is exactly what Senator Heinz and I were fighting against when we had enacted section 13301 of the Budget Enforcement Act on November 5, 1990, signed into law by President George Bush, voted by a vote of 98 to 2 in this Senate. We did not want Social Security trust funds to become an "accounting figment." That is what they do when they continue to use funds.

When we try to debate it in the Chamber, it does not matter; we have the money there, but it has to be used by the Government somewhere so we will just borrow the moneys there and everything else of that kind and tell the youth of America do not worry—well, do worry, it is going broke—when it is not going broke and when we got the moneys there and run around about going broke because in their mind it has become an accounting figment.

Now, let me mention a book by James Fowler. It is called "Breaking The News."

This is the problem in Government today. Years back, none other than Thomas Jefferson as between a free Government and a free press, he would choose the latter, and why? Because he said and reasoned that you could have a free Government but would not remain free long unless you had a free press to keep us politicians honest.

What has happened is that the free press no longer keeps the politicians honest. They in turn have joined into the dishonesty. Here it is. I read again. One sentence:

But the supposedly untapped funds are actually an accounting figment.

Thirty-three billion in the highway trust funds. The article quotes it. It is not an accounting figment. And instead of keeping the trust for highways, who comes out against spending highway moneys for highways? The chairman of the Budget Committee, the chairman of the Appropriations Committee, and of all people, the head of the Federal Reserve because he is part and parcel of the conspiracy for a so-called unified budget.

Now, let's go to unified. Wall Street and Alan Greenspan love unified budgets so long as the Government is not coming in to the bond market with its sharp elbows borrowing. Then they can make more money on stock sales. Bond sales, their interest rates stay down so borrow from yourself.

Well, that is pretty good for the irresponsible business leadership but for the public servant down here in Washington that has to do his job, he is going to meet himself coming around the corner and today we have met ourselves coming around the corner.

But the supposedly untapped funds are actually an accounting figment.

That is the charade and fraud that has been going on. I more or less dedicated myself to paying the bill. Earlier today when we were opening up this school, I said when we handled this Justice Department budget back in 1987, 1988, it was only about $4.2 billion. Now, this year, it is $16.7 billion. It has gone up, up and away, and we do not pay for it.

I cited an editorial in my own hometown newspaper about April 15, here we were, the day to pay taxes, and up, up and away was the national debt to $5 trillion. And they said: You know the reason for this was entitlement funds. They said that it was the military retirement, the Social Security, the Medicare.

Wait a minute, Mr. President. Let us go to these so-called entitlement funds. As I mentioned a moment ago, Social Security is over one-half trillion dollars in the black. Medicare, everybody agrees, is in the black. They are talking about going broke in 7 years, but many adjustments can be made and should be made and will be made. We will keep Medicare solvent. We do not have to cut it to get a tax cut to buy the vote for November. I have opposed that.

Similarly, with the military and civil service retirement fund, it is in the black. It is not these entitlements, it is paying for the immigration border patrol, the immigration inspectors, all the other things; the Justice Department, FBI, for the defense, for all these things for 15 years. We have not been paying for general government. Oh, this cry over entitlements started in the Appropriations Committee when my friend Dick Darman came in there, talking about "entitlements, entitlements, entitlements." And you have that same Concord Coalition, "entitlements, entitlements, entitlements," and my friend Pete Peterson up there in New York, "entitlements, entitlements, entitlements."

Let us talk about general government. I was a member of the Grace Commission against waste, fraud, and abuse. And we have constituted the biggest waste, the biggest fraud, the biggest abuse in the last 15 years by spending $250 billion more each and every year, on an average, without paying for it. That is why the debt has

gone to $5 trillion. That is why the interest cost has gone to over $350 billion. We will get a CBO estimate here on Wednesday. Today is Monday. But let me tell you what the estimate was earlier in the year. I will ask unanimous consent later that this be printed in the RECORD. The estimated 1996 interest cost on the national debt, gross interest paid is $350 billion.

Interest has gone up since then, so it is going to be over $1 billion a day. When President Reagan took over, the gross interest cost was exactly $74.8 billion. Get into a little arithmetic. Subtract 75, in round figures, $75 billion from $350 billion and you get $275 billion. Mr. President, 275 billion extra dollars spending for nothing, for nothing.

I remember President Reagan. I will show the talks, if you want me to put it in the RECORD. He was going to balance the budget in 1 year. Then he came to town and said, "Oops, 3 years." Then we had the Gramm-Rudman-Hollings Act, 5 years. Now they have proposed 7 years. If they get past the November election, the next crowd will say 10 years. As long as they can continue the charade, as long as the press fails to keep us honest and fails to engage the public in the truth, it continues the charade, calling it truth in budgeting.

Mr. President, the actual cost of domestic discretionary spending at this minute is $267 billion. But the increase in spending for interest on the debt has been $275 since President Reagan took office. Point: We have doubled domestic discretionary spending without getting a double Government. We could have two Presidents, two Senates, two Houses of Representatives, two Departments of Justice, Agriculture, Commerce, Interior. Domestic discretionary—we could have two for the money we are spending. But we are not getting it.

Talk about increased spending? "I am against increased spending." They are all running around in this Congress saying, "I am against increased spending." Well they have increased spending $1 billion today, on account of this fraud, this charade. Or, like taxes, for April 15 they have sent their minions all around the land, talking about tax day, "Let us have a special bill over in the House." It is all theater. And we will have that, "You have to have a two-thirds vote in order to increase taxes." Increase taxes? You cannot avoid death. You cannot avoid taxes. And you cannot avoid interest costs on the national debt. Interest is like taxes. You have already increased taxes today of $1 billion and you will increase taxes tomorrow, and on Saturday, and on Sunday and on Christmas Day, every day this year—not on increased program spending, but on interest on the debt. The crowd that says they are against increasing taxes is increasing taxes and not wanting to do a thing about this central problem.

I tried and I am going to continue. They are not going to get rid of me. I came here with a AAA credit rating for my State. I increased taxes to get it. I knew as a young Governor I could not go to those industry leaders in New York and ask them to come down and invest in Podunk. I had to have a solvent operation. So we did balance the budget and we put in a little device, which later, in the Federal Government, was called Gramm-Rudman-Hollings. It was cuts across the board.

I went to the distinguished Senator from Texas. I said, "This device that you have that cuts Social Security, it will not get to first base." I said, "Speaker O'Neill and Congressman Claude Pepper will run us off the Capitol steps. We have not got a chance. Forget it. Let us talk sense." I helped write Gramm-Rudman-Hollings sensibly, and we enacted automatic cuts across the board.

Then, when, as they say, the rubber hit the road in 1990, we abolished the cuts across the board. On October 19, at 12:41 a.m., I raised the point of order, and my distinguished colleague from Texas voted to abolish the cuts across the board of Gramm-Rudman-Hollings.

Do you know what they did? They went for spending caps. Well, this place has a ceiling, but the spending caps have not. Spending has gone up, up and away and that is why poor President Bush lost his reelection. There is no kidding around.

I mean, we were up to $400 billion deficits at that particular time. The exact figure, according to the schedule here of the real deficit was $403.6 billion. So they said we will try this little Governor from Arkansas. He has balanced the budget for 10 years. Give him a try.

I voted for a balanced budget under Lyndon Johnson. Under Lyndon Baines Johnson, the interest costs on the national debt in his last year, when we voted that balanced budget, was $16.6 billion. Now it is over $350 billion, over $1 billion a day. That is the biggest waste consciously caused by us.

I have been a party to it. Yes, I tried to enact a freeze. Then I tried Gramm-Rudman-Hollings. Then, even in the Budget Committee I had a value-added tax. It was bipartisan. I had the distinguished Senator from Missouri join me. The distinguished Senator from Minnesota joined. We had eight votes for a value-added tax of 5 percent allocated to ridding us of the deficit and debt so we would not have this increased spending on automatic pilot.

But, somehow, somewhere along the line, we have gotten into a contract of nothing but procedural nonsense. We have gotten into term limits, when the Constitution already says I have to run for every 6 years. Incidentally, I have been elected to the U.S. Senate six times.

We have procedural talk about unfunded mandates, line-item vetoes, anything except enacting a balanced budget. We are not providing; the size of the Federal work force is smaller now than it was 10 years ago. We are spending more and getting less. No wonder the body politic is disillusioned with their Government in Washington. Somehow, both Republican and Democrat, keep on spending more and more while we get less and less. And they all give us this same pollster pap of, "I am against taxes and for the family. I am against crime and for jobs." You know, get the hot button items and try to fool the people. And that is why the distinguished Senator from North Dakota has offered this amendment, which states:

It is the sense of the Senate that because section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using Social Security trust funds to balance the federal budget.

Mr. President, if acted on that idea, we would have passed the balanced budget amendment to the Constitution by at least 5 votes in March of last year—March of last year.

Again, about 6 weeks ago, I tried to bring it up, and they raised a technicality that it was not relevant. Five Senators wrote a letter to Majority Leader DOLE. We went on record in favor of the balanced budget amendment to the Constitution as long as it did not repeal section 13301. But they want that unified budget. Keep spending the billions and billions and billions from the Social Security trust fund and then come around at the end of the day when my children and the distinguished Presiding Officer's children and grandchildren come for their particular retirement, and they are going to say the untapped funds are actually an accounting figment.

Who in the year 2002 is going to raise a trillion dollars in taxes to make good on the IOU's in the Social Security draw? Nobody, nobody, and they do not have any idea of doing it. But "I'm against taxes," they say. Oh, it is a wonderful luxury to run around and fool the American people, and who allows it? The American free press. Read "Breaking the News" by James Fallows, an authoritative writer. He has been up here. He has watched the operation. I can tell you, time and time again, it has been a very, very difficult fight.

Let me give credit to the late Senator from Pennsylvania, John Heinz. John Heinz and I worked on taking the Social Security trust fund off budget. It was bipartisan. It was called the Heinz-Hollings amendment—we wanted him to lead it at the time because the Republicans were in control—and we called it the Heinz-Hollings-Moynihan amendment.

Our distinguished Senator MOYNIHAN had been the ranking member on the Finance Committee and, admittedly, is still the authority on Social Security in this body.

But on October 18, 1990, Senator John Heinz said:

Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit.

Another quote on October 18, 1990 by Senator John Heinz:

Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It does not take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

I make these quotes to the body this afternoon for the simple reason that it is bipartisan, and I am appealing to the Senators on the other side of the aisle, the Republican colleagues, because I know the chairman of our Budget Committee, the distinguished Senator from New Mexico, does not believe in busting the budget. He got caught off base last November when he held up the good housekeeping award and said, "Here's a balanced budget certified by the Director of the CBO."

Then 2 days later, "CBO said, as you were, "we have a deficit of $105 billion." It was not balanced at all. Let us not go through that charade again. We can pass a balanced budget amendment to the Constitution.

Senator DOLE is put under tremendous pressures with the goofy right that he has to respond to in order to get the nomination. But now that he has it, he should revert to the old DOLE, as he was as chairman of the Finance Committee when he joined in the sentiment of George Bush who called Reaganomics voodoo, and former Republican majority leader, Senator Baker, who said it was a riverboat gamble.

I know Senator DOLE. I have tremendous respect for him, and I know he is solid on paying bills. But he has a crowd that runs rampant saying, "We don't want to pay the bill."

Remember what happened to Fritz Mondale? He was honest enough to come out and say we are going to have to have an increase in taxes in order to pay the bills, but he did not add "in order to pay the bills." He said, "Yes, it looks like we are going to have to increase taxes." He had ahead of time said, "By the way, I'm a Democrat in the image of Hubert Humphrey." When he said he was a Democrat in the image of my friend Senator Humphrey from Minnesota, everybody took it to mean we really were going to start some spending.

I understand the call that has been put out to call the Democrats tax-and-spend, tax-and-spend.

Let me enter something in the RECORD now for President Clinton. In all of these 15 years, the only time the deficit has been decreased is under President Clinton. He came to town and cut spending $500 billion. He came to town and with a $500 billion deficit reduction plan—equally split between spending cuts and taxes. I voted for it in order to try and get on top of these interest costs, this waste.

He came to town and cut $57 billion out of Medicare and had proposed another $124 billion. But there was no $250 billion for a tax cut. So he was acting responsibly until the Post and you folks just pulled him off base, and then he came for a tax cut, too, which nobody can afford.

That is one grand fraud on the American people. We do not have any taxes to cut. We have been cutting the spending. Eliminate the domestic discretionary spending. Eliminate welfare, eliminate foreign aid and the entire domestic discretionary spending and not cut it, and you still have a deficit. That is the serious problem.

The ox is in the ditch, and we have to sober up in this Government of ours and quit talking pollster politics games which the press joins in: who is up and who is down and who is silly enough.

I recommended a value-added tax in the Finance Committee. I want to pay for new immigration inspectors. I want to pay for 5,000 new border patrol. I want to pay for the extra FBI, the crime bill. I want to pay for the commitment in Bosnia. But this crowd comes up here and gets away with the worst I have ever seen.

I hope that we can salve the conscience, if there is one left amongst us, where we adopt the amendment of the distinguished Senator from North Dakota, the sense of the Senate that we not use Social Security trust funds to balance the Federal budget.

That was not the intent when we adopted those taxes, but you can see from the way they are treating highway trust funds—I would like to do it for the highway trust funds. I would like to do it for airport and airway trust funds. Out there in Colorado, we need some new airports, but we have not been spending the money on airports, we have been spending them instead on masking the size of the deficit, sacrificing future investment for present consumption.

I would like to spend these moneys for their intended purpose. I would like to pay the bill so that we will not saddle the next generation with our excesses. Where all they can do in Washington and is to pay for a little bit of defense, a little bit of domestic discretionary, cannot promote technology, cannot promote any competitiveness, cannot have any research and health care, and everything else that Government is supposed to do.

I believe in Government. I do not think Government is the problem. I think this charade is a problem. I think they know it is a problem. But they go along with this silly contract and its procedural nonsense, guaranteed every day to put on a show here. "Here is April 15. Here is tax day. Let's remind them about a tax cut that they could have gotten." So they automatically call it a President Clinton tax cut that you did not get, and all those kinds of things, when they could not give it to save their souls.

They do not have taxes to cut. In fact, their solution is Reaganomics and growth—please do not come back here with that growth. Senator Mathias on the Republican side and I were 2 of 11 votes against Reaganomics and that mantra of growth, growth, growth. The only thing that has grown is the deficit and spending, spending on automatic pilot of $1 billion a day—$1 billion a day. And nobody wants to talk about it. They want to talk about tax cuts. It's like saying, "I want to buy your vote."

Campaign financing. The biggest fraudulent campaign financing occurs on the floor of the U.S. Congress, because we mislead the American people that their Government is being paid for. We act like all we need to do is cut back a little on welfare and on foreign aid eliminate the Commerce Department.

Yes. Since I have the time—I talked the week before last with former Secretary Ron Brown. He and I were trying to work votes, in all candor, over on the Republican side. We were having a difficult time. We did not know whether or not the administration was going to veto the bill, should it pass. I take it now that the distinguished President would not hesitate in vetoing it because the Commerce Department is not a grab bag.

I have been through over a dozen Secretaries of Commerce, and I am laying it on the line. Ron Brown was the one Secretary of Commerce that did the work. Maurice Stans up to Mosbacher, all they did was collect money.

But here was a fellow out hustling business rather than funds for the campaign, actually doing an outstanding job. When I heard of the recent tragedy, I had just with the distinguished Senator from Maine, Senator COHEN. We were in Beijing at the time of the plane crash. They did not ask about the President because he has never been to the largest and perhaps one of the most important countries in the entire world. In fact, the Secretary of State, he has been 34 times to the Mideast but only one visit to Beijing. They did not ask about the Secretary of State.

They asked about Ron Brown. He made a wonderful, favorable impression. I really believe, Mr. President, that we can really bring about more human rights through capitalism and market forces than we can through sanctions.

I have learned the hard way, as we did back in the old days at the beginning of the war and the artillery. There was a saying then that no matter how well the gun was aimed, if the recoil was going to kill the gun crew, you did not fire the gun. The recoil of sanctions has killed the gun crew. It is killing off our business.

Just recently, France picked up a $1.2 billion Airbus contract rather than the

United States of America. Well, we all believe that the Government should take a stand. But the way we have taken it is in a general loud-mouth fashion without any result. We should have targeted sanctions, clearly understood in the first instance. Let our businesspeople go and prosper and bring about more capitalism over communism. That is how we really defeated it in Eastern Europe and the Soviet Union, with capitalism itself.

What we are doing is taking the largest, most important nation in the Pacific—I can see that front cover of another magazine, "Friend or Enemy?" We are making them an enemy. There is not any question about it. They like America. They like our technology. They have 100,000 Chinese students. They know we stand for freedom and everything else.

I was on an aircraft carrier in the Gulf of Tonkin in 1966, the *Kitty Hawk*. We could not control 20 million North Vietnamese. I do not know how an aircraft carrier running around the Straits of Taiwan is going to control 1.2 billion Chinese. We need to sober up.

Government—the art of the possible, not responding to these pollster pap things. "Are you against Red China?" or "Are you against communism?" and all those things. You have to live in the real world. You have to get the best results you can. I am absolutely persuaded you are going to do it through capitalism and not through running around confronting on every turn and letting that other crowd pick up the marbles.

If you could do it unilaterally, fine business. But you cannot. So the French go in and the Germans go in or the Japanese, and they pick up our marbles and we are left behind.

If I put myself in control—if I had to control 1.2 billion, the one concern I guess I would have to have would be Taiwan. They are moving toward democracy. They have, after 48 years, a free election for a President for the first time. But having had it, the more they talk about democracy and independence, coming to Cornell and asking for diplomatic recognition. But we need to be honest, Mr. President, about what that means in China. Any strong movement toward democracy right is a sensitive subject because if the Taiwan get democracy, then some crowd down in Guangzhou, will want democracy and everything else. Give me one man one vote today in Beijing and I have chaos.

But the politician here in the National Government does not stop looking, listening, or thinking about it. I do not believe that the rulers in Beijing have any idea of continuing so-called Communistic government.

Some call it Market-Leninism rather than Marxist-Leninism. I do not know what it is, but I do know, having been there in 1976 and 1986 and now in 1996, that they have brought about 180 million into the middle class.

I would daresay, if I were Nick the Greek and had to bet, that I would bet that 10 to 20 years from now you are going to find more hungry fed in China than you are going to find in democratic India. I think that is a mistake in Russia, and that is why the President is going to be there the day after tomorrow.

Why? Because they gave political rights before they gave economic rights.

We in the U.S. Senate ought to stop looking and listening to those pollsters who have never served a day in government. They are wonderful. I have the best. I trust their polls and predictions, and they have been on target, but they still really do not know government. They never have thought about doing things in the long term. They are only thinking bam, bam towards the next election. I could fault us all. We are all looking to November. Nothing will happen in this body this year. Why? On account of November. Each day we are trying to find out who is on top in the 7 o'clock news.

Irrespective of who is on top, I ask unanimous consent to have printed in the RECORD these tables, since President Truman, 1945 to 1996, of the U.S. budget outlays in billions, the trust funds, the real deficit, the gross Federal deficit, and the gross interest.

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

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4	———	260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.5	−277.3	4,921.0	332.4
Est. 1996	1,595.0	105.8	−277.8	5,198.8	350.0

[1] Budget tables: Senator Hollings.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1952 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent to have printed in the RECORD Public Law 13301, status of the Social Security trust funds.

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

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period.

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, * * *.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that the Hollings-Heinz amendment Social Security trust funds budget deficit vote of October 18, 1990, be printed in the RECORD.

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

SENATE VOTING RECORD—No. 283

YEAS (98)

Democrats (55 or 100 percent): Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, and Wirth.

Republicans (43 or 96 percent): Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, and Wilson.

NAYS (2)

Republicans (2 or 4 percent): Armstrong and Wallop.

Mr. HOLLINGS. I will have other things to be printed in the RECORD tomorrow when we debate this. This is not a casual thing. This is not a political thing. I will vote for Senator DOLE'S Senate Resolution No. 1, if he will not repeal, just do not repeal the present law.

At least we have it into law. But the media disregards the law. The media quotes a unified budget, but sometimes the media does show some sense—instead of unified, saying the money is all in the Federal Government, they say, and I finally close in the sentence here on April 15, 1996, Time magazine, "But the supposedly untapped funds are actually an accounting figment."

Tell that to the media. From now on, that is what they call it, an accounting figment. We ought to have truth in budgeting. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I appreciate the cooperation of my colleagues as we proceed with the immigration and reform legislation, both illegal and legal immigration reform. We have much to do, but we have presented to our colleagues three amendments for disposition tomorrow, and we will begin to process the amendments from this side of the aisle and the other side of the aisle. I think that will be most appropriate. There is much to do, obviously, in the spirit of cooperation on a very tough bill, which is tough for every single one of us, and some much more than others.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. HATCH. Mr. President, since we have just turned to the illegal immigration reform bill, I ask the indulgence of the two managers for a few minutes. I want to pay tribute to my friend and colleague, the senior Senator from Wyoming. For some 17 years—really, 17 years plus—Senator SIMPSON has taken on the difficult and often thankless task in dealing with the immigration issue, an issue which stirs the emotions, and one which people become very passionate about. He has always taken on this task with spirit, diligence and intelligence. His views were always thoughtful.

From time to time, I have disagreed with my friend from Wyoming on some immigration issues, but the record should be crystal clear that my friend from Wyoming is a man of great good will, a good will he brings to this issue. He often takes unfair criticism. Indeed, to borrow one of many pithy phrases I will soon miss from my friend, my friend has had several metric tons of garbage dumped on him over this issue—although garbage is not the exact word he uses. The abuse is very much undeserved.

I express my warmth, affection, and respect for my friend from Wyoming as we continue this important debate, and respect for his staff, also, which has worked so hard on these issues. I want him to know that I, as chairman of the Judiciary Committee, particularly appreciate his help and his work in the markup of this very important bill. I just want him to know how much we respect him and others who are working on this bill, as well.

Mr. SIMPSON. Mr. President, I do thank my friend and colleague from Utah. It is a great pleasure always to work with Senator ORRIN HATCH. We have done that, now, for 17½ years together. There is not a person I enjoy more—his spirit, energy, and background as a pugilist, which has certainly helped him. Would that I had studied pugilism as he had in my youth, because he gives as good as he gets. He is a wonderful friend, and I thank him.

As we proceed to these next 2 days, this issue is such a marvelous issue, filled simply with emotion, fear, guilt, and racism, and it is a political loser. It has never pushed me up a peg in political life, but somebody has to do this particular work, and the Senator has given me the ability and the leeway to go forward with it as your subcommittee chairman. I am deeply appreciative of it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, let me begin by applauding the leadership of Senators SIMPSON and HATCH and the rest of the Judiciary Committee in passing out of the committee this very important immigration bill to stem the tide of illegal immigration in our country, both among those who come here illegally and those who come here legally but who do not leave our country when their visas expire. It has been said before that, according to the INS, these visa overstayers represent about 50 percent of the illegal population.

The bill we are debating this week also includes provisions to crack down on criminal aliens and alien smugglers and to ensure that neither illegal nor legal immigrants come to the United States to take jobs from taxpayers or to depend upon our Nation's welfare benefits.

There will be an effort on the floor to pass a sense-of-the-Senate resolution declaring that any attempt to reform laws related to legal immigration should be considered separately from illegal immigration reform. I oppose this effort and will speak against it when it is offered.

I plan to offer an amendment with Senator SIMPSON that will provide a temporary 10-percent reduction in overall legal immigration. This is a very modest reduction, but it will at least provide a sharp contrast to the increase in immigration that will result under the bill as it was amended in the committee.

It is important to make clear that immigration will not be reduced under the committee bill. Immigration will increase at a slightly lesser rate than under current law, but it will increase.

Having said that, Mr. President, I move to the bill we are debating today and one of great importance to the Nation, and specifically to my home State of Arizona. Immigration and Naturalization Service figures show that illegal immigrants are entering Arizona at a faster rate than they are entering any other State. Over the past year, Arizona has surpassed even Texas in illegal immigrant apprehensions. California is the only State with higher apprehension levels, and although apprehensions have decreased somewhat in what had been the hot spot for illegal entry in Nogales, AZ, apprehensions for March 1995 to March 1996 have increased over 300 percent in the Nation's newest hot spot for illegal entry, Douglas, AZ.

Mr. President, I was in Douglas, AZ, just about a week ago, in fact, a week ago yesterday, and visited with community leaders and with Immigration and Naturalization Service employees. The situation in Douglas is extraordinary, to say the least, with thousands of illegal entrants into the country every month. As a matter of fact, in the first 2 months of this year already, more people had been apprehended than in all of last year. What has happened is that as the INS has put more agents in Texas and in the San Diego area of California, the illegal immigration naturally shifted to Arizona, first the port of Nogales, where last year that was the hottest spot in Arizona. Now, with more agents having been put in Nogales the people are moving from there, east, to Douglas and crossing the border in that very small community. As a result, it is very, very important that there be additional support provided for the Immigration and Naturalization Service in the Douglas area, including the addition of more agents.

I note that at the moment, there are some 60 temporary agents, but under labor union contracts they can only be assigned away from their permanent station for, I think, a period of 30 days. In any event, 60 people translates into 15 people on the ground at any given time. There needs to be an additional allocation of agents to the Douglas area. According to the Immigration and Naturalization Service, illegal immigrants comprise about 10 percent of the work force in Arizona.

In addition, according to Governor Fife Symington, Arizona incurs costs of $30 million every year to incarcerate criminal aliens. The State also spends $55 million annually in Arizona taxpayer money to provide free education to persons who are in this country illegally. Clearly, illegal immigration imposes great costs on our citizens.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I will continue on with my comments.

Arizona is not the only State dramatically affected by illegal immigration. The INS estimates that there are 4 million illegal immigrants in the United States and that this number is growing by 300,000 to 400,000 each year.

While the United States has always been, and should continue to be, a land of opportunity for U.S. citizens and for those who come here illegally, we simply cannot afford as a nation to continue to incur the unrestrained costs of illegal immigration—in jobs, in welfare, in education, in health care, in crime on our streets, and on our penal system. To illustrate the effect, consider that over one-quarter of all Federal prisoners are foreign-born, up from 4 percent as recently as 1980. Again, over 25 percent of all Federal prisoners are foreign-born. It was only 4 percent just 15 years ago.

As we all know, yesterday was tax day. It is not fair, given our $5 trillion debt and annual $200 million in deficit spending, to ask law-abiding taxpayers to pay for those who choose to violate our laws to come to this country illegally, or even to pay for legal immigrants who, once here, quickly come to depend on our Nation for welfare and other public benefits.

S. 1664 will go a long way toward eliminating those incentives. Under the bill, illegal immigrants are banned from almost all public benefits programs outright and legal immigrants will have to work 40 quarters before becoming eligible for most benefits. I was pleased that the committee passed a number of amendments I offered to deal with this general issue: these include requiring the Education Department to report to Congress on the effectiveness of a new system designed to ensure that ineligible aliens do not receive higher education benefits, and requiring the Federal Government to reimburse States for the costs of providing emergency medical services and ambulance services also passed. The latter was offered on behalf of Senator MCCAIN. I also plan to offer an amendment during this debate to ensure that, as the House did, illegal aliens do not receive assisted government housing benefits.

So that aliens do not come to this country illegally and take jobs away from law-abiding taxpayers, the bill directs the Attorney General to conduct regional and local pilot employer verification projects to ensure that employees are eligible to work in the United States. Employers are already required to fill out the I-9 form to verify the eligibility of employees. However, the I-9 system is open to fraud and abuse—participants in the new system will be, for the most part, exempt from the I-9 requirement. An improved verification system will protect employers from unintentionally hiring illegal aliens and also protect potential job applicants from discrimination. The bill specifically prohibits the establishment of any national ID card. Employee verification can only be used after an employee is offered a job, and would require a subsequent vote in Congress before a national system could be established. I was pleased that the committee passed my amendments to limit liability and cost to employers who participate in any system.

Importantly, this bill will assist our Government in its primary responsibility; protecting U.S. borders and enforcing U.S. laws. After all, we are a nation of laws. We cannot turn a blind eye to those who break our immigration laws. We simply cannot afford to anymore. We must gain greater control over our Nation's borders, prevent illegal entry and smuggling, and detain and swiftly deport criminal aliens. S. 1664 will help achieve these objectives. Increasing the number of Border Patrol agents, and improving technology and equipment at the border has been one of my priorities, so I was particularly pleased that the committee adopted my amendments to train 1,000 new Border Patrol agents through the year 2000 and to require, as recommended by Sandia Labs in 1993, the construction of a triple-tier deterrence fence along the San Diego border; and to increase the number of INS detention spaces to 9,000 by the year 1997. This increase in detention space will raise by 66 percent detention space available to the INS to detain criminal aliens awaiting deportation and other aliens who are at risk of not showing up for deportation or other proceedings. The bill also requires the Attorney General to report to Congress on how many excludable or deportable aliens within the last 3 years have been released onto our Nation's streets because of a lack of detention facilities.

In addition, the bill allows the Attorney General to acquire U.S. Government surplus equipment to improve detection, interdiction, and reduction of illegal immigration, including drug trafficking, and allows volunteers to assist in processing at ports of entry and in criminal alien removal. These provisions will go a long way toward effective control and operation of our Nation's borders.

In addition to more effectively controlling our border, further modification of our laws is needed to create disincentives for individuals to enter the

United States illegally. I plan to offer two additional amendments to deal with this issue. The first would amend section 245(i) of the Immigration and Nationality Act, so that illegal aliens who become eligible for an immigrant visa can no longer attain the visa by paying a fee that lifts the requirement to depart the United States. Section 245(i) encourages people who are awaiting an immigrant visa to jump illegally ahead of others, simply by paying a fee. Senator HUTCHISON and I also plan to offer an amendment that, with a number of exceptions, would exclude for 10 years those who have entered without inspection from obtaining a visa.

S. 1664 also makes clear that you cannot skirt the law by entering the country legally and then overstaying a visa. Another amendment I offered that the subcommittee adopted requires individuals who have overstayed their visas to return home to obtain another visa, period. And, the last successful amendment regarding overstayers, offered by Senator ABRAHAM and cosponsored by me, requires visa overstayers to return home for 3 years before applying for another visa. While this last amendment goes far, I plan to offer an amendment with Senator HUTCHISON that would, with a number of exceptions, exclude for 10 years those individuals who have overstayed their visas for more than a year.

For those individuals who come to this country and commit crimes—and there are 450,000 criminal in jails and at large in this country—there are provisions in the bill to keep them off our streets and deport more quickly. I am pleased that a bill I introduced last year, to encourage the President to renegotiate prison transfer treaties so that aliens convicted of crimes can no longer choose whether or not they serve out their sentences here or in their home country, was added to the bill. Also passed was my amendment to advise the President to renegotiate these treaties so that if a transferred prisoner returns to the United States prior to the completion of a sentence, the U.S. sentence is not discharged. The committee also passed a number of amendments I cosponsored, offered by Senator ABRAHAM, that strengthen the detainment and deportation of criminal aliens in other ways.

There are a number of other provisions in this bill that are important, including provisions to streamline the system by which asylum seekers apply to stay in the United States. While refugees are still offered important protections, abuse of the system will be largely curtailed by a new system allowing specially trained asylum officers at ports of entry to determine if refuge seekers have a credible fear of persecution. If they do, then they go through the process of establishing a well-founded fear of persecution in order to stay in the United States.

By allowing these especially trained officers to make decisions at ports of entry, it will be more difficult for individuals to simply fill out an asylum application, be released into the streets, and possibly never show up for asylum proceedings.

The bill we are debating this week includes provisions that Senator SIMPSON and his staff have worked hard to develop and protect. Many of them are a response to the Jordan Commission recommendations. It includes bipartisan provisions on which Senators from both sides of the aisle have diligently worked.

As we begin to consider this important bill, we have to remember that, unless we protect our borders and insist that our immigration laws are taken seriously, we undermine the law, and that undermines the United States as a land of opportunity for all—both foreign and native born. My grandparents immigrated to the United States from Holland. I think they would be concerned about how our immigration system works today.

The American dream must be kept alive for citizens and for those who came here legally. A government not in control of its own borders is not serving the public well.

I urge my colleagues to pass a bill that will address these important problems. Again, I very sincerely thank the chairman of the Immigration Subcommittee of the Judiciary Committee for his long years of work in this area and for his willingness to work with everybody on the committee to craft the best bill possible so that he can begin to deal with these serious problems.

Mr. SIMPSON. Mr. President, I thank my colleague from Arizona. I only want to say that it has been a great joy to work with him on the Committee on Immigration. He is a remarkable contributing member, brings a vigor and intelligence and skill to the committee, to the subcommittee, and to the full committee. There could not be a finer new Member of the body participating in the measure, and it will be a great personal satisfaction for me that he will continue on with this issue. I certainly hope, also, that it might be in the capacity as chairman of the Subcommittee on Immigration.

I know that Senator KENNEDY will work with whoever my successor will be, and I think we will find certainly a great deal of pleasure in working with Senator KYL. I thank him very much for all that he has done.

I yield to Senator BRYAN of Nevada since the business of the floor is the immigration bill and since I hold the floor.

Mr. DORGAN. Mr. President, regular order.

Mr. SIMPSON. I hold the floor. I believe that is the case.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. You recognized me. I intended to yield to Senator BRYAN.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. KYL). The Senator will state the parliamentary inquiry.

Mr. DORGAN. The Senator from Wyoming yielded to the Senator from Nevada for a question. Does the Senator from Wyoming control time on the floor of the Senate at this point?

Mr. SIMPSON. I have the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota should be advised that Senator SIMPSON may yield to the Senator from Nevada with consent.

Is there any objection?

Mr. DORGAN. I object.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN addressed the Chair.

Mr. SIMPSON. Mr. President, what is the status of the situation on the floor at the present time? Objection is sustained and not——

The PRESIDING OFFICER. At the present time, I will advise the Senator from Wyoming that, absent unanimous consent to do otherwise, the Senate, under the previous order, will resume consideration of S. 1664.

Mr. SIMPSON. Yes. But after the objection, then there is no yielding of any measure to the Senator from North Dakota. He does not then take the floor.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. This Senator, I am advised and wanted to be absolutely certain, does control the floor, and I can yield to the Senator from Nevada, and at the end of that time I intend to yield to the Senator from Wisconsin, Senator FEINGOLD, and to Senator GRASSLEY, because we are doing an immigration bill. We are not doing Social Security. We are not doing balanced budgets this morning.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. Those are subjects that the Senator from North Dakota would like to address.

The PRESIDING OFFICER. The Senator is correct.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1664, which the clerk will report.

Mr. DORGAN. Parliamentary inquiry.

The bill clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his inquiry, and then it is the Chair's intention to recognize the Senator from——

Mr. DORGAN. Mr. President, the parliamentary inquiry is this. When I offered an objection to the unanimous-consent request, the unanimous-consent request was then not agreed to. At that moment I said, "Mr. President," and the Chair recognized the Senator from North Dakota.

I do not quite understand that the right of recognition on the floor of the Senate has changed because I read the rule book about the right of recognition. After I was recognized, the Senator from Wyoming then asked a series of questions of the Chair, from whom he got a sympathetic answer, which does not comport with the rules of Senate.

I would like to understand the circumstances which existed when the Chair recognized me after I objected.

The PRESIDING OFFICER. The Senator knows that the stating of a parliamentary inquiry does not gain the floor. The Senator from Wyoming has the floor. The floor was placed under the regular order, which the Senator from North Dakota had called for. Under the previous order, the Senate resumed consideration of S. 1664, which is the pending business. The Chair asked the clerk to report. The Senator from Wyoming has the floor.

Mr. DORGAN. Parliamentary inquiry. This Senator begs to differ with the President. The circumstances of the Senate were this: The Senator from Wyoming propounded a unanimous-consent request. The Chair asked if there was an objection. The Senator from North Dakota objected. At that point, the Senator from North Dakota addressed the President, "Mr. President." The President of the Senate recognized the Senator from North Dakota. At that point I was recognized and had the floor of the Senate.

I do not understand the ruling or the interpretation of the Chair that leads to a different result. I would very much like to try to understand that.

The PRESIDING OFFICER. The Senator from North Dakota is correct to this extent: The pending business is S. 1664. The chairman of the Immigration Subcommittee, Senator SIMPSON, has the right to be recognized under that pending business. The Chair has recognized the Senator.

Mr. DORGAN. Parliamentary inquiry.

Mr. SIMPSON. Mr. President, may I just ask my friend from North Dakota? I think the Chair could easily have determined that in recognizing the Senator from North Dakota, it was for the point of parliamentary inquiry. That was all that the Senator from North Dakota was seeking. If he was recognized, which he was, then certainly it was on the point of a parliamentary inquiry. I think that is perhaps the confusion.

Mr. DORGAN. Mr. President, parliamentary inquiry: The right of——

The PRESIDING OFFICER. The Chair, the President, will state again to the Senator from North Dakota that no one has the right to the floor when the President is asking the clerk to read the bill, which is the regular order. At that point in time, the Senator from Wyoming has the right to be recognized, and the Chair has recognized him.

So the Senator from Wyoming is recognized.

Mr. DORGAN. Mr. President, parliamentary inquiry. Did the Senator from Wyoming seek the floor when I made the objection to the unanimous-consent request?

The PRESIDING OFFICER. No.

Mr. DORGAN. Mr. President, after the unanimous-consent request was made and I objected, for what purpose did the Presiding Officer recognize the Senator from North Dakota? The transcript will show that the President recognized the Senator from North Dakota at that point.

The PRESIDING OFFICER. The Presiding Officer recognized the Senator from North Dakota for the purpose of inquiring what the nature of the parliamentary inquiry was and recognized the Senator from Wyoming and the manager of the bill, which is the pending business. It automatically became the pending business.

Mr. DORGAN. Further parliamentary inquiry. I think a mistake has been made here. I think I could easily understand what the mistake is if we had the transcript read back.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I hope that all of us understand what the situation is—I do anyway—and that is that the Senator from North Dakota feels very strongly about an issue which he proposed yesterday that had to do with a balanced budget amendment and Social Security and offsets and that type of thing, a rather consistent theme by the Senator from North Dakota that he talked about. There is also a proposal—I am not leadership. I am not representing leadership. What we are trying to do is go forward with an immigration bill. There will be many extraneous amendments on this bill, I feel quite certain. All I am trying to do is to get to the hour of 2:15, after which time the Senator from North Dakota may do anything that he desires to do with regard to the issue.

At this time I yield the floor for purposes of an opening statement by Senator BRYAN of Nevada.

Mr. DORGAN. I object, Mr. President.

Mr. BRYAN. I thank the Chair.

Mr. DORGAN. Mr. President, I object.

Mr. SIMPSON. There is not anything to object to.

The PRESIDING OFFICER. Did the Senator from Wyoming propound a——

Mr. SIMPSON. No; I did not propose a unanimous-consent request. I simply yielded the floor to the Senator from Nevada.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry. That is not the way the Senate operates.

Mr. KENNEDY. The rules of the Senate require one can only yield for purposes of a question. That has been the rule for 200 years.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

DASCHLE arrives is consent that consideration of the immigration bill be limited to relevant amendments only. Either we will finish this bill or we will move to something else. It is my hope we can complete action on the immigration bill by tomorrow evening and then go to the Kassebaum-Kennedy health care bill.

In the interim, we need to take care of the conference report on terrorism. The original bill passed the Senate last May. We are prepared, if we cannot do business on the immigration bill, to move to the conference report on terrorism. We would like to finish that so that the House might complete action on it by Thursday.

I now ask unanimous consent that during the consideration of the pending immigration bill, the bill be limited to relevant amendments only.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I wonder how many times Senator DOLE has been in the opposite position, when Senator MITCHELL and my distinguished predecessor, Senator BYRD, made similar requests on the Senate floor.

We all know the circumstances on the Senate floor. We all know that there are many occasions when Senators have no other opportunity to raise an issue except in the form of amendments to pending legislation. Our Republican colleagues have done it time and time again, both in this Congress as well as in previous Congresses.

Given that, I propose a modification to the unanimous-consent request that I think is reasonable. We would be prepared to offer just two nonrelevant amendments, the minimum wage amendment as well as the Dorgan amendment relating to the balanced budget proposal, and would even be prepared to allow the Republicans a similar number of nonrelevant amendments, with time constraints and no second-degree amendments, in an effort to accommodate the schedule.

That is not, it seems to me, too much to ask. We could accommodate that within the next hour or two. We could even agree to a limited number of amendments on the bill itself that are relevant. I make that modification and ask the distinguished majority leader whether he would be inclined to support it. If so, I think we could find a way in which to schedule this legislation and reach final passage.

Mr. DOLE. Maybe regulatory reform. We have over a majority. We have 58 votes; we need 60. My colleagues on the other side will not let us bring that to a vote. That costs the average family about $6,000 per year because of excessive regulations. We think it is a reasonable nonpartisan bipartisan approach to regulatory reform. Maybe that is an amendment we could look at.

What I will tell the Democratic leader, I am happy to consider that, but I assume if he objects to this request, we will go on to the terrorism conference report, after a statement by the distinguished Senator from Wyoming, Senator SIMPSON. Maybe while we are resolving that bill, we could see if we can resolve this one.

I said we passed this bill last May. It was June 7 that the terrorism bill passed by a vote of 91 to 8. We have pretty much the same bill. I hope we would not spend a great deal of time on the conference report. Then we can go back to the immigration bill if we can work out an agreement. If not——

Mr. DASCHLE. If I can respond to the distinguished majority leader, I hope we could use whatever time we have available to us to see if we can find some mutually agreeable schedule here. Our desire is to come to final passage on an illegal immigration bill.

We want to see that happen as badly as anybody else here in the Senate. We also recognize, however, that circumstances in the past have precluded us from offering amendments relating to minimum wage. We will not have, if we bring up the constitutional amendment to balance the budget under the reconsideration rules here in the Senate, an opportunity to offer amendments. So we really have no vehicle with which to offer alternatives.

But I understand and certainly respect the majority leader's position, and I want to work with him to see if we cannot accommodate his desire and ours to complete work on the illegal immigration bill, as well as to have opportunities to vote on issues that we hold to be very important.

I object under the circumstances now presented.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. As I understand it, the Senator had a modification to mine?

Mr. DASCHLE. Yes, I proposed a modification.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

UNANIMOUS-CONSENT REQUEST—S. 1664

Mr. DOLE. Mr. President, what I am going to propound when Senator

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. SIMPSON. Mr. President, I just reflect that Senator KENNEDY and I are ready to go forward with this measure. It is an issue that is very topical and must be addressed—the issue of illegal immigration, the issue of legal immigration. Both bills are here. One is at the desk and one is being processed.

I want to assure all that immigration reform is not a partisan issue. It never has been and it never will be. It cannot be. I just hope that before we go on with these maneuvers, we recognize that I do not think anyone, especially in an election year, would want to be known as the person that took this bill down and left it down. It is an issue that, as I say, is not going to resolve itself. It is a Federal issue, not a State issue. We either resolve it, or we will have proposition 187's in every State of the Union. From me, I have buried my dead many times before with regard to both legal and illegal immigration, and life will go on if you bury it one more time.

Thank you.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with the Senator from Wyoming in believing that it is premature to draw this bill down. This issue is of enormous importance in terms of dealing with the borders of this country and the flow of illegal immigration. It is enormously important in terms of enhancing the various criminal statutes that would deal with struggling, and it is enormously important to make sure we are going to protect American jobs by refusing illegals the opportunities for employment. And as the Jordan Commission and the Hesburgh Commission pointed out, jobs are the issues which attract the illegals. This particular measure deals with those particular proposals.

We had 6 days of markup on this in committee. As the Senator from Wyoming pointed out, there was significant participation by Republicans and Democrats. It was devoid of partisanship in the consideration of various amendments. Last evening, the Senator from Wyoming offered three important amendments, which we were about to accept—one to make it a deportable offense to falsely claim to be a citizen while applying for jobs or welfare benefits. That is important. That can make a difference in terms of protecting the American taxpayer and the American worker. There is an amendment to keep track of the foreign students, to make sure they stay in school and not work illegally. We do not have the information of what is happening to many of the students, whether or not they circumvent the current laws and melt on into the population and use what is a legitimate cause to come here, to subvert the efforts to try and deal with illegal immigration. The third proposal is where you have students that come here to go to a private university and end up, at the public taxpayers' expense, allegedly going to public education at the burden of the taxpayers. These are significant and important amendments. We debated and discussed those last evening. We are prepared to act on them.

So there are probably eight or nine extremely important and controversial items that I was prepared to work out a time agreement on and urge colleagues to do so. And there were the other two items, which as Senator DORGAN and I will speak to briefly, about the minimum wage.

I would have been glad to urge the minority leader to agree to an hour or half hour, if that was going to be the cost of getting a vote on the issue of the minimum wage. We have been unable to get consideration of that measure now for over a year. And we have seen 56 Members of the Senate—bipartisan—who have indicated they want to address that issue. We are still denied an opportunity to consider a bill on its own merits with a relatively short period of time, since this is an issue that is understood by the Members.

Every day that goes on where we deny the opportunity for an increase in the minimum wage makes it clearer and clearer that there are those in this body, the U.S. Senate, that refuse to recognize that the work is important of the men and women in this country that work 40 hours a week, 52 weeks a year and are entitled to a livable wage. That issue is not going to go away. We are going to keep revisiting that, as the minority leader pointed out, over the objections and opposition and stress to those opposed to that, until we are at least able to deal with it in a way in which that particular issue is dealt with with a sense of dignity because of the importance that has to many of our fellow citizens.

So I am disappointed that we are not able to move ahead. We are prepared to move along. I think many of those amendments that have been published here could be disposed of with broad bipartisan support. Probably, a dozen need our full attention. We were quite prepared—I know the leader on our side had instructed us to make every effort to move the program forward. That was the sense of the Democratic members of the Judiciary Committee. So, Mr. President, I am distressed by that. Also, as a matter of information on the terrorism bill, they did strike provisions that were in the previous law that permits the Internet to publish information about how to make bombs, and then a measure that was worked out by Senator FEINSTEIN, and also Senator BIDEN, that ensured that we were going to deal with that particular item. It was a matter that I brought to the floor. Someone had sent it to me over the Internet itself, and it provided in detail about how to make bombs. Senator FEINSTEIN and Senator BIDEN provided leadership to deal with that on the Internet. And now, as I understand, for some reason that I cannot possibly understand, in this terrorism conference report that particular provision has been eliminated.

I heard the leader say that this is pretty much the same measure that came through the Senate. I have just listened with great interest. I wish our ranking member of our Judiciary Committee, Senator BIDEN, was on the floor to respond to that. I know we will have a debate on some of those measures. But that, along with other provisions dealing with the explosives and tagging explosives and also the reduction of the provisions, which were accepted in the Senate in terms of wiretapping, which the FBI indicated would be such a powerful force in terms of dealing with the terrorist organizations and potential terrorist bombs, have all been dropped in that conference report. For what reason I do not know. But I heard the leader say that this measure was pretty much what was passed in the Senate. Certainly, if those measures have been addressed and deleted or compromised, I think that we ought to—as I am sure we will—hear Senator BIDEN and others address it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senator from Massachusetts is correct. Senator HATCH is prepared, and he will start on the conference report. We are not going to debate the immigration bill. It is being held hostage now because of the demands on the other side. If we do not want to do anything about illegal immigration, I guess the Democrats can make that happen. Most Americans, by 80 percent, think we should deal with this issue. But now we are going to be held hostage by Social Security amendments and minimum wage amendments. They have five or six others. Then they have the gall to stand up and say, "We want to move ahead on illegal immigration." We know what is happening.

If we can work out a time agreement on relevant amendments, we will pursue illegal immigration or the immigration bill. It passed the committee, as I understand, by a vote of 13 to 4. But if we are going to have extraneous amendments and nonrelevant amendments to help protect some of those who voted wrong on the balanced budget amendment, we could be having this every day—and every day, and every day. I just hope the six on the other side who voted for a balanced budget amendment 2 years ago would now, when we have the vote sometime this month or probably next month, vote for the balanced budget amendment—we are just a couple of votes short—and send it to the States for ratification. If three-fourths of the States ratify it, it becomes part of the Constitution.

But we are now prepared to proceed on the antiterrorism conference report. Obviously, not every provision the Senate passed survived the conference. But as I think, as the Senator from Utah outlined to us in our policy luncheon, nearly every important feature in the Senate bill survived the conference, and we believe that it is a good bill that should be passed as quickly as possible so the House might act.

If we can work out some agreement on immigration, we will go back to immigration. If not, we may go to something else. It does not have to proceed here one day at a time. I know some would like to frustrate any efforts on this side of the aisle. But we do have the majority, and we will try to do our best to move legislation that the American people have an interest in. Illegal immigration—wherever you go illegal immigration is a big, big issue. If we are going to be frustrated by efforts on the other side to hold the bill hostage, that is up to them. They can make it happen. Then they can explain that to the voters in November.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thought we had completed the discussion on immigration. But since it appears that is not the case, let me respond again.

We did not pull the bill. We could be on that bill right now. We could be taking up amendments right now. We have already agreed to short timeframes within which to debate the minimum wage amendment and the Social Security amendment. We can resolve them by 5 o'clock this afternoon and come to completion on the bill itself sometime tonight. We are prepared to do that.

So do not let anybody be misled. We are not holding this bill hostage. We did not pull it down. We did not ask that there be no opportunity to vote. Welcome to the U.S. Senate. Welcome to the U.S. Senate.

If our Republican colleagues are prepared right now, this afternoon, to say that throughout the rest of the 104th Congress they will never offer an irrelevant amendment to any bill because doing so would somehow indicate that they do not want a bill to pass or they are going to hold the bill hostage, we might be prepared to talk about that. But everyone knows that is not what this is all about. There are some here who do not want to deal with the issues that we are attempting to address in these amendments.

So I do not think there ought to be any misunderstanding or obfuscation of the question. The question is, Do we support passage of an illegal immigration bill? The answer is not only yes, but emphatically yes. Do we support timeframes within which every amendment could be considered? The answer is yes.

So I hope we can reach an agreement. I hope now we can move on to the counterterrorism bill and address that in a timely manner. I am prepared to sit down this afternoon, tonight, or tomorrow to find a way to resolve the procedural issues regarding how we take up the immigration bill itself.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

ILLEGAL IMMIGRATION

Mr. DORGAN. Mr. President, I hope the Senator from Wyoming, if he has a moment, would have an opportunity to hear what I have to say. The business of the Senate as I understand from the majority leader's announcement is to come back to the bill on illegal immigration which is to be managed by the Senator from Wyoming, Senator SIMPSON.

Let me just in a couple of minutes of morning business say that I will likely vote for the illegal immigration bill. There are a couple of issues in it that I think will be the subject of some controversy. But I think the piece of legislation that has been constructed is worthy, and it is a reasonably good piece of legislation. It addresses a subject that needs addressing, and that should be addressed. I have no problem with this bill at all.

I believe we find ourselves in the following circumstances. Consent was given when the piece of legislation was introduced. Following the introduction of the Dorgan amendment, consent was given to the Simpson amendments. I think they were offered, and those amendments are pending. There is an underlying amendment that I offered that has been second-degreed by Senator KEMPTHORNE from Idaho. That is apparently where we find ourselves.

I wanted to explain again briefly what compelled me to offer an amendment on this piece of legislation. And, if we can reach an understanding with the majority leader, I have no intention to keep the amendment on this legislation. But here are the circumstances.

The majority leader has the right to bring a reconsideration vote on the constitutional amendment to balance the budget at any time without debate

and without amendment. He understands that. We understand that. He has indicated to me now that he does not intend to do that in the coming days. It will probably be in a couple of weeks. But he had previously announced that he would, at some point in April, perhaps mid-April, the end of April, force a reconsideration vote on the constitutional amendment to balance the budget.

The result was because we were going to have no opportunity to debate or to offer an amendment, and because some of us feel very strongly we will vote for a constitutional amendment provided it takes the Social Security trust funds and sets them outside of the other Government revenues and protects those trust funds. If it does that, we would vote for an amendment. We had done that before. There are a number of us on this side who have done that before. We offered it as an amendment. We voted for it. But we will have no opportunity to do a similar thing at this time, and my point was we would like the Senate to express itself on that issue.

The only way I could conceive of doing that was to offer a sense-of-the-Senate resolution. The sense-of-the-Senate resolution was to say that when a constitutional amendment to balance the budget is brought back to the floor of the Senate, it ought to include a provision that removes the Social Security trust funds from the other operating revenues of the Federal Government. We, incidentally, did that previously in an amendment that I believe got 40 votes. If it does, I would vote for it and I think there are probably a half dozen or dozen other Members who would similarly vote for it and we would have 70 or 75 votes for a constitutional amendment to balance the budget.

Because of circumstances and because of the parliamentary situation, I offered that as a sense-of-the-Senate resolution. It was then second-degreed. The Senator from Wyoming became fairly upset about that, and I understand why. He is managing a bill dealing with immigration. He said, "What does this have to do with immigration?"

Plenty of people have offered amendments that are not germane in the Senate. We do not have a germaneness rule. They have offered them because they felt the circumstances required them to offer them.

The Senator from Massachusetts indicated that he intends to offer an amendment on the minimum wage, increasing the minimum wage on this piece of legislation. My expectation would be, if there were an agreement reached by which the Senate would be able to agree to a vote on the minimum wage at some point, that amendment would go away as well. I do not intend to press my amendment if I can reach an agreement with the majority leader to give us an opportunity to offer, either a constitutional amendment to balance the budget that protects the Social Security trust funds, or some other device that allows us to register on that issue before we are forced to vote on reconsideration.

I want to make just another point on the Social Security issue because I think it is so important. We are not talking about just politics, as some would suggest. Some say there is no money in the Social Security trust fund. That is going to be a big surprise to some kid who tries to ask his father what he has in his savings account, and his father says you have Government savings bonds, but there is really no money there. That is what is in the Social Security trust fund, savings bonds, Government securities. Of course there is money there.

The problem is continuing to do as we have done for recent years, and that is, instead of save the surplus that we every year now accumulate in the Social Security system, $71 billion this year, if we instead use it as an offset against other Government revenues we guarantee there will be no money available in the Social Security trust funds when the baby boomers retire. It is about a $700 billion issue in 10 years, and we ought to address it. It is not unimportant. It is not politics. It might be a nuisance for some for us to require that it be addressed at some point or another, but those of us who want it addressed are not going to go away.

I guess I would say at this point that the two issues that have been raised—the one I have raised by the sense-of-the-Senate resolution I think can be resolved if the majority leader, who was, from our last conversation yesterday, going to be visiting with the Parliamentarian to see if we could find a way to provide a method for a vote on the approach I have suggested and we have previously offered on the constitutional amendment to balance the budget. If that happens, I do not intend to be continuing to press the sense-of-the-Senate resolution that I had previously offered.

I wanted to speak in morning business only to describe what the circumstances are on this piece of legislation. I am not here to make life more difficult for the Senator from Wyoming. I have great respect for him. I think the legislation he has brought to the floor has a great deal to commend it.

Even if we do not resolve this issue on the Social Security trust funds, I would not intend to ask for more than 10, 15, 20 minutes debate. I am not interested in holding up the bill. Under any conditions, I am not interested in holding up this bill.

I would agree to the shortest possible debate time, if we are not able to resolve the issue in another way. But my hope would be in the next hour or so we might be able to resolve that issue in another way. We would still, then, be asking, it seems to me, based on the discussions of Senator KENNEDY, for some kind of commitment to allow the Senate to proceed to deal with the issue of the minimum wage.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1664, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, just a prefatory remark, with regard to my friend from North Dakota.

I enjoy working with the Senator from North Dakota. We are near neighbors in that part of the world. I can understand the depth of his very honest conviction about Social Security and the balanced budget. It is not an opinion I share, because I feel that the Social Security System is going to go broke, whether you have it on budget, off budget, hanging from space or coming out of the Earth. It is going to go broke in the year 2029. It is going to start its huge swan song in 2012, and the reason we know that is because the trustees of the system are telling us that. So I understand completely.

He is sincere in what he is doing. He is a believer in that cause and he is persistent, dogged, and I know that very well. So, in that situation we will just see how it all plays out.

Mrs. FEINSTEIN. Mr. President, I thank the Chair. Mr. President, I join with those in thanking the distinguished chairman of the Immigration Subcommittee of the Judiciary Committee, the Senator from Wyoming, for what is extraordinarily thankless on a subject that perhaps has more controversy than almost any other I have seen since I have been in the U.S. Senate.

I will give my views on the bill that is now before us, the Immigration and Nationality Act of 1996. I come, obviously, along with my colleague, Senator BOXER, from the State most heavily impacted by illegal immigration in the Nation. The presentation of the Immigration and Naturalization Service to the Judiciary Committee showed that California is on a tier all by itself. The estimates on numbers vary, but they go anywhere from 1.6 million to 2 million, 3 million, and even 4 million people in our State illegally, depending upon whom one chooses to believe. Most authorities agree that the right number is in the vicinity of 2 million people in California illegally right now.

One concern is overriding—that illegal immigration is a serious problem. Additionally, it is the responsibility of the Federal Government, not the States, to prevent it. Californians went to the ballot and overwhelmingly approved the most stringent of propositions, proposition 187.

One part of proposition 187 provided that if a youngster is in this country illegally, he or she could not go to a public school. A teacher would have to act as an INS agent and ferret out that youngster and remove him or her from school. Even more strongly, the people said that if the parents are here illegally, that youngster would still be denied the right to a basic elementary school education.

The people of California overwhelmingly approved it. I believe one of the reasons they did was out of frustration, because the Federal Government has not responded to what is an increasing and growing problem.

The bill before us today tackles illegal immigration at the border, mainly by adding strength to our Border Patrol and border facilities. In the past 3 years, the administration and the Congress, both Houses and both parties, have come together, recognizing the

need and beginning to improve border infrastructure, such as lights and infrared-seeing devices, and manpower. And the Border Patrol has, for 3 years in a row, had additions of about 700 agents a year.

This legislation would add an additional 700 Border Patrol agents in the current fiscal year, and 1,000 more for the next 4 years, bringing the total number of agents to 4,700 by the year 1999. That is more than double the entire force that was in place when I came to the U.S. Senate 3 years ago. It would establish a 2-year pilot program for interior repatriation. The reason for that is, people come across, they are picked up, they are held for an hour, they are sent back right across the border to Tijuana. Three hours later, they try again, the same thing happens, and they try again and again. The pilot project would try to determine whether people who are repatriated into the interior of the country are less inclined or less able to cross that border again illegally than those not repatriated to the interior of the country.

The bill would add 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, something that, today in America, is a $3 billion industry.

As a matter of fact, last week, the Justice Department made 23 arrests in California, which showed that organized gangs from New York to California were all participating in the alien smuggling of illegals from China to the United States in boats, transferring them to fishing boats, landing them, providing drop houses, and moving them back to New York.

The bill would add alien smuggling and document fraud offenses to the list of predicate acts under our Nation's racketeering laws, something many Federal prosecutors have told me is extremely important.

The bill would increase the maximum penalty for involuntary servitude to discourage cases like the one we saw recently, where scores of illegal workers from Thailand were smuggled into our country, then put in an apartment building with a fence around it and forced to work in subhuman conditions against their will in southern California.

This bill would strengthen staffing and infrastructure at the border, and it would provide for facilities for incarcerating illegal aliens. It would require all land border crossings to be fully staffed to facilitate legal crossing.

I can tell you that in San Diego, CA, at the border crossing gates, there are hours of waiting. There are 24 crossing gates at this one station. Only one-half of them are manned. Consequently, people engaged in legal, normal commerce sit at that gate and wait, sometimes for many hours, backed up in traffic.

This bill would increase space at Federal detention facilities to at least 9,000 beds. That is a 66-percent increase in detention capacity for the incarceration of criminal aliens. I can tell you, Mr. President, out of 120,000 inmates in the California Department of Corrections, between 15,000 and 20,000 of them are illegal immigrants, serving felony time in California. The cost to the State is literally hundreds of millions of dollars a year.

The bill would create a demonstration project in Anaheim, CA, to use INS personnel to identify illegal immigrants in prison, so that they can be more rapidly deported.

Historically, the way Congress has handled illegal immigration is through what are called employer sanctions. I think the intent—although I was not here, and the Senator from Wyoming knows far better than I—was that the reason most illegals—and I say "most"—come here illegally is because of the lure of jobs. That is the magnet. Therefore, if you remove this magnet and prevent people from working illegally, you will deter illegal immigration.

In order to work, though, employer sanctions need an accurate method of verifying whether an applicant for a job is legally entitled to work. Up to this point, relying primarily on employer sanctions, the basis on which all illegal immigration is handled in the United States, has been a colossal failure. The reason for the failure is that employers have no reliable way to determine if a prospective employee is legally entitled to work.

Let me explain why. Presently, if an employer is interviewing someone for a job, he or she might say, "Can you show me that you are legally entitled to work?" They can present to the employer 29 different documents, under present law. Under present law, no prospective employer can say, "May I see your green card?" That is a violation of law. So they must take one, two, three or four of the 29 different methods of identification offered.

If somebody came in to me and I said, "Do you have an identification to show that you are a resident of California?" They would say, "Oh, yes," and hold up this card. I would see that it is a California identification card, and its address is Interlock, CA, and it has a State seal on it. It is encased in plastic, and it looks very legal to me. Wrong. This very card is a forgery. Or they might hand me a Social Security card, and I would look at it and see all the traditional signs. The paper looks right, the color looks right. There is a number on it and a signature, just like on my own Social Security card. Could I trust it? No. This is a forgery.

The fact of the matter is that on the streets of Los Angeles, CA, you can buy both of these cards for under $50, and you can get them in 20 minutes, and they can have your photograph printed on them. You can purchase documents there anywhere from——

Mr. SIMPSON. Mr. President, I object to this procedure. This is totally out of order.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has a right to—

Mr. SIMPSON. It is a crude exercise, a truly crude exercise.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report.

Mr. SIMPSON. What is the status of the present situation?

The PRESIDING OFFICER. A cloture motion has been sent to the desk.

The clerk will report.

Mr. SIMPSON. What is the correct procedure? Is that motion appropriate in the midst of a singular address, at the time of an opening statement with regard to a piece of legislation?

The PRESIDING OFFICER. Allow the Chair to consult with the Parliamentarian.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor.

The clerk will report.

Mrs. FEINSTEIN. I believe I had the floor, Mr. President.

Mr. SIMPSON. Mr. President, the Senator from California has the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dorgan amendment No. 3667 regarding Social Security:

Byron L. Dorgan, Max Baucus, Daniel P. Moynihan, Barbara A. Mikulski, Tom Daschle, J.J. Exon, Joe Biden, Paul Simon, Joe Lieberman, John F. Kerry, Paul Sarbanes, Fritz Hollings, D.K. Inouye, Wendell Ford, Claiborne Pell, John Glenn, Russell D. Feingold.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, before I was interrupted, the point I was trying to make is that no matter how well intended an employer is, it is extraordinarily difficult to tell the difference between real documents and counterfeit documents, and that is what enables illegal immigrants to obtain welfare. They are ineligible for cash welfare programs under Federal law now. However, if they have false documents, they can obtain the very things that they are prohibited from obtaining—whether it is Social Security, whether it is SSI, or whether it is AFDC.

An entire industry of counterfeit documents has grown up in California. The most frequently counterfeited document is a birth certificate. You can pay anything from $25 for a Social Security card to $1,000 or more for a passport, as well as personal identification documents.

These documents are so authentic-looking that employers cannot tell the difference. In fact, it is estimated that tens of thousands of illegal immigrants today receive welfare benefits in California by using counterfeit documents.

This bill makes a major effort to reduce this problem. It reduces the number of acceptable employment verification documents from the current 29 to 6 so that employers are better able to determine which documents are valid. Employers will only have to review 6, not 29.

Also, the bill doubles the maximum penalties against employers who knowingly hire illegal aliens, increasing them from $2,000 to $4,000 for a first offense with graduated penalties for subsequent offenses. Therefore, the bill adds substantial teeth to the employer-sanction laws. It establishes a pilot program to test the verification system under so that employers can readily and accurately determine an applicant's eligibility to work.

The system could also be used to determine an applicant's eligibility for public benefits, therefore, avoiding welfare fraud. It also attacks the serious problem of document fraud by setting Federal standards for making key identification documents, birth certificates, and drivers' licenses tamperproof and counterfeit resistant. The result is that the most counterfeited document, a birth certificate, would be counterfeitproof, as would drivers' licenses.

The bill before us would increase the criminal penalties for document fraud, including raising the maximum fine for fraudulent use of the Government's seal to $500,000, and increasing the fine for lying on immigration documents to $250,000 and 5 years in prison. The bill also denies the earned-income tax credit to persons here illegally.

You might say, is this a strong, tough bill? I would have to say, yes. It is a strong, tough bill. Former Congresswoman Barbara Jordan and the immigration commission which she chaired said this eloquently. "We are a Nation of laws." We are also a Nation that has the most liberal immigration quotas in the world today. No country absorbs more foreign-born people than does the United States of America in the course of a year.

So there is more opportunity for an individual to come to the United States than virtually any other place on Earth. Therefore, because we are a Nation of laws and because we have a liberal immigration system, it is not unjust, unfair, or unwise to require that we follow our laws and make sure that we enforce the prohibition against illegal entry into our country.

The largest source of illegal immigration, next to visa overstays, comes from people who slip across our borders. That is what this bill addresses. The bill also addresses visa overstays. As many as 700,000 people a year overstay their visas. This bill would require that immigrants who overstay their visas either be deported or be denied future visas. So there is some visa enforcement in this legislation.

The need for the legislation has been and will be explained at length over the course of this debate. From the point of view of my State, the problem of illegal immigration is severe. Forty-five percent of the Nation's illegal immigrants now reside in California. That is between 1.6 million and 2.3 million, as I mentioned earlier. Fifteen percent of illegal aliens are in our State prisons. Forty-five percent, or 150,000, of all pending asylum applications come from people in California, and 35 percent, or 40,000, of the 113,000 refugees entering the U.S. claimed residency in California in 1993.

Our county governments are being forced to absorb more and more of the costs of medical care, social services, and incarceration for illegal immigrants, and those costs are going up—not down. In the 1996–1997 fiscal year, California will spend $454 million in incarceration costs for criminal aliens.

So it is fair to say that the State most affected by this bill is the State of California. This U.S. Senator strongly supports this legislation. The need is very clear.

Mr. President, at a later time, I would like to complete this statement, and also at the appropriate time to present a series of amendments that deal with certain unresolved issues.

I have some major concerns about the triple fence in the bill, about the fact that cases brought under the bill be tried in Federal court rather than in State court, and that the deportation documents be written in Spanish as well as in English. I hope I can offer these amendments at a later time.

I thank the Chair.

I yield the floor.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3672

Mr. SIMPSON. Mr. President, I now submit a request. It has been cleared through the leadership on both sides of the aisle, as I have been advised.

I ask unanimous consent that the Senate now resume consideration of amendment No. 3672, the Simpson-Kempthorne amendment, as modified, and that there be 30 minutes for debate, 20 minutes under the control of Senator DORGAN, 10 minutes under the control of Senator DOMENICI; to be followed by a vote on or in relation to the amendment without further action or debate. And immediately following that vote, regardless of the outcome, the Senate proceed to vote on or in relation to the Dorgan amendment, No. 3667.

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

AMENDMENT NO. 3672, AS MODIFIED

Mr. SIMPSON. Mr. President, I send the modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Amendment No. 3672, as modified, is as follows:

At the end of the amendment add the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. SIMPSON. Mr. President, I yield the floor to Senator DORGAN.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume. A couple of colleagues wish to come to speak on this amendment as well.

First of all, the circumstances are we will vote on a Kempthorne amendment. I have no objection to that amendment. I intend to vote for it.

It contains conclusions that I support, talks about the desire to balance the budget, to do so without Social Security benefits being reduced or Social Security taxes being increased. I have no objection to that. I intend to vote for it.

But that is not the issue. The issue is the second vote on the amendment that I offered, a sense-of-the-Senate resolution. That amendment is very simple. It is an amendment that says that when a constitutional amendment to balance the budget is brought to the floor of the Senate it ought to include a firewall between the Social Security trust funds and the other revenues of the Federal Government.

The reason I feel that way is because we are now accumulating a yearly surplus in the Social Security trust funds. It is not an accident. It is a deliberate part of public policy to create a surplus in the Social Security trust funds now in order to save for the future.

The reason I know that is the case is because in 1983 I helped write the Social Security reform bill. I was a member of the House Ways and Means Committee at the time. We decided in the Social Security reform bill to create savings each year. This year $71 billion more is coming into the Federal Government in receipts from Social Security taxes over what we will spend this year—a $71 billion surplus this year alone, not accidental but a surplus designed to be saved for the future.

It is not saved for the future if it is used as an offset against other revenue of the Federal Government. If it is simply becoming part of the revenue stream that is used to balance the budget and the operating budget deficit, it means this $71 billion will not be there when it is needed.

I have heard all of the debate about, well, this is just an effort by some of those who would not vote for the other constitutional amendment to balance the budget, just an effort to justify their vote. No. There were two constitutional amendments to balance the budget offered in the U.S. Senate last year. One of them balanced the budget and did so by the year 2002, using the Social Security trust funds as part of the operating revenue in the Federal Government. I do not happen to think that is the way we ought to do it.

The Senator from Illinois, Senator SIMON, is on the floor. He has been one of the authors of that particular amendment. I happen to know that he changed his mind on this issue. He originally felt we should not include the Social Security trust fund money as part of the operating revenue of the Federal budget.

I still believe fervently we should not do that. One of the sober, sane things that was done in the 1980's in public policy was to create a surplus each year in the Social Security accounts to save for the future when it is needed, when the baby boomers retire. To simply decide to throw that all in as operating revenues and provide for it in a constitutional amendment to the Constitution, and use it to help balance the operating budget of the Federal Government, is in my judgment not honest budgeting.

We are either going to save this or not. If we are not going to save it we ought not collect it from the workers. If the workers have it taken from their paychecks and are told, "This money coming from your paycheck goes into a Social Security trust fund," and if it goes into the Social Security trust fund and then is used as other revenue to balance the Federal operating budget, it is not going to be there when the baby boomers retire.

That is the import of this amendment. If those who propose a constitutional amendment to balance the budget would bring to the floor a constitutional amendment with section 7 changed as we proposed it previously and voted on it that says it is identical in every respect to the constitutional amendment offered by Senator SIMON, Senator DOLE, and others with the exemption that the Social Security trust funds shall not be used as operating revenue in the Federal budget to balance the budget, they would get 70 or 80 votes, 75 votes perhaps for a constitutional amendment to balance the budget.

Because they did not do that, they fell one vote short. They intend to bring a constitutional amendment to balance the budget to the floor of the Senate again, and have announced they intend to do it under a reconsideration vote. They have a right to do that. We simply want an opportunity to provide a sense-of-the-Senate resolution to say to all of those in the Senate, when you bring this, do it the right way this time. If you do it the right way you will, in my judgment, pass a constitutional amendment to balance the budget out of this Senate and send it to the States for ratification.

That is what this sense-of-the-Senate vote is about. It is not about protecting anybody. It is not about setting up a scarecrow. It is about very serious, important public policy issues. Anyone who says this is not an important or serious issue apparently misunderstands what the policy issues are here. I did not vote to reform the Social Security system—I did not vote to increase payroll taxes in the 1980's, as did most Members of Congress, in order to have that money go into the operating budget of the United States and not be saved for the future in the Social Security trust funds as we promised the American people it would be.

Last year the Budget Committee brought to the floor of the U.S. Senate a budget. They said, "Here is our balanced budget." And on page 3 it says, "Deficits—" in 2002, $108 billion. How can that be the case? Because technically they say, "We haven't yet balanced the budget, technically in law, but what we have done is promised we will use this money to show a zero balance because these Social Security trust funds, to the tune of $108 billion, will be used to balance the Federal budget."

It is not an honest way to do business. It ought not be done. We can, in my judgment, remedy this problem very quickly. Voting for my sense-of-the-Senate resolution, and including in the constitutional amendment to balance the budget that is brought to the floor of the Senate, the provision I have described, which is fair to the American workers, keeps our promise with the American workers, is fair to senior citizens in this country, and does what we said in 1983 we were going to do for the future of the Social Security system.

I am a little weary of hearing people stand on the floor of the Senate saying the Social Security system is going broke. The system has been around 60 years. In the year 2029, which is 30-some years from now, we have financing problems with it, yes, but we are going to respond to those long before 2029. For someone to say a system that has been around here for some 60 years is going to go broke because in the year 2029—33 years from now—we have financing trouble is, in my judgment, unfathomable.

This is a wonderful contribution to this country of ours, the Social Security system. We can and have made it work, and will make it work in the future. But I will guarantee you that it will not work in the future the way we expect it to, to help the people who are going to retire in the future in this country, the baby boomers especially, if we do not take steps to protect the Social Security trust funds and use them for the purpose that they were intended back in the 1983 Social Security Reform Act.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The time is under the control of Senator DOMENICI and Senator DORGAN. Senator DORGAN has approximately 12 minutes left of his time. Senator DOMENICI, who I do not see at this point, has 10 minutes under his time.

Mr. SIMON. Mr. President, since I have not spoken to Senator DOMENICI, I ask unanimous consent that I be permitted to speak for 3 minutes and not have it charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMON. Mr. President, I agree with 90 percent of what my friend from North Dakota has to say. Where I do differ is—and let me add in the Budget Committee I supported Senator FRITZ HOLLINGS in saying that we should exclude Social Security as we balance the budget. I cosponsored that legislation. What is true, however, is that the balanced budget amendment that we proposed, as it was, protects Social Security more than the present law does. Bob Myers, chief actuary for Social Security for 21 years, strongly supported the balanced budget amendment saying it was essential to the protection of Social Security.

I recognize that we are close to getting something worked out. I hope we can. I do think it is unrealistic, the amendment offered by my friend from North Dakota, that by the year 2002, we can do this, excluding Social Security. I think if we go on a glidepath for a few years later, that can be worked out.

To those who question that, that provides a great deal more protection than you have in the present law. The present law gives theoretical protection, but it is not there. The Constitution gives muscle to that.

Now, I add that I want to make sure that, in the years we have deficits, we fill those deficits, that we do not exclude both the receipts and the deficits, because the time will come—I may not be around to need it but the Senator from North Dakota will—when we need to protect those deficits and make clear that is a liability of the Federal Government.

I am hopeful something can get worked out yet. There are various versions floating around right now. It would be a great day for the American public if we could get it worked out.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time do the Democrats have and how much time do I have?

The PRESIDING OFFICER. There is remaining 12 minutes 15 seconds under the control of Senator DORGAN and 9 minutes 50 seconds under the control of the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not sure I need all my time. Let me yield myself 5 minutes at this point.

Mr. President, I guess I start this by paraphrasing Ronald Reagan: Here we go again. Every time we get into a balanced budget debate, someone tries to claim that Congress is raiding the Social Security trust fund. Every single time it happens, somebody gets up and claims we are not doing it right.

I simply want to note that there is a bit of irony in this debate in the Dorgan amendment. In 1995, we saw a plethora of budget proposals from both sides of the aisle. We saw a number

from that side of the aisle. Indeed, at last count, the President himself has proposed 10 different budgets since January 1995. Each and every one of those budgets, including the President's 1997 budget, includes Social Security in the deficit calculations.

I am not suggesting that is in any way violating the law, because it is not. It is not violating the law to produce a balanced budget and call it a balanced budget under the unified concept which has been used since Lyndon Johnson's time, when at the direction of Arthur Burns, one of the best economists we have ever had serve us, the United States decided to put everything on budget, because everything on that budget had an impact on the economy of the United States. So does the trust fund have an impact on the economy. The unified budget was a concept of putting everything on there that has any economic impact on the people of the United States and the American economy.

Somehow, it seems to me, we have some kind of a gap here. Unless I am reading wrong, Senator DASCHLE, Senator DORGAN, two of the sponsors of this so-called Social Security amendment, promoted a balanced budget here in the U.S. Congress. If I am wrong, the Senator can tell me I am wrong. Somehow, it seems to me that something must have escaped, escaped the mind, because that plan could only claim to reach balance in 2002 including the Social Security trust fund.

As a matter of fact, I have not seen any budget produced that has been offered as an instrument upon which we would vote here in the Senate that produces the kind of balanced budget that is now being encouraged by this sense-of-the-Senate resolution. The Republican budget, the first one that balanced the budget, the first one to pass Congress to balance the budget in two generations, also included the Social Security trust funds in this deficit calculation.

That does not mean that in doing that you are detracting from the solvency of the Social Security fund. As a matter of fact, in each and every one of the budgets I have been discussing, to my recollection, the nine the President has offered, two of which have been balanced, the others that I have referred to in a very, very formidable way, those budgets do not touch Social Security. They do not touch the benefits. They do not touch the taxes that are attributable to Social Security. You get a balanced budget without in any way doing harm to the Social Security trust fund and the taxes that are imposed on the American people in order to get that done.

Frankly, it seems to me, for those who would like to make sure we get a balanced budget and not use the Social Security trust fund in the calculations, I wonder how they get to balance. I have not seen any proposals that have accomplished that. From this Senator's standpoint, if we are going to get there by 2002, which I think is everybody's agenda, I believe it is inconceivable that you can get there and in the final calculations—that is why I am saying in the calculations—you do not use the unified budget concept, which for more than 20 years has been used in almost every examination of the impact of the Federal budget on the people of this country.

Maybe I am missing something. Maybe somebody knows another way to do it by 2002 and reduce the expenditures of our Government by another $190 to $200 billion. I do not believe, in my efforts, which I think have been at least, if not successful, at least we have shown various ways—and it has been a rather formidable exercise—I do not think we have ever come up with anything that could do that.

While I understand the debate is a useful debate, we ought to be very concerned about it. I think it is truly, "Here we go again," and I hope the U.S. Senate decides we ought to get on with the subject, get a balanced budget, and get a constitutional amendment and not do the sense of the Senate at this point.

Mr. DORGAN. I yield 7 minutes to the Senator from South Carolina, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from North Dakota.

Obviously, I do not take any pleasure in correcting the record made by my distinguished chairman of the Budget Committee. I served as chairman of the Budget Committee and had the best of cooperation from the distinguished Senator from New Mexico. I hope we can cooperate again in getting a balanced budget amendment to the Constitution that protects social security.

Last year on March 1, 1995, five Senators signed a letter to the majority leader stating that we were ready, willing and able to vote "aye" on a balanced budget amendment to the Constitution so long as we did not repeal the statutory law of the United States that prohibits the use of Social Security trust funds in computing either deficits or surpluses of the Federal Government.

Now my distinguished friend from New Mexico says that both sides use it, and he starts, of course, with President Lyndon Johnson.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table of the deficits and surpluses for the past 40 years.

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

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4	.....	260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.4	−277.3	4,921.0	332.4
1996	1,572.0	126.0	−270.0	5,191.0	344.0
Est. 1997	1,651.0	127.0	−292.0	5,483.0	353.0

[1] Budget realities: Senator Hollings, April 17, 1996.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. If you look at this table, you can refer to 1969 when we had the last budget balanced. I happened to have been here and to have voted for it. That is a unique experience.

If you look down to the 1997 budget that we will be working on, you can see the intent to use $127 billion—$127 billion in trust funds. Up, up and away.

I hold in my hand this light blue book entitled "Budget Process Law Annotated." You will not find the word "unified" in it. You, will, however, find section 13301 of the statutory laws of the United States.

I ask unanimous consent to have that section printed in the RECORD at this point.

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

SUBTITLE C—SOCIAL SECURITY

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or
(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. Mr. President, section 13301 says you cannot use Social Security. In our failure to follow that law, we should not wonder why the people do not have any faith or trust in their Government.

Let us go back to Social Security. In 1983, we increased the Social Security payroll taxes in order to save the program. We said these moneys would be used only for Social Security. We were going to balance the budget for general government and build up Social Security surpluses to ensure that money would be there when they baby boomers retire. However, working in the Budget Committee with the distinguished Senator from New Mexico, you could see what was happening. Budget deficits went up, up and away. We had less than a trillion-dollar debt when Reagan came to town. It is now $5 trillion. So in the Budget Committee, on July 10, 1990, I offered an amendment to protect the surpluses in the Social Security trust fund. It was my amendment that passed the committed by a vote of 20–1.

I ask unanimous consent to have the vote printed in the RECORD.

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

HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas: Mr. Sasser, Mr. Hollings. Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Robb, Mr. Domenici, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Bond.

Nays: Mr. Gramm.

Mr. HOLLINGS. Mr. President, after our success in the Budget Committee, I worked with Senator Heinz to offer the same amendment on the Senate floor on October 18, 1990. The vote was 98–2, and the distinguished Senator from New Mexico voted both in July, and in October to not use Social Security trust funds.

I ask unanimous consent that that vote be printed in the RECORD.

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

Hollings-Heinz, et al., amendment which excludes the Social Security Trust Funds from the budget deficit calculation, beginning in FY 1991.

YEAS (98)

Democrats (55 or 100%)—Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Helfin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans (43 or 96%)—Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Republicans (2 or 4 %)—Armstrong, Wallop.

Mr. HOLLINGS. Mr. President, when the both sides continued to use the surpluses—I teamed up with Senator MOYNIHAN. I said, "Look, you are using these moneys for defense, education, housing, foreign aid, for everything but Social Security. Let us just stop the increase in taxes on Social Security."

So exactly 5 years ago, on April 24, 1991, the distinguished Senator from New Mexico moved to table the Moynihan-Kasten-Hollings amendment that would have reduced Social Security revenues in the budget resolution by about $190 billion.

I ask unanimous consent that that vote be printed in the RECORD.

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

Domenici motion to table the Moynihan-Kasten-Hollings amendment which reduces Social Security revenues in the budget resolution by $24.6 billion in FY 1992, $27.6 billion in 1993, $38.2 billion in 1994, $44.0 billion in 1995, and $61.7 billion in 1996; and returns Social Security to pay-as-you-go financing.

YEAS (60)

Democrats (26 or 47%)—Baucus, Bentsen, Bingaman, Bradley, Breaux, Bumpers, Burdick, Byrd, Conrad, Daschle, DeConcini, Dixon, Ford, Glenn, Graham, Heflin, Johnston, Kohl, Lautenberg, Levin, Mikulski, Robb, Rockefeller, Sasser, Shelby, Simon.

Republicans (34 or 79%)—Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatfield, Jeffords, Kassebaum, Lott, Lugar, McCain, McConnell, Murkowski, Packwood, Pressler, Roth, Rudman, Simpson, Smith, Specter, Stevens, Thurmond, Warner.

NAYS (38)

Democrats (29 or 53%)—Adams, Akaka, Biden, Boren, Bryan, Cranston, Dodd, Exon, Fowler, Gore, Harkin, Hollings, Inouye, Kennedy, Kerrey, Kerry, Leahy, Lieberman, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Reid, Riegle, Sanford, Sarbanes, Wellstone, Wirth.

Republicans (9 or 21%)—Craig, Hatch, Helms, Kasten, Mack, Nickles, Seymour, Symms, Wallop.

NOT VOTING (1)

Democrats (1)—Pryor.

Mr. HOLLINGS. Mr. President, on November 13, 1995, the Senator from New Mexico again joined with us on a vote of 97–0 not to use Social Security trust funds. But in March of last year they were trying to get a balanced budget amendment to the Constitution that used an additional $636 billion in Social Security trust funds.

Under that approach, we would come around to the year 2002 and say, "Whoopee, we have finally done our duty under the Constitution and we have balanced the budget." But we would have at the same time caused at least a trillion-dollar deficit in Social Security. Who is going to vote to increase Social Security taxes, or any other tax, to bring in a trillion dollars?

That is our point here. That is why we have offered this sense of the Senate. What happens is the media goes right along. I want to quote from an April 15 article in Time magazine which talks about the surpluses in the highway trust fund:

Supporters argue, rightly, that the money would go where it was intended—building roads and operating airports. But the supposedly untapped funds are actually an accounting figment.

That is what we will have to say about Social Security in 2002 because the money will not be there. Let us cut out this charade, stop the fraud, and be honest with each other. Let us get truth in budgeting.

I reserve the remainder of our time.

Mr. DORGAN. Mr. President, I yield 2 minutes to Senator FORD.

Mr. FORD. Mr. President, I thank my friend from North Dakota. I think everyone should have listened to my friend from South Carolina. He has been there from year one. He knows the history of it. He understands it, and he says it straight.

I listened to my good friend from New Mexico, chairman of the Budget Committee, one of the smartest financial wizards in the Senate. I believe, honestly and sincerely, that he knows how to operate to be sure that Social Security funds are not used. He says he only wants to use them for calculation. He does not touch the fund, the taxes; he does not touch anything. If you do not touch them, why use them? If you do not touch them, why use them?

We have a contract with the people of this country. Social Security is doing better. There are 8.4 million new jobs, all of them paying into Social Security. Things are beginning to look a little better. But if we take Social Security funds to balance the budget, then we are deceiving the American public.

I voted for a balanced budget every time except the last time because, before that, it excluded Social Security funds. This last time, it included Social Security funds. You had at least seven more votes—we would be in the seventies on the balanced budget amendment had you said we exclude Social Security moneys.

So when you say you are not using them, you will not spend them, you are not going to touch taxes, there ought to be a way, and there should be a way, that we can pass a balanced budget here without using those funds.

I hope my colleagues will listen to Senator DORGAN and Senator HOLLINGS and that we approve this sense-of-the-Senate resolution.

I suspect my time has expired. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. DOMENICI. Mr. President, I told Senator DORGAN I would use our time up and he could close. Senator SIMPSON has arrived. He is never without something to say on this subject. I yield half of my remaining time to the Senator from Wyoming.

Mr. SIMPSON. I thank the Senator. It will not take 2 minutes. It does not take too many minutes to explain that there is no Social Security trust fund. To come to this floor time after time and listen to the stories about the Social Security trust fund is phantasmorgia and alchemy. There is no Social Security trust fund. The trustees know it, we know it, everyone in this Chamber knows it.

What you have is a law that says if there are any reserves in the Social Security system, they will be invested in securities of the United States, based on the full faith and credit of the United States. Therefore, they are. They consist of the bills, savings bonds, and they are issued all over the United States. Some here own them, and banks own them. The interest on those is paid from the General Treasury, not some great kitty or some Social Security piggy bank. This is the greatest deception of all time.

The sooner we wake up and realize that the trustees of the Social Security system, consisting of three Members of the President's Cabinet, consisting of Dona Shalala, Robert Rubin, and Robert Reisch, Commissioner Shirley Chater, one Republican and one Democrat, are telling us this system will be broke in the year 2029 and will begin to go broke in the year 2012—there is no way to avoid it unless you cut the benefit or raise the payroll tax. Guess which one we will do at the urging of the senior citizens? We will raise the payroll tax one more time.

Mr. DOMENICI. Mr. President, we have a letter dated January 19 signed by Senator EXON, Senator DASCHLE, and Senator DORGAN with reference to a proposed balanced budget that they wanted the Republicans to join them in with some common ground.

I ask unanimous consent that it be printed in the RECORD.

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

U.S. SENATE.
OFFICE OF THE DEMOCRATIC LEADER.
Washington, DC, January 19, 1996.

HON. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We are disturbed by several remarks you made yesterday at your news conference on the status of budget negotiations. It is unclear to us why your public comments concerning the budget continue to grow more pessimistic even as the gap between our two plans continues to narrow.

We believe a workable solution to balancing the budget is indeed at hand. Since our House counterparts appear less willing, or less able, to discuss alternatives, we ask that you take the initiative and join us to build support for a "common ground" balance budget. This budget would be based on the $711 billion in reductions to which all parties in the budget negotiations have already agreed. (Please see the attached chart outlining those areas of agreement.)

Democrats and Republicans have made a great deal of progress over the past few weeks in narrowing the gap between our two plans. The biggest remaining gap, of course, it the difference between our two tax cut proposals. The current Republican plan calls for $115 billion more in tax cuts than does the plan offered by the President and Congressional Democrats. Your plan pays for these additional tax breaks by cutting $132 billion—above and beyond what Democrats have agreed to—from programs that are essential to working families.

Spefically, your plan cuts Medicare by $44 billion more than the Democratic plan. It cuts Medicaid by $26 billion more. It cuts domestic investments in areas such as education and the environment by $52 billion more. And it raises taxes on working families by $10 billion.

The Democratic plan, by contrast, allows us to balance the budget in seven years using CBO numbers, provide a reasonable tax cut of $130 billion for working families, and still protect Medicare, Medicaid, education and the environment.

We should act decisively to balance the budget immediately. If balancing the budget is the goal, we can reach it now by banking the "common ground" savings on which we all agree.

We ask you to return with us to the White House to resume budget negotiations with the Administration before the current continuing resolution expires next Friday, January 26. If you will agree to return to the table, reduce your tax cut, and adopt the "common ground" reductions to which we have all agreed, we can reach an agreement immediately. We can balance the budget in seven years—and provide America's families with tax relief—without eviscerating the programs on which their economic security depends.

Sincerely,

J. JAMES EXON,
TOM DASCHLE,
BYRON L. DORGAN.

Mr. DOMENICI. Mr. President, I note that the proposed balanced budget is in the unified budget manner using the Social Security trust funds in calculating the balance.

I just want to close by saying that we can go on with these arguments as long as we want. The truth of the matter is seniors should know that, if you can get a unified balanced budget by the year 2002 which helps the American economy grow, prosper, and which brings interest rates down, it is the best thing you can do for the Social Security trust fund. That is exactly what it needs.

There is no chance of success unless the American economy is growing and prospering. For that to happen you have to balance the unified budget. If you want to say 4 years after that you will balance without the use of the funds, fine. You put that on a line and show it.

I say to my friend, Senator HOLLINGS, that we are engaged now in trying to write some language for a balanced budget constitutionally which would put it in balance in the unified way by a certain time, and under the ideas that the Senator from South Carolina has, by 4 years later to try to put that in the constitutional amendment. We are working with the Senator and others. We hope to have it done very soon, at which point when it clears with the Senator from South Carolina and others, we will be glad to give it to the leadership to see what they want to do with it.

I thank the Senator for his comments. Even though they were not all directed to agreeing with me, we are working on the same wavelength.

I yield the floor and yield any time which I may have.

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

The PRESIDING OFFICER. Three minutes twenty-one seconds.

Mr. DORGAN. Mr. President, let me use the remaining time.

I guess now we have heard the three stages of denial. Let me rephrase the three stages of denial.

One, there are no Social Security trust funds;

Two, if there are Social Security trust funds, we are not using them to balance the budget;

Or, three, if there are Social Security trust funds and we are using them to balance the budget, we will stop by the year 2006.

All three positions have been given us in response to our position on this floor—the three stages of denial.

I watched the debate on the floor of the House of Representatives the other night. A fellow had a chart, and he talked about the income tax burden by various groups of taxpayers. He said, you look at the folks at the bottom level here. They are not paying higher income taxes. We have not increased their income tax burden. He strutted around and talked about how wonderful that was. He did not say with his chart what had happened to those folks in the last decade with respect to payroll taxes. No, their income tax has not increased. Their payroll tax skyrocketed because this Congress increased the payroll tax, determined to want to save the payroll taxes in the trust fund and build that trust fund for the future.

That is why people are paying higher payroll taxes. In fact, this year, $71 billion more is collected in receipts in the Social Security system than will be paid out. The question is. What is that for? If there is no trust fund, what is that for? Did the Congress increase payroll taxes so they could take the most regressive form of taxation and say to people, By the way, we will use that to finance the Government? Is

that what they did? That would not have gotten one vote in the House nor the Senate, even by accident.

You all know it is wrong. There is not one person in here in a silent moment who would not admit that it is wrong to increase these payroll taxes and promise workers that you are going to take their money, put it in a trust fund and save it and say, "By the way. It is either not here, or it is here and we are misusing it, or, by the way, if we are misusing it, we will stop in 2006." What on Earth kind of debate is that?

Let us decide what is wrong, and when we see what is wrong, let us fix it.

This sense-of-the-Senate resolution says there is a very serious problem. This problem is not a nickel and dime problem. It might be an inconvenience to some. But this problem is $600 billion to $700 billion in the next 7 years. This is big money. This has to do with the future of Social Security. This has to do with very important financial considerations in this Government.

My point is, let us balance the Federal budget. Yes; let us even put a requirement to do so in the Constitution. But let us not enshrine in the Constitution a provision that we ought to take money from workers in this country, promise them we will save it in a trust fund, and then misuse it by saying it becomes part of the operating revenue of this country.

I have heard all of the debate about what is wrong with what Senator HOLLINGS, I, Senator FORD, and others have said. I have not heard one piece of persuasive evidence that the payroll taxes are not being systematically misused when we promised that it would be saved in trust, and in fact they are used as an offset to other operating revenues to try to show a lower budget balance.

That is why I say to those who say that they produce a balanced budget, show us a document that shows even when they say it is in balance. It is $108 billion in deficit. But they say we will fix that because we will take the $108 billion out of Social Security and pledge to you it is in balance.

Mr. FEINGOLD. Mr. President, I am pleased to cosponsor the amendment of the Senator from North Dakota.

The failure to formally segregate the Social Security trust funds is not the only reason I oppose the balanced budget amendment to the Constitution, but it is certainly one of the reasons.

Even if there were no other reasons, the assault on Social Security is reason enough to oppose the proposed constitutional amendment.

And make no mistake, Mr. President. The unwillingness to formally exempt it from the proposed constitutional language is nothing less than an assault on Social Security.

The opponents of this exemption want those funds, pure and simple.

Mr. President, it is unlikely that we will hear a plain statement to that effect here on the floor.

Other reasons will be provided.

But the bottom line is that the opponents of exempting Social Security in a constitutional amendment want to be able to tap into Social Security revenues for the rest of Government.

To a certain extent, we already have that.

The so-called unified budget includes the Social Security surpluses with the on-budget deficit to reduce our apparent budget deficit.

I do not single out one party; both Democrats and Republicans have used that technique.

To date, it has been a bookkeeping maneuver.

But in a few years, when the Social Security Program begins to draw on the surpluses that have built up over the past several years, the free ride will stop, and many of the favorite spending programs of the advocates of the constitutional amendment will be at risk.

Programs which have been so successful in escaping the budget scalpel, including our bloated defense budget and the billions in wasteful spending done through the Tax Code, may finally be asked to justify themselves a little more carefully.

Mr. President, it is precisely that moment that those who oppose excluding Social Security from the constitutional amendment are anticipating.

I fear that many would prefer to put Social Security on the block rather than ask these other areas to bear their fair share of reducing the deficit.

Mr. President, some may argue that current law provides adequate protection for Social Security, or that if the balanced budget amendment is ratified, Social Security can be protected as part of implementing legislation.

We should recall, though, that many of those who make that argument also maintain that mere statutory mandates are insufficient to move Congress to do what it needs to do.

They argue that only constitutional authority is sufficient to engender the will necessary to reduce the deficit.

Using the reasoning of the supporters of the balanced budget amendment, the willpower needed to resist the temptation to raid the Social Security cookie jar can only come from a constitutional mandate.

Those who oppose giving this extra, constitutional protection for Social Security often suggest that there is no practical need for the protection because Social Security will compete very well with other programs.

Let me respond to that argument with two comments.

First, Social Security should not have to compete with anything.

As many have noted, it is a separate program with a dedicated funding source, intended to be self-funding.

Second, any assessment of the political potency of any particular program must be reappraised when we enter the brave new world of the balanced budget amendment.

One prominent Governor was reported as suggesting that areas many claim are untouchable should be subject to cuts.

Specifically including Social Security in that list, this Governor worried that

Otherwise, the states are going to bear a disproportionate share. We're the ones who are going to have to raise taxes.

And in a moment of revealing honesty, another Governor argued that Social Security must be asked to shoulder the burden of reducing the deficit.

Reports quote him as saying that to take Social Security off the table, and then impose a burden on other spending systems is not going to be acceptable.

There can be no more revealing statement of intent by many of those who oppose constitutionally separating Social Security than this statement.

Given the growing support of State-based approaches to problems—a development I applaud—as well as the resurgent influence of States on Federal policy, how can anyone confidently predict that Social Security will remain untouched while we cut programs in which States have a significant interest.

Mr. President, Social Security is fiscally and politically a special program.

Apart from the fiscal problems of not excluding Social Security, the special political nature of the program makes it worthy of protection.

Social Security is singular as a public contract between the people of the United States and their elected government.

The elected government promised that if workers and their employers paid into the Social Security fund, they would be able to draw upon that fund when they retired.

But the singular nature of Social Security, and the special regard in which it is held by the public, does not flow from some transitory nostalgia.

Social Security has provided real help for millions of seniors.

According to the Kerrey-Danforth Bipartisan Entitlement Commission, the poverty rate for senior households is about 13 percent, but without Social Security, it could increase to as much as 50 percent.

For almost half of the senior households below the poverty line, Social Security provides at least 90 percent of total income.

For those seniors, and for millions of others, the Social Security contract is very real and vitally necessary.

Anything other than partitioning Social Security off from the rest of the budget risks a breach of that public contract.

Mr. President, some may try to characterize the proposed exemption for Social Security in a possible balanced budget amendment to the Constitution as pandering to senior citizens.

With that assertion is the implication that somehow there is something wrong with older Americans who want their Social Security benefits.

But, Mr. President, I do agree with those proponents of the balanced budget amendment who argue that no one will touch the benefits of today's retirees.

Today's retirees are not at risk if the balanced budget amendment passes without exempting Social Security.

However, there are three generations that are very much at risk.

The first is my own generation—the baby boomers.

If Congress has the ability to monkey around with Social Security benefits, under cover of a constitutional mandate, I can guarantee you there will not be anything left when the baby boomer generation reaches retirement age.

There are a lot of Americans in that generation, and they also have a right to the benefits that they paid for and were told they were going to get by participating in this system.

Mr. President, a second generation is very concerned about the future of Social Security.

They are young adults in their late twenties and early thirties—the so-called Generation X.

They are skeptical of there being any Social Security system on which to rely when they retire.

They see today's retirees, and the huge group of baby boomers ahead of them, and they are concerned that the system into which they are now paying will not be around when they need it.

Mr. President, there is a third generation—the generation of my children.

They do not understand all of this debate.

But some are aware of the big Federal deficit we have.

And some are coming to realize that as they graduate from high school and go into the work force, they will be the ultimate victims of our fiscal irresponsibility if we do not protect Social Security.

For those three generations, the future health of the Social Security system is a real concern.

One of the most important results of the Kerrey-Danforth Entitlement Commission was to highlight this issue, and as I have mentioned on other occasions, I for one am willing to consider some of the proposals put forward by that commission to help ensure the long-term health of Social Security.

Mr. President, if we are ever to address the long-term solvency of Social Security in an honest way, especially in the context of a constitutional balanced budget requirement, keeping Social Security separate is vital.

Just as a Social Security system that is enmeshed in the rest of the Federal budget poses a temptation when the system is in surplus, so too will it become an enormous drain on resources if it starts to compete for general revenue.

Providing a constitutional partition will serve both to protect Social Security, and to highlight the need for long-term reform.

Mr. President, those who advocate a balanced budget amendment to our Constitution frequently argue that it is needed if we are to protect our children and grandchildren.

How ironic if in the name of helping those children and grandchildren we deny them the protection of Social Security.

We risk taking away the same rights and protections that so many of us hope to enjoy.

Mr. DORGAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3672, as modified.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment of the Senator from Wyoming, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire. [Mr. SMITH] would vote "yea."

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—92

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Ashcroft	Feinstein	Lugar
Baucus	Ford	Mack
Bennett	Frist	McCain
Biden	Glenn	McConnell
Bingaman	Gorton	Mikulski
Bond	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Breaux	Grams	Murkowski
Brown	Grassley	Murray
Bryan	Gregg	Nickles
Bumpers	Harkin	Pressler
Burns	Hatch	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Cohen	Jeffords	Shelby
Conrad	Johnston	Simon
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kerry	Thomas
Dodd	Kohl	Thurmond
Dole	Kyl	Warner
Domenici	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Exon	Levin	

NAYS—6

Bradley	Nunn	Robb
Hatfield	Pell	Thompson

NOT VOTING—2

Heflin	Smith

So the amendment (No. 3672), as modified, was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3667, AS MODIFIED

The PRESIDING OFFICER. The business is now amendment No. 3667.

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

Mr. DOLE. Mr. President, I make a motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Dorgan amendment No. 3667, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—57

Abraham	Gorton	McConnell
Ashcroft	Gramm	Moseley-Braun
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Robb
Campbell	Hatfield	Rockefeller
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Shelby
Cohen	Jeffords	Simon
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Snowe
D'Amato	Kohl	Specter
DeWine	Kyl	Stevens
Dole	Lott	Thomas
Domenici	Lugar	Thompson
Faircloth	Mack	Thurmond
Frist	McCain	Warner

NAYS—42

Akaka	Exon	Lautenberg
Baucus	Feingold	Leahy
Biden	Feinstein	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	Mikulski
Bradley	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Conrad	Johnston	Reid
Daschle	Kennedy	Sarbanes
Dodd	Kerrey	Wellstone
Dorgan	Kerry	Wyden

NOT VOTING—1

Smith	

The motion to lay on the table the amendment (No. 3667), as modified, was agreed to.

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

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. SIMPSON. Mr. President, I have a unanimous-consent request, Mr. President.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3722 (to amendment No. 3669), in the nature of a substitute.

Simpson amendment No. 3723 (to amendment No. 3670), in the nature of a substitute.

Simpson amendment No. 3724 (to amendment No. 3671), in the nature of a substitute.

Simpson motion to recommit the bill to the Committee on the Judiciary with instructions to report back forthwith.

Simpson amendment No. 3725 (to instructions of motion to recommit), to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Coverdell (for Dole/Coverdell) amendment No. 3737 (to Amendment No. 3725), to establish grounds for deportation for offenses of domestic violence, stalking, crimes against children, and crimes of sexual violence without regard to the length of sentence imposed.

AMENDMENT NO. 3739 TO AMENDMENT NO. 3725

(Purpose: To provide for temporary numerical limits on family-sponsored immigrant visas, a temporary priority-based system of allocating family-sponsored immigrant visas, and a temporary per-country limit—to apply for the 5 fiscal years after enactment of S. 1664)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk to amendment numbered 3725 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3739 to amendment No. 3725.

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

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

The amendment is as follows:

At the end of the amendment add the following:

SEC. . TEMPORARY WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRATION, ALLOCATION OF FAMILY-SPONSORED IMMIGRANT VISAS, AND PER-COUNTRY LIMIT

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States, and so forth and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mrs. FEINSTEIN. Mr. President, I hope by the tenor of this debate this morning that further amendments are not being closed out. I would be very upset and very concerned if they are, coming from a State that handles 40 percent of the immigration load, whether it be illegal or legal, in the United States and 40 to 50 percent of the refugees and 40 to 50 percent of the asylees in the United States of America. It would seem to me that the voices of the two Senators from California and amendments that they might produce in this area are worthy of consideration by this body. If I judge the tenor of the debate, it will be to close out other amendments, and I very much hope and wish that that will not be the case.

In any event, I am going to take this time now to explain what I have in mind and to explain that I would like to send a compromise amendment to the desk. This compromise amendment is between the Kennedy proposal and the Simpson proposal.

The debate has been changed. I appreciate what the distinguished Senator from Massachusetts said, that this debate is not about legal immigration. But the fact of the matter is that we have received in committee incorrect numbers on legal immigration, and those numbers are so dramatically different from the fact of what is actually happening, we learned from the press, that it does, by its own weight, changes the debate.

When we hear in committee—and I serve on the Judiciary Committee and on the Immigration Subcommittee—that legal immigration numbers have been going down and will continue to go down—and that has been the testimony—and then yesterday I read press that says, "Immigration Numbers to Surge," and from one of the most distinguished journalists, Marcus Stern of the San Diego Union Tribune: "Border Surprise, Outcry Greets INS Projection of Soaring Legal Immigration," and when the Department's own numbers indicate that immigration in fiscal year 1995 was 1.1 million and in fiscal year 1996 will be very close to that 1 million mark, what we thought we were dealing with in the vicinity of 500,000 or 600,000 is clearly not the reality.

Now, reports are one thing, numbers are another. Numbers affect classroom size, they affect housing markets in States that have major impact from legal immigration. California is on a tier of its own in this regard.

So I am very hopeful that this body will not make it impossible for the Senators from California to put forward a compromise proposal. I am having copies of that proposal at this time placed on the desk of every Member of this House.

Essentially, what the proposal would do is control increases in total family numbers and control chain migration. We would allow reasonable limits in family immigration totals for the next 5 years by placing a hard cap at the current law total of 480,000, without completely closing out adult-children-of-citizen categories and providing for the clearance of backlogs without creating chain migration.

Every Member will shortly have a chart which will show the difference between the Feinstein proposal with the hard cap of 480,000 and the Simpson amendment with a hard cap of 480,000 and no backlog reduction.

Also distributed to you will be a chart which will show current law. We now know that although current law is 480,000, it is going to be close to 1 million. The Kennedy proposal of 450,000, which is in the bill, with increases in the immediate family with an anticipated additional increase of 150,000—the Kennedy proposal numbers will be close to 1 million. It will be a major increase in legal immigration, if one is to believe the figures that INS has just put out.

We will also distribute to each Member the new figures of the Immigration and Naturalization Service. Under current law, INS projected 1,100,000 family immigration last year; and what they say will be in fiscal year 1996, is 934,000, similar to the figures under the Kennedy proposal which is now in the bill.

I voted for the Kennedy proposal in committee. I did so with the assurance that the numbers were not going to be increased. The first time I knew that was not the case was when I saw a New York Times article saying that in fact these numbers swelled legal immigration totals. And then of course yesterday we saw that the numbers were off as given to us by INS by 41 percent.

Current law has increased the numbers, due to the naturalization of 2.5 million people whom are legalized under IRCA. The spouse and minor children of citizens is going to increase for the next 4 years, increasing an anticipated average of between 300,000 and 370,000 or more per year for the next 4 years. I would suspect that even these numbers are going to be higher.

Under current law the spouse and minor children of citizens are unlimited. The family total of 480,000 is a pierceable cap, which means the additional increases in this category due to IRCA legalization, pierces the cap and increases family immigration numbers over the 964,000 in fiscal year 1996.

So that number, even the projected numbers, are going to be low. Also under current law, another source of increase in family numbers is the spillover from unused visas in the employment base category. In fiscal year 1995, 140,000 visas were available and only 85,000 were used. This means 55,000 spilled over to the family category.

What my compromise amendment does, what the Feinstein amendment would do, is stop the pierceable cap, place a hard cap on the 480,000 that are theoretically allowable today. That is the current law, but without the anticipated increases, because the hard cap would stop that. It would also stop the spillover from the unused employment visas, the loophole in the current system that no one talks about.

Fairness, I believe, dictates that we do not close out the preference categories. Let me tell you why. I think Senator ABRAHAM and others, Senator FEINGOLD, understands this. Under our present system, if you close out the family preferences, there is no other way for these members of families to come to this country—no other way—not in the diversity quotas, no other way. So if you close them out, you foreclose their chances of ever coming to this country. And they are on a long waiting list now. So I think the fair way to do it is to place a hard cap on the numbers and then allocate numbers within each of the preference categories.

So I do that. I do not close out the preference categories. I would have

parents and adult children guaranteed to receive visas every year, remaining consistent with the goal of family reunification.

I would allocate visa numbers on a sliding scale basis for parents and adult children of citizens, allowing for increases in visas when the numbers fall within the unlimited immediate family category. However, they must always remain within that 480,000 hard cap.

I would allow the backlog clearance of spouses, minor children of permanent residents by allowing 75 percent, with any visas left over within the family total to be allocated to this category's backlog clearance.

I would also control chain migration, where one person ends up bringing in 45 or 40 other people, often not blood relatives. Commissioner Doris Meissner has told me that what permits chain migration is the siblings of the citizen category. I would place a moratorium for the next 5 years on this category. However, if there are any visas left over within the hard cap of 480,000 our family amendment allows 25 percent of the leftover to be used for backlog clearance of siblings, those who have been waiting for many years.

The problem with the Simpson amendment is that in its operation it would provide no visas for adult children of citizens. It would provide no guarantee of visas for children of citizens. All the numbers left over from Simpson's hard cap family numbers go to spouses and minor children of permanent residents, where the 1.1 million backlog remains. This means no one else who has been waiting to reunite with their children will be able to do so in the next 5 years.

The Simpson amendment provides no backlog reduction plan. The amendment is a simple, straight spillover, giving preference to permanent residents over U.S. citizens' families.

The problem with the Abraham-Kennedy provision, which is currently in the bill, is that there is no cap on the numbers. With an anticipated 2.5 million IRCA legalized aliens expected to naturalize in the next 5 years, the unlimited family numbers would result in a family immigration total of 1 million a year.

Recognize, 500,000 of these people are going to go to California a year. We do not have enough room in our schools. We have elementary schools with 2,500, 3,000 students in them, in critical areas where these legal immigrants go. There is no available housing. There is a shortage of jobs. So why would we do this, if the numbers are swollen 41 percent over what we were told when we considered this bill in committee?

The Kennedy-Abraham amendment also has a spillover provision from unused employment-based immigration visas. The current limit is 140,000. The actual use in 1995 was only 85,000, which means in addition to the increasing numbers in family immigration, there would be an additional 55,000 visas totaling up to 1 million in family immigration in 1996.

Third, the Kennedy-Abraham amendment increase chain migration by guaranteeing 50,000 visas for siblings of citizens in the next 5 years, which increases to 75,000 per year for the subsequent 5 years. INS Commissioner Doris Meissner has confirmed that the chain migration comes from the siblings category. Under Kennedy-Abraham, the bill would allocate 50,000 to 75,000 for siblings, more numbers in certain years than current law which allows 65,000 per year.

I believe that the Feinstein amendment is a reasoned balance between Simpson and the Abraham-Kennedy provision. It places a hard cap on the current level of 480,000 family total per year. It closes the loophole where the unused employment-based visas spills over to the family immigration numbers.

Third, it guarantees that close family members of citizens get visas each year with flexible limits, allowing increases in allocation of visas with decreases in the immediate family categories, which INS anticipates will flatten out in about 5 years.

The Feinstein amendment is about fair allocation of scarce visa numbers to protect reunification of close family members of citizens, while controlling the daunting increases in family immigration due to the increase in naturalization rates for the next 5 years.

Every member, Mr. President, has three pages. The first page would have current law, Feinstein and Kennedy; the second page, Feinstein and Simpson in the numbers in each of the categories. I can only plead with the chairman of the Immigration Subcommittee to please give me an opportunity to send this amendment to the desk so that the Senators, at least of the largest State in the Union affected the most by immigration, would have an opportunity to vote on it.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I begin by clarifying a point here. I believe we are on the Simpson amendment here to the illegal immigration bill. References made by the Senator from California to the Abraham-Kennedy amendments being in this bill are not accurate. There is no provision related to the Abraham-Kennedy amendment in this bill because this is the illegal immigration bill we are dealing with.

The legal immigration bill, which we also passed in the Judiciary Committee, is at the desk and can be brought to the floor of the Senate. I believe and hope it will be brought to the floor of the Senate for discussions of the matters that pertain to legal immigration, including debate over how the allocation of visas ought to be made.

I am going to speak right now about the amendment that is pending, the effort by the Senator from Wyoming, the Simpson amendment, to inject legal immigration issues into this illegal immigration bill.

Mr. President, I have only been involved with this issue during my brief tenure in the Senate. I am very deferential to the Senator from Wyoming, who has worked on this issue for 17 years. I applaud his efforts. My efforts, which have been with a slightly different philosophical approach, are not meant to in any way suggest that what he has done has not been based upon sound thinking on his part.

However, I say from the outset, he indicated there were a lot of funny things that came up during immigration, a lot of intriguing twists and turns. I agree with him completely. The one thing that I learned more than anything else during our experience in the committee was the very real need to keep illegal and legal immigration issues separate rather than joining them together.

I also learned it was imperative that in discussing whether it was the illegal immigration issues or the legal immigration issues, they be done in a total and comprehensive way. Indeed, our committee deliberations on this lasted almost a full month, Mr. President.

That is why I think it is important that we continue the pattern which was set in that committee of dealing with illegal immigration issues in one context, the bill before us, and reserving the legal immigration issues, issues of how many visas are going to be provided, how those visas will be allocated, and so on, the legal immigration bill, which is also at the desk. It is wrong to mix these two.

As a very threshold matter in this whole debate about immigration, Senators should understand the very real differences between the two. Illegal immigration reform legislation, the legislation before the Senate right now, aims to crack down on people who break the rules, people who violate the laws, people who seek to come to this country without having proper documentation to take advantage of the benefits of America, people who overstay their visas once they have come here, in order to take advantage of this country. That is what this bill is all about. It does an extraordinarily good job of dealing with the problems surrounding illegal immigration. It is a testament, in no small measure, of the Senator from Wyoming's long-time efforts that such a fine bill has been crafted.

But there is a very big difference between dealing with folks who break the rules and break the laws and seek to come to this country for exploitative reasons, and dealing with people who want to come to this country in a positive and constructive way to make a contribution, to play by the rules, and, frankly, Mr. President, to make a great, great addition to our American family. It is wrong to mix these.

It would be equally wrong to mix Food and Drug Administration reform with a crackdown on sentencing for drug dealers. Yes, they both involve drugs, but one deals on the one hand

with people breaking the law and using drugs the wrong way, and the other deals with a reasonable approach to bringing life-saving medicines and pharmaceuticals into the marketplace. Those should not be joined together and neither should these. Anybody who watched the process, whether in our Judiciary Committee here or over on the House side, I think would understand that these issues have to be kept separate.

Let me say in a little bit more detail, let us consider what happened. In the Judiciary Committee, on the committee side, we had a vote. It was a long-debated vote over whether or not legal and illegal immigration should be kept together. The conclusion was very clear: a majority of Republicans and a majority of Democrats in the Judiciary Committee voted to divide the issues and to keep the legal immigration debate and issues separate from the illegal immigration issues. That, I believe, is what we should also do on the floor of the Senate.

It was not just at the full committee that that was the approach taken, Mr. President. It was also how the Immigration Subcommittee itself addressed these issues. It did not start with one bill on legal and illegal immigration. It recognized the very delicate and very complicated nature of each of these separate areas of the law. First it passed a bill on illegal immigration, and then it passed a bill on legal immigration. Only then did it seek to combine the two, which the Judiciary Committee felt was a mistake, and separated the two later on.

On the House side, Mr. President, we had the same thing take place. On the floor of the House of Representatives, a bill that included legal and illegal immigration reforms was tested. Overwhelmingly, the House of Representatives voted to strike those provisions such as the one or similar to the ones contained in the Simpson amendment which is before the Senate, provisions which dealt with legal immigration and dramatic changes to the process by which people who want to play by the rules come to this country and do so legally.

In the Senate Judiciary Committee, we have kept legal and illegal immigration separate. In the House of Representatives, they have kept them separate. The bill, which is sitting in the House side waiting to go to conference with us, does not have these legal immigration components that will be discussed today.

For those reasons, Mr. President, as a threshold matter, I think that the amendment that is being offered should not be accepted. I believe that it improperly puts together two very different areas of the law that should be kept and dealt with and considered separately, and I think we should not move in that direction.

I make a couple of other opening statements. I know there are other colleagues who want to speak, and I will have quite a bit to say on this and intend to be here quite a long time to say it. Even if there was a decision to somehow merge these together, Mr. President, I think the worst conceivable way to do it is to do it piecemeal as we are now talking about doing in this amendment.

If we were to consider these together, the notion of taking just one component—and a very significant one at that—out of the legal immigration bill and to try to tack it on to the illegal immigration bill before us, would be the worst conceivable way to address the issues that pertain to legal immigration in this country and the orderly process by which people who want to come and play by the rules are allowed into our system.

It is wrong, I think, as a threshold matter, to mix the two. It is even wronger to take a piecemeal approach to it as would be suggested by this amendment.

Mr. President, I say it would be wrong for this body to pursue this type of amendment offered by the Senator from Wyoming.

I also make another note. The Senator from Wyoming in his comments, as a threshold matter, suggested because visa overstayers constitute a large part of the illegal immigrant population in this country and because they at one time came to this country legally, we should somehow bring in the entire legal immigration proposal, misses the point.

With this legislation, once these folks have overstayed their visas, they are no longer legal immigrants. They are illegal immigrants. We have dealt with that effectively in the bill.

So, Mr. President, my initial comments today are simply these. As a threshold, it is wrong to mix the two. As a threshold, it is even wronger to mix them on a piecemeal basis. If we are going to consider legal immigration, the appropriate way to do so is to bring the full bill that was passed by the Judiciary Committee, which sits at the desk, to the floor of the Senate. I have no qualms about having a debate over that bill. I have a lot of different changes that I might like to consider, including some in light of the INS statistics that are being discussed. But that is the way to do it, not by tacking on this type of provision to a bill that should focus, in a very directed way, on illegal immigration and the problems we confront in that respect in this country today.

Mr. President, I know others are seeking recognition. I have quite a bit more to say, but I will yield the floor and seek recognition further.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I yield to my colleague from California temporarily. She wishes to introduce an amendment that will be held at the desk.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I might send a substitute amendment to the desk on behalf of Senator BOXER and myself.

The PRESIDING OFFICER. Is there objection?

Mr. ABRAHAM. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I, with all due respect, differ with my colleague from Wyoming on this. Were I to vote on the Feinstein amendment regarding this, I would vote against that, also. I think our colleague from Michigan is correct that we have to keep legal and illegal separate.

Now, it is true, as Senator SIMPSON has said, that the majority of people who are here illegally came in legally. But we have to add that this amendment will do nothing on that. These are people who came in on visitors' visas, or student visas. This amendment does not address that.

A second thing has to be added that somehow has escaped so far this morning, and that is, the majority of the people who come in as immigrants to our society are great assets to our society. Illinois is one of the States that has major numbers in immigration. But a smaller percentage of those who come into our country legally are on various Government programs, such as welfare, than native-born Americans, with the exception of SSI. That is an exception. And there are some problems we ought to deal with. There are problems we ought to deal with in illegal immigration. But not on this particular bill.

Let me also address the question of the numbers. There is some conflict, apparently, in the numbers that are going around. I think, in part, it is because the Immigration Service—and I have found them to be very solid in what they have to say—are projecting what is going to happen. And there is a bubble because we have this amnesty period. And so there is going to be a period in which the numbers go up, and then they will go back down. I do not think it is a thing to fear.

And then, finally, Mr. President, yesterday on this floor, I heard that we are going to be facing real problems in Social Security. We all know that to be the case. The numbers who are working are declining relative to the numbers of retirees, in good part, because of people in the profession of the occupant of the chair, Mr. President, who have added to our longevity. One of the things that happens in the fourth preference, where you bring in brothers and sisters, is that you bring in people who will work and pay Social Security. It is a great asset to our country, not a liability.

So I have great respect for our colleague from Wyoming. I think he is one of the best Members of this body, by any gauge. But I think he is wrong on this amendment. I think we should separate these two insofar as possible, the illegal and the legal immigration.

Mr. SHELBY. Mr. President, there has been substantial debate recently regarding the connection between legal and illegal immigration. Those who favor increased legal immigration have argued there is no link between legal and illegal immigration. In their view, these matters are completely unrelated and should be treated separately, as you just heard.

I disagree. It is simply impossible, I believe, to control illegal immigration without first reforming our legal immigration system. One-half of all illegal immigrants enter the country legally and overstay their visa. No amount of effort at the border will stop this. The only way, I believe, to effectively prevent illegal immigration is to reform our legal immigration system. Thus, I believe there is a clear link between legal and illegal immigration. I support Senator SIMPSON's proposals to reform the legal immigration system, but I am concerned that even his efforts to reduce legal immigration do not go far enough.

With all the misinformation and misunderstanding surrounding this issue, it does not seem possible for this body to pass legislation which will, in my view, bring the number of legal immigrants into line with our national interests. The central question, as I see it, is not whether we should continue legal immigration; we should. The problem is not that legal immigrants or legal immigration are bad per se—they are not. We are a Nation of immigrants, and immigrants have made great contributions to our country, as you have heard on the floor. Immigration is an integral part of our heritage, and I believe it should continue. The real issues that Congress must face, however, are what level of legal immigration is most consistent with our resources and our needs. Yes, and what criteria should be used to determine those who will be admitted. I am convinced that our current immigration law is fundamentally flawed and I want to share with you some charts to illustrate this point.

indicates, this is the bulk of immigrants in our country. Three-fourths of the immigrants are legal immigrants. This is three times our level of illegal immigration. There is no other country in the world that has a regular immigration system which admits so many people. Current law fails to consider if such a massive influx of foreign citizens is needed in this country. It also fails to recognize the burden placed on taxpayers for the immigrants' added costs for public services.

Excessive numbers of legal immigrants put a crippling strain on the American education system. Non-English speaking immigrants cost taxpayers 50 percent more in educational cost per child. Schools in high immigration communities are twice as crowded as those in low immigration areas, as this next chart indicates.

Immigrants also put a strain on our criminal justice system. Foreign-born felons make up 25 percent of our Federal prison inmates—25 percent, much higher than their real numbers.

Immigrants are 47 percent more likely to receive welfare than native-born citizens. In 1990, the American taxpayers spent $16 billion more in welfare payments to immigrants than the immigrants paid back in taxes. At a time when we have severe budget shortfalls at all levels of government, our Federal immigration law continues to allow aliens to consume the limited public assistance that our citizens need. Moreover, high levels of immigration cost Americans their jobs at a time when we have millions of unemployed and underemployed citizens, and millions more who will be needing jobs as they are weaned off of welfare. It is those competing for lower skilled jobs who are particularly hurt in this country. Most new legal immigrants are unskilled or low skilled, and they clearly take jobs native citizens otherwise would get.

Second, criteria to select who should be admitted does not incorporate, I believe, our country's best interests. As the next chart shows, who are the legal immigrants? Employment based is only 15 percent. Immediate relatives, 31 percent; other relatives, 27 percent; 4 percent is relatives of people who were given amnesty under other legislation. The others are refugees and asylees, 15 percent. The diversity lottery, 5 percent.

But look at it again: Immediate relatives, 31 percent; other relatives, 27 percent. Relatives predominate the immigration.

The 1965 Immigration Act provisions allow immigrants to bring in not only their immediate family, Mr. President, such as their spouse and minor children, but also their extended family members, such as their married brothers and sisters who then can bring in their own extended family. The brother's wife can sponsor her own brothers and sisters, and so forth. This has resulted in the so-called chain migration we have been talking about, whereby essentially endless and ever-expanding chains or webs of distant relatives are admitted based on the original single immigrant's admission. This can be 50, 60, or more people. I believe this is wrong, and it must be stopped.

Immigrants should be allowed to bring in their nuclear family—that is, their spouse and minor children—but not, Mr. President, an extended chain of distant relatives.

Some opponents of reforming legal immigration who are fighting desperately to continue the status quo will say that only a radical or even reactionary people favor major changes in the immigration area. However, bringing our legal immigration system back under control and making it more in accord with our national interest is far from adequate, I submit.

Let me remind my colleagues that the bipartisan U.S. Immigration Reform Commission, under the leadership of the late former Congresswoman Barbara Jordan, recommended fundamental reforms in the current legal immigration system, and the overwhelming majority of the American people want changes in our legal immigration system. I certainly would not consider mainstream America radical or reactionary.

The next chart shows that the results of a recently released national Roper Poll on immigration are dramatic:

More than 83 percent of Americans favor lower immigration levels: 70 percent favor keeping immigration levels below 300,000 per year; 54 percent want immigration cut below 100,000 per year; 20 percent favor having no immigration at all;

Only 2 percent—only 2 percent, Mr. President—favor keeping immigration at the current levels.

I believe we should and I believe we must listen to the American people on this vital issue. If we care what most people think, and we should, and if we care about what is best for our country, I believe we will reduce legal immigration substantially by ending chain migration and giving much greater weight to immigrants' job skills and our own employment needs.

Mr. President, I support the Simpson amendment, which I am cosponsoring, to begin reducing legal immigration.

ONLY INITIAL STEP

I emphasize "begin" because the amendment is but a first step toward the fundamental reform and major reductions in legal immigration that we need. I would like us to do much more now. Congress should pass comprehensive legal immigration reform legislation this year instead of adopting only a modest temporary reduction. Even as an interim step, I would prefer tougher legislation. like S. 160, a bill that I proposed earlier. That bill would give us a 5-year timeout for immigrants to assimilate while cutting yearly legal immigration down to around 325,000, which was roughly our historical average until the 1965 Immigration Act got us off track.

Nevertheless, I am a realist and have served in this body long enough to know that the needed deeper cuts and broader reforms cannot be adopted before the next Congress. This is a Presidential election year and the time available in our crowded legislative schedule is quite limited. Most attention has been focused until recently on the problems associated with illegal immigration, and many Members have not yet been able to study legal immigration in the depth that is needed to make truly informed and wise decisions. The House has already voted to defer action on legal immigration reforms. Moreover, the separate legal immigration bill recently reported by the Senate Judiciary Committee is controversial and fails to provide a proper framework for real reform. The committee's bill disregards most of the widely acclaimed recommendations of the bipartisan U.S. Commission on Immigration Reform made under the able leadership of the late former Congresswoman Barbara Jordan.

Let me take a moment to comment on the history of the committee's legal immigration bill, S. 1665, because it is relevant to this discussion. Originally, Senator SIMPSON, chairman of the Immigration Subcommittee, took many of the key recommendations of the Jordan Commission, which spent 5 years studying every aspect of U.S. immigration policy, and turned them into S. 1394, the Immigration Reform Act of 1996. The bill, as Senator SIMPSON drafted it, set out many very sensible reforms—reforms proposed by the Commission and which the American people overwhelmingly support. It would have instituted a phased reduction in legal immigration, ended extended family chain migration and placed greater emphasis on selecting immigrants based on their job skills and education while taking our labor market needs more into account.

Unfortunately, the legal immigration bill that has been reported to us is radically different than the original Simpson legislation and the Jordan Commission's recommendations. The American people want fundamental immigration reform, and yet the committee's bill gives us the same old failed policies of the past 30 years, albeit in a different package. Mr. President, supporters of that bill ought to be thankful that truth in advertising laws do not apply because what they are selling to the American people as immigration reform is anything but. That bill not only fails to make such much needed recommended systemic reforms, it actually increases legal immigration levels.

Given these circumstances. it is clear that major cuts and comprehensive legal immigration reform will have to wait until the next Congress. Nevertheless, I believe that it is important to begin the debate and to begin making at least some reductions in the numbers of legal immigrants. This amendment's modest temporary reductions in

legal immigration appear to be about all that might be done this year. Therefore, I am supporting this amendment.

REFORM IN 105TH CONGRESS

I want to make it clear, however, that in the next Congress I will fight very hard to ensure the enactment of the fundamental reforms needed to restore common sense to our immigration system and to best serve our national interests. I intend to push for legislation incorporating many of the changes recommended by the Jordan Commission and other immigration experts.

I believe that while we must allow immigration by immediate nuclear family members of citizens and legal permanent residents, we must significantly reduce legal admission levels by eliminating many preference categories, especially those for extended relatives, as proposed by the Commission. Most of our legal immigrants are admitted through the family preference system put in place by the misconceived 1965 Immigration Act. Admission is not on the basis of their job skills or our labor market needs. Only about 6 percent of our legal immigrants are admitted based on employment skills.

CHAIN MIGRATION

The 1965 act's provisions allow immigrants to bring in not only their immediate family members—such as their spouse and minor children—but after they become citizens they also may sponsor their extended family members—such as their married brothers and sisters—who then subsequently can bring in their own extended family. For example, the brother's wife can sponsor her own brothers and sisters, and so on. This has resulted in the so-called "chain migration" effect whereby essentially endless and ever-expanding chains or webs of more distant relatives are admitted based on the original single immigrant's admission. This can be 50, 60 or more people. This is wrong, and it must be stopped. It creates ever-growing backlogs because the more people we admit, the more become eligible to apply. Immigrants should be allowed to bring in their nuclear family (e.g., spouse and minor children), but not an extended chain of more distance relatives. In addition, we must give greater priority to immigrants' employment skills and our labor needs when we reform admission criteria.

Proponents of high immigration levels argue that we must retain extended family admission preferences in order to protect family values. Well, let us remember, Mr. President, that when an immigrant comes to this country, leaving behind parents, brothers, sisters, uncles, aunts, and cousins, it is the immigrant who is breaking up the extended family. Why does it become our responsibility to have a mechanism in place to undo what the immigrant himself has done? Why is it the responsibility of the American taxpayer who picks up the tab for so many legal immigration costs to have to let the immigrant bring more than his or her immediate nuclear family here? Where do our obligations to new immigrants end? Apparently they never do in the minds of immigrationists who advocate continuing an automatic admission preference for this ever-expanding mass of extended relatives. Each time we admit a new immigrant to this country under our present system, we are creating an entitlement for a whole new set of extended relatives. For most, this means being added to the admission backlogs.

CHAIN MIGRATION INCREASES BACKLOGS

In that regard I want to observe that proponents of bringing in backlogged relatives at an even faster rate claim that family chain migration is largely a myth. I find this an astounding contention. The very fact that in recent years we have developed a massive, ever increasing backlog of extended relatives proves the point that chain migration is a reality. As the committee's report on its legal immigration bill, S. 1665, notes: "Backlogs in all family-preference visa categories combined have more than tripled in the past 15 years, rising from 1.1 million in 1981 to 3.6 million in 1996." Family chain migration is real, and it's a real problem.

CONFUSION BETWEEN LEGAL AND ILLEGAL IMMIGRANTS

Mr. President, even the very modest reductions made in the pending amendment are viewed as unnecessary by those who favor retaining high levels of legal immigration. They have been saying that legal and illegal immigration provisions should not be considered together because there is confusion between legal and illegal. They say that Congress might let concerns over illegal immigration taint its view on how legal immigration should be handled, and that this could lead unjustly to reductions in legal numbers.

Well, after talking about immigration with many citizens in Alabama and elsewhere, I must admit that I have found that there is in fact considerable public confusion about legals and illegals. Furthermore, I agree that this is affecting how Congress is dealing with these issues, but the effect is not what immigrationists think. Ironically, the confusion is greatly benefiting the special interest immigration advocates and their congressional allies and undercutting the efforts of those of us who believe that major cuts in legal immigrant numbers and other reforms must be made. Concerns and confusion over illegal immigration actually are keeping Congress from making the large cuts in legal admission that otherwise clearly would be made this year. Let me explain why.

What I have found in repeated discussions with citizens from all types of backgrounds is that they are overwhelmingly concerned about the high numbers of new immigrants moving to our country. However, most people are under the mistaken impression that almost all of the recent immigrants came here illegally. When you explain to them that in fact that about three-fourths of the immigrants in the last decade are legal immigrants they are shocked. At first, they can't believe that Congress has passed laws letting millions of new people come here legally. Then, I have found that the shock and disbelief of most individuals I talked to quickly turns to outrage and anger, and they start demanding that Congress change its policy and slash legal admissions.

Thus, Mr. President, what I have found convinces me that most of our constituents are really just as upset about legal immigrants as they are about illegal ones. However, they frequently have only been voicing their concerns in terms of illegal aliens because they did not realize that the people they are upset about actually were here legally.

LEGAL AND ILLEGAL IMMIGRATION ARE LINKED

High immigration advocates also have argued that there is no link between legal and illegal immigration and that amendments relating to legal immigration are not appropriate to the illegal reform bill we are now debating. I strongly disagree. Legal and illegal immigration are closely linked and interrelated.

LEGAL PROVISIONS NOW INCLUDED

First, with respect to the linkage of legal and illegal immigration, Mr. President, let me also remind my colleagues that the so-called illegal immigration bill that we are debating already contains important provisions relating to legal immigration like those imposing financial responsibility on sponsors of legal immigrants. Thus, it clearly is appropriate to consider the pending amendment to reduce legal immigration.

LEGAL FOSTERS ILLEGAL

Our current legal admissions system makes literally millions of people eligible to apply, and therefore causes them to have an expectation of eventual lawful admission. But, the law necessarily limits annual admission numbers for most categories and massive backlogs have developed. By allowing far more people to qualify to apply for admission than can possibly be admitted within a reasonable time under the law's yearly limits, the present law guarantees backlogs. It can take 20 years or longer for an immigrant's admission turn to come up. This then encourages thousands of aliens to come here illegally. Some come illegally because they know that under current law they either have no reasonable chance for admission or they will have to wait many years for admission given the backlogs.

ILLEGALS CAN LEGALIZE WITHOUT PENALTY

It is important to note that our current law does not disqualify those who come illegally from later begin granted legal admission. Therefore, illegals often feel they have nothing to lose

and everything to gain by jumping ahead of the line. In short, our legal immigration process has the perverse effect of encouraging illegal immigration. Even though we granted amnesty to legalize over 3 million illegal aliens in 1986, today well over 4 million—and quite possibly over 5 million—illegal aliens now reside in the United States Hundreds of thousands of the new illegal immigrants later will be getting a legal visa when their number eventually comes up through the extended family preference system. Many of these illegals—ho I remind you have broken the law, and who everyone in Congress seems to be so concerned about—thus will become legal immigrants. Magically, it would seem the bad guys become the good guys and all problems go away. Mr. President, how can this be? How can anyone honestly say the legal and illegal issues are not very intertwined and linked together?

ILLEGAL INCREASES LEGAL

In another paradoxical result of our current flawed system, illegal immigration also tends to increase legal immigration. How? Well, look at the situation under the 1986 amendments. The 3 million illegals who received amnesty were allowed to become legal, thereby increasing the number of legal immigrants. And, after becoming legal residents and citizens, what have these former illegals done? After being transformed into good guys by legalization, they have played by the rules, as flawed as the rules are, and petitioned to bring in huge numbers of additional legal immigrants who are the relatives of these legalized illegal aliens. This greatly increases the backlogs. The Jordan Commission found that about 80 percent of the backlogged immediate family relatives are eligible because of their relationship with a former illegal alien. And, as the backlogs grow, Congress is asked to raise admission levels by special backlog reduction programs, which will then increase the number of legal aliens.

Thus, we have an integral process here where the legal system works so as to guarantee backlogs which in turn lead to special additional admission programs and to more illegals who, after a while, may be legalized and then become eligible to bring in more relatives legally. Many of the new legal applicants in each cycle are then thrown into the backlogs so the process can repeat itself. Many of the applicant's relatives also will come here illegally to live, work and go to school while waiting to legalize.

LEGAL HAS SIMILAR IMPACTS

Legal immigration is also linked to illegal immigration because it has many of the same impacts. Both legal and illegal immigration involve large numbers of additional people, with legal in fact accounting for nearly three times more new U.S. residents every year than illegal immigration. Many of my colleagues have expressed grave concerns about illegal immigrants taking jobs from Americans, or these immigrants committing crimes, or costing taxpayers and State and local governments millions for public education and welfare and other public assistance. Well, as I will point out later in detail, it is time to recognize that legal immigrants often cause these same types of adverse impacts. Congress must stop overlooking or disregarding this patently obvious fact. Let there be no mistake we will not solve most of our national immigration problem by just dealing with illegal immigration. Legal immigration is in many ways an even greater part of the problem.

FLORIDA EXAMPLE

Often, the adverse impacts of legal immigration actually will be much greater than illegal because so many more people are involved. For example, consider the situation in the State of Florida. As my colleagues know all too well, especially those who are concerned with unfunded Federal mandates, the Governors of high immigration States like Florida have been coming to Congress for the last several years demanding billions of dollars in reimbursements for their States' immigration-related costs. Governor Lawton Chiles, a former distinguished Member of this body, presented testimony in 1994 to the Senate Appropriations Committee asking for such reimbursement. Governor Chiles' detailed cost analysis showed that in 1993 Florida's State and local governments had net—not gross—immigration costs of $2.5 billion. About two-thirds of this cost—$1.6 billion—came from legal immigration. That's right, listen up everyone, legal immigrants were responsible for two-thirds of Florida's immigration costs. Florida's public education costs alone from legal immigrants came to about $517 million that year. So, my colleagues, we must face the facts that many concerns being raised apply with equal or greater force to legal immigration and that legal and illegal immigration are interrelated.

NEITHER IMMIGRANT BASHING NOR GLORIFICATION

While I do not condone unjustified immigrant bashing, neither do I subscribe to much of the one-sided emotional immigrant glorification and mythology that so often permeates the legal immigration debate. Supporters of high immigration levels often appear to be saying that legal immigrants are much smarter than citizens and that almost all are harder working, more law abiding and have stronger family values than native-born Americans. They imply that we do not support family values if we do not support allowing every immigrant who comes here to later bring his or her entire extended family of perhaps 50 or more relatives. Immigrationists also tend to see only positive benefits from legal immigration and to disregard or downplay any negatives.

BOTH POSITIVE AND NEGATIVE IMPACTS MUST BE WEIGHED

Well, Mr. President, this Senator believes that Congress has the responsibility to weigh both the positive and negative aspects of immigration and to factor in our national needs and citizens' interests when setting legal admissions levels and procedures. Yes, we should consider the positive contributions made by immigrants, and the fact that legal immigrants pay taxes to help defray some of our immigrant-related costs. However, we also need to consider the impacts on American families when one or both parents loses job opportunities to legal immigrants, or when a parent's wages are depressed by cheap immigrant labor. We need to consider the impacts on American schoolchildren of having hundreds of millions of dollars diverted from other educational needs to pay for special English-language instruction or scholarships for children from recent immigrant families. We need to consider the impacts on America's senior citizens and our needy native-born people who are unable to obtain nearly the level of public assistance they require because billions are going to pay for benefits for millions of legal immigrants. We need to consider the impact of legal immigration-related unfunded mandates on State and local governments and taxpayers, especially in high immigration areas like Florida and California. And, we need to remember that many immigrants who do pay taxes are paying relatively little because they are making very low wages, and thus do not necessarily pay taxes at a level that will cover nearly all of their costs.

LEGAL IMMIGRATION SHOULD CONTINUE

The central question that Congress must decide is not whether we should continue legal immigration. Of course we should. The problem is not that legal immigrants or legal immigration are bad per se. They are not. We are a Nation of immigrants, and immigrants have made great contributions to our country. Immigration is an integral part of our heritage, and it should continue. However, while immigrants bring us many benefits, but they also bring certain added costs and other adverse impacts. Furthermore, we do not have unlimited capacity to accept new immigrants.

WHAT LEVEL AND WHAT CRITERIA

The ultimate question that Congress must face here is what level of legal immigration is most consistent with our resources and needs, and what criteria should be used to pick those who are admitted. After studying this question, I am convinced that our current legal immigration law is fundamentally flawed. The heart of the problem is twofold: First, the present law has for years allowed the admission of excessive numbers of legal immigrants; and second, the selection criteria are discriminatory and skewed so as to disregard what's in our country's overall best interests.

DRAMATIC LEGAL INCREASES

The current immigration system, based on the 1965 Immigration Act, has allowed legal immigration levels to

skyrocket. Legal immigration has grown dramatically in recent decades after the 1965 Immigration Act. We have been averaging 970,000 legal immigrants—that's nearly 1 million people legally every year—during the last decade! When you add in the 300,000 plus illegal immigrants who move here every year, this means we are taking well over a million immigrants a year.

We now have over 23 million foreign-born individuals residing in the United States, both legally and illegally. This translates to 1 in 11 U.S. residents being foreign-born, the largest percentage since the Depression. Immigrants cause 50 percent of our Nation's population growth today and will be responsible for 60 percent of the U.S. population increase that is expected in the next 55 years if our immigration laws are not reformed.

Before commenting further on our high levels of immigration, let me briefly explain why the 1965 act is discriminatory. Most immigration under the act occurs through the family preference system. In the early years after the act was passed, a few countries were then the primary immigrant sending countries. After a few years, immigrants from those nations were able to petition for admission of more and more relatives. These relatives from those countries came and in turn sponsored other relatives from those countries, further expanding the immigrant flow from these sending countries. As a practical matter, few immigrants can now be admitted other than on the basis of a family relationship so new immigrants tend to come from the same countries where their earlier family members came from.

This means that there is a de facto discrimination both against admitting immigrants from other countries and against immigrants from even the favored nations unless they happen to be a relative of other recent U.S. immigrants. Would-be non-relative immigrants can be much better educated and higher skilled, but unless they qualify under the much more limited employment categories, they need not apply because under the 1965 act's nepotistic system the admission quotas go to relatives.

Well, Mr. President, I strongly believe that it's long past time for Congress to recognize the 1965 act's flaws and to readjust the statutory process so that we have far lower legal admission levels and fairer admission criteria that are more closely keyed to our national needs and interests. Some of my colleagues and I will probably disagree at least on the numbers of immigrants to be allowed, but I would hope that most will at least agree that an issue of such overriding and strategic importance to the future of our country merits their careful and detailed consideration. Our Nation should not be changed so fundamentally without Congress debating the issue and making a conscious, informed decision on how immigration should be allowed so as to best promote and protect our national interests.

NOT LIKE TRADITIONAL IMMIGRATION LEVELS

Historically, except for a brief 15-year period around 1900, our legal immigration levels have been much lower than what we have experienced after the 1965 act and its subsequent amendments. Many of my colleagues may be surprised by this fact because immigration mythology may have led them to believe that high levels of immigration like we have experienced in recent years are typical or traditional throughout American history. Well, quite the opposite is true.

During the 50-year period from 1915 through 1964, for example, legal immigration levels averaged only about 220,000 annually. From 1820 when our formal immigration records were begun until 1965, it averaged only about 300,000, including the unusually high years around 1900. From 1946 to 1955, it averaged about 195,000 annually; then from 1956 to 1965, it was averaging roughly 288,000 yearly. With the passage of the 1965 Act, the numbers began to skyrocket: from 1966 to 1975, the yearly average became 381,000: then from 1976 to 1985 it hit 542,000; and for the last decade from 1986 through 1995, legal immigration on average hit about 970,000 yearly.

The post-1965 act constant high legal immigrant influx is radically different than our historical pattern. Another important aspect of our legal immigration problem is that there have been no immigration timeouts or break periods for the last 30 years to give immigrants time to assimilate and be Americanized.

Even with the ending of legalizations under the 1986 amnesty law, the legal numbers are still very high. And, this huge wave of immigrants has helped fuel the application backlogs which now run around 3.6 million. Some apologists for high immigration numbers say that since legal immigration has averaged somewhat lower for the last couple of years, we are on a significant new downward trend. Well, we are not. Recent INS projections call for a large increase in legal immigration in fiscal year 1996, thanks largely to the current law's provisions allowing immigration by extended relatives of recent immigrants and the effects of family chain migration.

TIMES HAVE CHANGED

Mr. President, not only are such extremely high immigration levels not traditional, but it is important to realize that today times and circumstances have changed dramatically so that it is far less appropriate to have either such high immigration or the limited skills most current immigrants now bring us.

THEN

In the good old days of yesteryear, we had a much smaller U.S. population and many more people were needed for settling the frontier and working in our factories. In earlier times, our economy also needed mostly low-skilled workers. We still had plenty of cheap land and resources. Quite significantly, we had no extensive taxpayer-funded government safety net of public benefit programs for unsuccessful immigrants to fall back on. Not surprisingly, 30 to 40 percent of our immigrants returned to their homelands. Furthermore, our domestic population's cultural and ethnic heritages were more similar to those of new immigrants. More Americans then had large families because the high domestic birthrate was similar to that of new immigrant families. And, the melting pot concept was generally accepted and fostered assimilation. In addition, there were periodic lulls in immigrant admission levels so as to allow for assimilation.

NOW

Today, circumstances are quite different. Land and resource availiability are much more limited and expensive. The United States now is a mature nation with a host of serious domestic difficulties, economic problems, chronic unemployment, crime, millions of needy, and so forth. Our population has grown many times over. In fact, the United States now doesn't need more people—we have no frontier to settle, and we have plenty of workers. And, our economy has been undergoing fundamental structural changes. We have been restructuring toward a high-technology economy that needs higher skilled, more educated workers to compete in the new global marketplace instead of unskilled or low-skilled immigrant labor. We now have a costly taxpayer-funded safety net of government assistance that immigrants can rely on such as welfare, AFDC, SSI, health care, and other benefit programs. Not surprisingly, now only 10 to 20 percent return to their home country. And, multi-culturalism is favored over the "melting pot" concept by many immigrant groups, making assimilation often much more difficult and slower. Instead of following our traditional course of enhancing our strengths by melding a common American culture out of immigrants' diversity, multiculturalists now push to retain newcomers' different cultures.

Mr. President, yes, times and circumstances have changed. How many Senators would be willing to vote today to start voluntarily admitting three-quarters of a million, or more, new people—most of whom are poor, unskilled or low-skilled and don't speak English—every year? I dare say that most of those who did so would face serious reelection problems when outraged voters learned of their actions. Perhaps, this is why the Judiciary Committee's legal immigration bill uses admission assumptions that are much lower than recent INS projections. Perhaps, some people hope to escape voters' wrath by claiming that they did not know what's happening and what's obviously going to happen if we don't make big cuts and other reforms. Whatever their reasoning, what

we are experiencing is legislative business as usual, catering to the high immigration and cheap labor lobbies when it comes to legal immigration.

TIME TO FACE LEGAL IMMIGRATION REALITIES

Well, my colleagues, we are paying a high price now for years of excessive Federal spending and for using smoke and mirrors accounting to understate our budgetary problems. We are facing an analogous problem here for having allowed both legal and illegal immigration levels to be excessive for years, and for failing to acknowledge difficulties caused by high legal immigration.

We simply must begin facing up to the real numbers and the problems associated with admitting far too many new people through legal immigration. About three-fourths of our immigration comes from legal immigrants. That's three times our level of illegal immigration. Why are we trying to close the backdoor of illegal immigration and lamenting about all the impacts illegals are causing, but at the same time disregarding the fact that the front door is open wider than ever? Congress must stop giving little or no thought to the obvious interconnection between legal and illegal immigration and their similar adverse impacts. In the last Presidential campaign, there was a popular saying "It's the economy stupid!" Well, with respect to the heart of our immigration problems it can be said "It's the numbers stupid!"—we get three times more numbers from legal immigration than illegal.

LEGAL IMMIGRATION'S COSTS

Our current legal admissions policy fails to take into account whether such a massive influx of newcomers is needed, or the burdens placed on taxpayers for the immigrants' added costs for public education, health care, welfare, criminal justice, infrastructure and various other services and forms of public assistance. Let me highlight some of these costs:

Education—For example, excessive numbers of legal immigrants are putting a crippling strain on America's education system. About one-third of our immigrants are public school aged. Immigrant children and the children of recent immigrants are greatly increasing school enrollments and adding significantly to school costs in many areas.

Schools in many high immigration communities are twice as crowded as those in low immigration cities.

In 1995, the Miami public school system was getting new foreign students at a rate of 120 per day, and as I noted earlier, Florida's costs in 1993 for legal immigrant education came to over half a billion dollars.

Hundreds of thousands of children from immigrant families speak little or no English. This causes a tremendous increase in education costs and diverts limited dollars that are needed elsewhere in our school systems. English as a Second Language programs are very expensive. Non-English speaking immigrant children cost taxpayers 50 percent more in education costs per child.

Welfare—Legal immigrants, who make up the largest part of our foreign-born population, also are costing billions for various forms of public assistance:

According to the GAO, about 30 percent of all U.S. immigrants are living in poverty. The GAO has found that legal immigrants received most of the $1.2 billion in AFDC benefits that went to immigrants.

Immigrants now take 45 percent of all the SSI funds spent on the elderly according to the GAO. In 1983, only 3.3 percent of legal resident aliens received SSI, but in 1993 this figure jumped to 11.5 percent; 128,000 in 1983 vs. 738,000 by 1994. This is a 580 percent increase in just 12 years.

The House Ways and Means Committee indicates that in 1996, around 990,000 resident aliens—who are noncitizens—are receiving SSI and Medicaid benefits, costing $5.1 billion for SSI and another $9.3 billion for Medicaid, for a total of $14.4 billion. The committee projects that this cost for legal immigrants will jump to over $67 billion a year by 2004.

As our colleague from California, Senator FEINSTEIN, has pointed out, only about 40 percent of our immigrants are covered by health insurance, and therefore immigrants have to rely heavily on taxpayer funded public health services.

Recent analysis by Prof. George Borjas of Harvard University of new Census Bureau data also has confirmed immigrants are using more public benefits. Borjas points out that immigrant households were less likely than native-born Americans to receive welfare in 1970. However, his analysis shows that today immigrant households are almost 50 percent more likely to receive cash and non-cash public assistance—they are about 50 percent more likely to receive AFDC; 75 percent more likely to receive SSI; 64 percent more likely to receive Medicaid; 42 percent more likely to receive food stamps; and 27 percent more likely to receive public housing assistance.

Borjas also notes that 22 percent of the California's households are immigrants, but they get 40 percent of the public benefits; that 9 percent of Texas' households are immigrants, but they get 22 percent of the public assistance; and that 16 percent of New York's households are immigrants, but they get 22 percent of the public assistance benefits.

[From the National Review, Mar. 11, 1996]

THE WELFARE MAGNET

(By George Borjas)

The evidence has become overwhelming: immigrant participation in welfare programs is on the rise. In 1970, immigrant households were slightly less likely than native households to receive cash benefits like AFDC (Aid to Families with Dependent Children) or SSI (Supplementary Security Income). By 1990, immigrant households were more likely to receive such cash benefits (9.1 per cent v. 7.4 per cent). Pro-immigration lobbyists are increasingly falling back on the excuse that this immigrant-native "welfare gap" is attributable solely to refugees and/or elderly immigrants; or that the gap is not numerically large. (Proportionately, it's "only" 23 per cent).

But the Census does not provide any information about the use of noncash transfers. These are programs like Food Stamps, Medicaid, housing subsidies, and the myriad of other subsidies that make up the modern welfare state. And noncash transfers comprise over three quarters of the cost of all means-tested entitlement programs. In 1991, the value of these noncash transfers totaled about $140 billion.

Recently available data help provide a more complete picture. The Survey of Income and Program Participation (SIPP) samples randomly selected households about their involvement in virtually all means-tested programs. From this, the proportion of immigrant households that receive benefits from any particular program can be calculated.

The results are striking. The "welfare gap" between immigrants and natives is much larger when noncash transfers are included [see table]. Taking all types of welfare together, immigrant participation is 20.7 per cent. For native born households, it's only 14.1 per cent—a gap of 6.6 percentage points (proportionately, 47 per cent).

And the SIPP data also indicate that immigrants spend a relatively large fraction of their time participating in some means-tested program. In other words, the "welfare gap" does not occur because many immigrant households receive assistance for a short time, but because a significant proportion—more than the native-born—receive assistance for the long haul.

Finally, the SIPP data show that the types of welfare benefits received by particular immigrant groups influence the type of welfare benefits received by later immigrants from the same group. Implication: there appear to be networks operating within ethnic communities which transmit information about the availability of particular types of welfare to new arrivals.

The results are even more striking in detail. Immigrants are more likely to participate in practically every one of the major means-tested programs. In the early 1990s, the typical immigrant family household had a 4.4 per cent probability of receiving AFDC, v. 2.9 per cent of native-born families. [Further details in Table 1].

AVERAGE MONTHLY PROBABILITY OF RECEIVING BENEFITS IN EARLY 1990S

Type of Benefit	Immigrant Households	Native Households
Cash Programs:		
Aid to Families with Dependent Children (AFDC)	4.4	2.9
Supplemental Security Income (SSI)	6.5	3.7
General assistance	0.8	0.6
Noncash programs:		
Medicaid	15.4	9.4
Food stamps	9.2	6.5
Supplemental Food Program for Women, Infants, and Children (WIC)	3.0	2.0
Energy assistance	2.1	2.3
Housing assistance (public housing or low-rent subsidies)	5.6	4.4
School breakfasts and lunches (free or reduced price)	12.5	6.2
Summary:		
Receive cash benefits, Medicaid, food stamps, WIC, energy assistance, or housing assistance	20.7	14.1

Source: George J. Borjas and Lynette. Hilton, "Immigration and the Welfare State: Immigrant Participation in Means-Tested Entitlement Programs," Quarterly Journal of Economics, forthcoming, May 1996.

And that overall "welfare gap" becomes even wider if immigrant families are compared to non-Hispanic white native-born households. Immigrants are almost twice as likely to receive some type of assistance—20.7 percent v. 10.5 percent.

The SIPP data also allow us to calculate the dollar value of the benefits disbursed to immigrant households, as compared to the native-born. In the early 1990s, 8 percent of households were foreign-born. These immigrant households accounted for 13.8 percent of the cost of the programs. They cost almost 75 percent more than their representation in the population.

The disproportionate disbursement of benefits to immigrant households is particularly acute in California, a state which has both a lot of immigrants and very generous welfare programs. Immigrants make up only 21 percent of the households in California. But these households consume 39.5 percent of all the benefit dollars distributed in the state. It is not too much of an exaggeration to say that the welfare problem in California is on the verge of becoming an immigrant problem.

The pattern holds for other states. In Texas, where 89 percent of households are

immigrant but which has less generous welfare, immigrants receive 22 percent of benefits distributed. In New York State, 15 percent of the households are immigrants. They receive 22.2 percent of benefits.

The SIPP data track households over a 32-month period This allows us to determine if immigrant welfare participation is temporary—perhaps the result of dislocation and adjustment—or long-term and possibly permanent.

The evidence is disturbing. During the early 1990s, nearly a third (31.3 percent) of immigrant households participated in welfare programs at some point in the tracking period. Only just over a fifth (22.7 percent) of native-born households did so. And 10.3 percent of immigrant households received benefits through the entire period, v. 7.3 percent of native-born households.

Because the Bureau of the Census began to collect the SIPP data in 1984, we can use it to assess if there have been any noticeable changes in immigrant welfare use. It turns out there has been a very rapid rise.

During the mid-1980s, the probability that an immigrant household received some type of assistance was 17.7 percent v. 14.6 percent for natives, a gap of 3.1 percentage points. By the early 1990s, recipient immigrant households had risen to 20.7 percent, v. 14.1 percent for natives. The immigrant-native "welfare gap," therefore, more than doubled in less than a decade.

Thus immigrants are not only more likely to have some exposure to the welfare system; they are also more likely to be "permanent" recipients. And the trend is getting worse. Unless eligibility requirements are made much more stringent, much of the welfare use that we see now in the immigrant population may remain with us for some time. This raises troubling questions about the impact of this long-term dependency on the immigrants—and on their U.S.-born children.

There is huge variation in welfare participation among immigrant groups. For example, about 4.3 percent of households originating in Germany, 26.8 percent of households originating in Mexico, and 40.6 per cent of households originating in the former Soviet Union are covered by Medicaid. Similarly, about 17.2 per cent of households originating in Italy, 36 per cent from Mexico and over 50 per cent in the Dominican Republic received some sort of welfare benefit.

A more careful look at these national-origin differentials reveals an interesting pattern: national-origin groups tend to "major" in particular types of benefit. For example, Mexican immigrants are 50 per cent more likely to receive energy assistance than Cuban immigrants. But Cubans are more likely to receive housing benefits than Mexicans.

The SIPP data reveal a very strong positive correlation between the probability that new arrivals belonging to a particular immigrant group receive a particular type of benefit, and the probability that earlier arrivals from the same group received that type of assistance. This correlation remains strong even after we control for the household's demographic background, state of residence, and other factors. And the effect is not small. A 10 percentage point increase in the fraction of the existing immigrant stock who receive benefits from a particular program implies about a 10 per cent increase in the probability that a newly arrived immigrant will receive those benefits.

This confirms anecdotal evidence. Writing in the New Democrat—the mouthpiece of the Democratic Leadership Council—Norman Matloff reports that "a popular Chinese-language book sold in Taiwan, Hong Kong, and Chinese bookstores in the United States includes a 36-page guide to SSI and other welfare benefits" and that the "World Journal, the largest Chinese-language newspaper in the United States, runs a 'Dear Abby'-style column on immigration matters, with welfare dominating the discussion."

And the argument that the immigrant-native "welfare gap" is caused by refugees and/or elderly immigrants? We can check its validity by removing from the calculations all immigrant households that either originate in countries from which refugees come or that contain any elderly persons.

Result: 17.3 per cent of this narrowly defined immigrant population receives benefits, v. 13 per cent of native households that do not contain any elderly persons. Welfare gap: 4.3 percentage points (proportionately, 33 per cent). The argument that the immigrant welfare problems is caused by refugees and the elderly is factually incorrect.

Conservatives typically stress the costs of maintaining the welfare state. But we must not delude ourselves into thinking that nothing is gained from the provision of antibiotics to sick children or from giving food to poor families.

At the same time, however, these welfare programs introduce a cost which current calculations of the fiscal costs and benefits of immigration do not acknowledge and which might well dwarf the current fiscal expenditures. That cost can be expressed as follows: To what extent does a generous welfare state reduce the work incentives of current immigrants, and change the nature of the immigrant flow by influencing potential immigrants' decisions to come—and to stay?

Mr. SIMPSON. Mr. President, I do thank my friend from Colorado. This Senate will miss him. and certainly I will miss him. He is a very special friend and one for whom I have come to have the highest respect and admiration and affection.

I want to thank Senator SHELBY. Such a fine ally. I admire him so, a very steady, thoughtful, extremely authentic man when he deals with the issues of the day.

I just say to my friend from Colorado that I think my colleague from Michigan was a bit shocked when the Senator said we were talking about joining these issues. My amendment is not about joining the issues. I want to express that. This is a singular amendment based upon the majority recommendations from the Jordan commission. We have seen fit to see that it is an issue that will be discussed, voted on, whichever way it goes, and then move on. I think once we finish this amendment, things will move in a swifter fashion.

But just let me say this to kind of summarize some things that have occurred during the debate. Please understand that I think what my friend. Senator FEINGOLD. was talking about—parents—there is no change in my amendment in the definition of "immediate family," none. Parents, minor children, spouses, no change. That, I think, is unfortunate; and perhaps it may have been misconstrued. But there is no change in the definition of "immediate family" in what I am doing.

I say, too. that in the debate I have heard the phrase that these people come here to work. I agree with that totally. There was another reference to the fact that they are a tremendous burden on the United States. I have never shared that view. I have never shared the view that these people who come here are a tremendous burden.

But there are some touching stories here I just have to comment on. You knew that I would not completely allow that to slip away.

We can all tell the most touching stories that we can possibly conjecture. My friend from Ohio tells those stories. My friend from Massachusetts tells those stories. I can tell those stories, for I have a brother who is just about the most wonderful man you can ever imagine. I would like to have him here. But the problem is. nobody will raise the numbers, no one will come to this floor and say, "I think legal immigration should be 1,000,002." I do not know of anybody who is going to come here and do that. Unless you do that, then I have to make a choice, which is not quite as dramatic as Sophie's choice. That would be a poor illustration. But I have to decide whether I want to bring my spouse and minor children or my brother or raise the numbers. That is where we are. So you either deal with the priorities or you lift the numbers. There is not much place to go.

When Senator DEWINE talks about this gutsy guy, this gutsy, hard-working guy—and that I will remember for a long time because I know that story now—that gutsy, hard-working guy cannot come here, ladies and gentlemen, because 78 percent of the visas have been used by family connection. This gutsy, hard-working guy, the people we all think about when we talk about immigration, these people who come and enrich our Nation, as memorialized on the Statue of Liberty by Emma Lazarus, are not going to get here, ladies and gentlemen, because 78 percent of the visas are used by family connection, period. That is where we are. You take more or give more. I have the view, which is consistent, that we ought to give the precious numbers to the closest family member. That is the purpose of my amendment.

Senator KENNEDY talks about the adult child who will have to wait, and it is a poignant story—or the only sister of the Cambodian who will not be able to come for 5 years. I ask my colleagues if you really prefer to admit brothers and sisters or adult children while husbands and wives and minor children are standing in line, who want to join their family here, who can be described as "little kids," "little mothers, little fathers." That is what this is. What kind of a policy is that?

I tell you what kind of a policy it is, it is our present policy. The present policy of the United States is that there is a backlog on spouses and minor children of permanent resident aliens, which is 1.1 million. There is a backlog of brothers and sisters in that fifth preference, of 1.7 million people. No one is going to wait that long, I can assure you. No one is going to wait that long. They will come here. Who would not?

There are two choices: Raise the numbers, or give true priorities. There is no other choice. None. Americans will not put up with the first one, which is to raise the numbers. You can see what they say. They do not want new numbers. The Roper Polls, the Gallup Polls down through the years, ever since I have been in this issue. ask the people of America, do they want to limit illegal immigration. The response is "Yes," 70 to 75 percent. And the second question, do you want to limit legal immigration, and the answer is "Yes." 70 percent consistently throughout my entire time in the U.S. Senate.

You cannot do both. You cannot lower numbers and keep the current naturalization system, so you have to raise the numbers or else go to a true priority. There is nothing about persons, human beings, and all the rest of that. That is one we can all tell. It is about if you really care, if you really, really care about what we are all saying here, then raise the numbers. If you want to do that, we should have that debate—raise the numbers. If you do not raise the numbers, you are going to continue to see a 40-year-old brother of a U.S. citizen taking away the number of a spouse, a little spouse or a minor child, a tiny child—we can all do that. That is why we do not get much done and probably will not get much done here. At least we will have a vote. That is what this is about.

What about my spouse and minor children that I love? Why not both of them? Why cannot my spouse, minor children and my brother come? It is because they will not raise the figures. Raise the figures and then they can all come. Make your choice. I can tell you, in grappling with this issue and all the issues of emotion, fear, guilt, and racism—I keep using it again and again and again—and Emma Lazarus, I know all about Emma Lazarus. I read up on that remarkable woman years ago. Of course, the Statue of Liberty does not say, "Send us everybody you have, legally or illegally." That is not what it says.

The most extraordinary part of it all is that the people who want to do everything with illegal immigrants and do something to "punish them" and do something to limit them and do something here, here and there, are the very people who will also not allow us to do anything with a proper verification system that will enable us to get the job done. We will have a debate on that one and see where that goes. That is an amendment of mine on verification.

You cannot do anything in the illegal immigration bill unless you do something with the gimmick documents of the United States. When we try to do that one, here comes wizards like the Cato Institute talking about tattoos and people who have found an enclave there, to reign down and give us no answers. not a single answer about what you do with illegal immigration. if you do not do something with the documents, verification or the gimmick Social Security and the gimmick driver's licenses and all the rest. What a bunch. What a bunch.

I am still waiting for the editorial from one of their wizards over there to pour out for me what happened to the slippery slope here. When I go to the airport and get asked by the baggage clerk for a picture ID, I did not really think about that being the slippery slope, but I guess it must be the slickest slope we can ever imagine if this other stuff is the slippery slope. This is bizarre. Get asked by a baggage clerk for a picture ID will not do something to keep illegal, undocumented people

out of the United States and keep them from working in the United States so the American citizens can have the job and do the work. It is a curious operation, but things I needed to say. That is why this amendment is here. We will just see where it goes. Let her rip.

Somebody can come and look at what the debate was and say, "How did it ever reach that point? Hundreds of thousands of people playing by the rules will have to wait?" Under the current system which would be perpetuated by the present committee language, 1.1 million spouses and children of permanent residents, must wait for up to 5 years. While the closest families members are waiting for years, now we admit under our current system 65,000 siblings of citizens and their families every single year.

Finally, Barbara Jordan did know about the figures that have been presented in this debate. The INS statistics, their division of statistics sent one of their experts to the commission to help with their deliberations, to help the commission, and they certainly did know about these figures. The magnitude is alarming, but they knew.

So the important link between legal and illegal immigration, many of those we are often told are waiting patiently in the backlog and some in fact are not waiting patiently in the backlog. In fact, they are not waiting at all. Why should they? They have entered this country legally or illegally. Legally they are residing here. When their place on the backlog is reached they apparently feel a sense of entitlement there because their visa has been approved. They say, "Gosh, I have been approved to come to the United States of America, but I cannot come for 10 or 15 years because some brother is taking up the slot. Some 30-, 40-year-old brother down the road has taken my slot and I want to be with my spouse and minor children or some closer relative, an unmarried son, a daughter, a married son or daughter." But no, because we have this huge line of preferences and we meet them all and we are required to meet them all with a total of 226,000 people. We are required to do that.

They certainly feel they have a technical ability to come here. How many are in that group? Let me tell you how many are in that group—1 million people in that group. Let me tell you who are these people waiting to come in who are currently in the United States who are not playing by the rules. Here are people who are, I hope my colleagues will hear, who are not playing by the rules. We have in the family first preference, the estimated percent of people, waiting list applicants, who are currently in the United States, should not be in the United States, but are in the United States because they have been approved, but they have not been approved for entry. But they are here. Mr. President, 25 percent are in the family first category. Sixty-five percent of spouses and children in the family second category are not playing by the rules. They are here. Where do you think they would be? They have been approved. They are on the list, and they have not been finally adjudged, and they are here, and 65 percent are not playing by the rules. Adult sons and daughters, 25 percent are not playing by the rules. Third preference, 8 percent. Family, 5 percent—all not playing by the rules. I will enter into the RECORD that estimate of the waiting list and family sponsored preferences as of February 1996.

I ask unanimous consent that that be printed.

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

ESTIMATED IV—WAITING LIST IN THE FAMILY-SPONSORED PREFERENCES AS OF FEBRUARY 1996

Category	Estimated February 1996 totals	January 1995 totals	Increase from 1995
Family first	80,000	69,540	+10,460
Family second:			
Spouses/children	1,140,000	1,138,544	+1,456
Adult sons/daughters	550,000	494,064	+55,936
Pref. total	1,690,000	1,632,608	+57,392
Family third	285,000	260,414	+24,586
Family fourth	1,700,000	1,592,424	+107,576
Family total	3,755,000	3,554,986	+200,014

Estimated percent of waiting list applicants who are currently in the United States

Family first	25
Family second:	
Spouses/children	65
Adult sons/daughters	25
Family third	8
Family fourth	5

Mr. SIMPSON. Perhaps the debate is drawing to a close. It has been a good debate. I very much have enjoyed it. I enjoy my colleagues. I have worked with them and am learning to know them. It will be a great influence on the debate in years to come. That is very important. The purpose of this amendment is simply to try to stabilize what is presently totally out of control, unless you raise the numbers.

I thank the Chair.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I thank the Senator from Wyoming. I was not as surprised as he was at the remarks of the Senator from Colorado about this effort to bring legal immigration into the illegal immigration bill. As I said in my earlier comments, and as I think the remarks of the Senator from Colorado also reflect, this is a very substantial joining together of two very, very, in my judgment, different issues that ought to be dealt with independently of each other, as we were able to do so in the Judiciary Committee, and as the House did in their consideration of immigration already this year.

The fact of the matter is that these issues that pertain to the number of legal immigrants who can come into this country are very complicated, significant, and weighty issues. Mr. President, I say to you that anybody who has been watching the discussions today, who has been following this debate, I hope they recognize already what we recognized on the Judiciary Committee, that these are not simple amendments. These are not amendments that should be considered in the flash of the day here. These are, in fact, deserving of being independently considered in a much broader context that looks at the whole range of matters that pertain to legal immigration at the same time.

To take the illegal immigration bill—an outstanding piece of legislation, in most respects already—and suddenly inject into it considerations of legal immigration on the basis of one amendment at the very end of this process is not the way the full Senate should take this up today. In my judgment, Mr. President, anybody watching this debate would recognize that the Senate deserves to have a full and complete consideration of legal immigration, rather than to attach one highly controversial and very complicated element of it on the illegal immigration bill.

That said, Mr. President, let me move on to address some of the substantive components of the Simpson amendment, which is at the desk right now. I think it is important for our colleagues to understand exactly what would happen if this amendment were to pass. First of all, Mr. President, I think the priorities in this amendment are out of line. Under this amendment, the practical effect of priorities that have been set is that virtually no visas will be available for people who fall into categories such as the adult children or the married children of U.S. citizens.

Given the backlog of spouses and children of permanent residents, given the anticipated numbers by the INS, the normal categories of an unlimited immigration of the spouses and children of legal citizens, it is clear that, for the 5-year period the legislation contemplates, there will not be any visas available, in my judgment, for anyone who is the child, married child, or adult child, of a U.S. citizen.

What that means, Mr. President, and what our colleagues have to understand is that if the Simpson amendment were to pass, we would establish the following priority. The children of noncitizens would have a greater priority in terms of gaining access to this country than the children of U.S. citizens. Let me repeat that. The children of noncitizens would be given a higher priority than the children of citizens. In fact, virtually no adult children or married children of citizens would, under this amendment, have a chance to come here during this 5-year period.

Let me reflect further on the point I am making, because it turns out, as Senator SIMPSON indicated, and as we have discussed here already today, that

a substantial portion of those people who are in this category of permanent residents, were themselves amnestied here in 1986 by the legislation that this Congress passed and which was signed into law. Prior to that, they entered the country illegally. They were illegal aliens. And so if we place, as a priority, the children of these permanent residents on the basis that the Simpson amendment does, above the adult children and married children of U.S. citizens, we would not only be placing priority on the children of permanent residents, noncitizens over the children of citizens, we would be placing as a higher priority the children of illegal aliens over the children of U.S. citizens.

Now, several Members have tried to differentiate between adult children of U.S. citizens and minor children, between married children of U.S. citizens and minor children, between married or adult children of U.S. citizens and minor children of noncitizens; but I have a hard time believing that any Member of the U.S. Senate or Congress wants to exclude virtually every adult or married child of U.S. citizens and, instead, propose such a substantial priority on the children of noncitizens, indeed, so many of whom were at one point illegal aliens.

It just seems to me that these are not the priorities we, as a body, ought to follow. In addition to that, as was alluded to also by Senator SIMPSON, there are a huge number of children and siblings of U.S. citizens who are on this backlog list, people who have been waiting for, in some cases, as many as 10 years to come here. The Simpson amendment would virtually wipe out anybody on that list from having access over these 5 years that the amendment would seek to apply.

These people have been waiting already a long time. They have paid the dollars that are involved in securing applications and a variety of other things that are part of this process. Now they will be told that, basically, for at least 5 years, the door is going to be shut. I think that is a huge mistake. These are the people that all of our offices hear from all the time. These are the people whose fathers and mothers contact us and ask us, "What can be done? How can we get our children here?"

Well, many times we have had to say "no." Now we are going to, with a vote today, say "no" for an additional 5 full years, Mr. President. I think that is a terrible delay to continue.

But let me talk, also, Mr. President, about some of the other comments that have been made with respect to exactly who is affected by this legislation. We have heard a lot today about the concept known as chain migration. It is always said in a very kind of threatening way and a worrisome-sounding way—chain migration. That is something we, apparently, do not like. But let us just talk a little bit about these folks who were on the charts we saw earlier today—the sons and daughters of U.S. citizens, who we seek to keep the door open to. Are these really people we want to keep out, Mr. President? Are these really people we want to put at a lower priority? Are these really people who, as some described, are taking from our system? It is exactly those people who Senator DEWINE referenced when he talked about the gutsy guys who have come here. Who are those people who have come here over the years to make a contribution? That is exactly these people.

The notion of chain migration has been dramatically exaggerated here today. As the General Accounting Office study indicates, the average time between a person's arrival and their effort to sponsor somebody is 12 years. The chart, which attempts to depict huge influxes of people coming as a result of one person's immigration—in fact, that covers half a century. That, I believe, is exaggerated at that point as well.

The fact is that, under the law that we are considering, the illegal immigration bill, countless provisions have been placed in that legislation to prevent this—sponsorship agreements that can be enforced, so that before people come over here, there has to be a sponsorship agreement by the person sponsoring, and that agreement can now be enforced under this legislation.

That is not going to encourage immigration; it is going to advertise courage. It is a dramatically exaggerated contention. To the extent it exists, the illegal immigration bill will discourage it. To the extent that anybody is trying to exploit the system, this bill discourages it.

This bill contains sponsorship provisions, deeming provisions, provisions which limit access to the Government services by illegal aliens and by noncitizens that are going to discourage any advantage taken of the system, which will leave instead the kind of country that so many people sought over its history, the kind of nation where people came here to play by the rules and make a contribution, and, indeed, they have.

An earlier speaker talked about immigration places a huge strain on the process. The type of immigration we are talking about, the ability of U.S. citizens to bring their children to this country, which this amendment would dramatically reduce, is not a strain on this system. To the extent any strain might exist, we have already addressed it in this illegal immigration bill by cutting off access to the kinds of services that may have been exploited.

So, although I have several other things that I will bring back to the floor so other speakers get their chance, let me just conclude by restating two fundamental points.

First, the Simpson amendment is an attempt, no matter how it is characterized, to bring very weighty, very complicated legal immigration issues and inject them into the illegal immigration bill. Those issues should be considered separate and very comprehensively in the bill that is before the Senate that is already at the desk on legal immigration. To bring them in now, especially to bring them in piecemeal, is a mistake.

The practical effect of the Simpson amendment, were it to be enacted here today, would be to place a higher priority on access to coming to this country on the children of noncitizens versus the children of citizens. It would place a higher priority on the children of illegal aliens versus the children of citizens. If we are to address, and effectively address, issues of legal immigration, then at least we should address them in a way that puts the priority the way it ought to be. Citizens of this country and their children should have a higher priority than noncitizens and certainly than those who are illegal aliens.

Mr. President, I yield the floor. I will continue my discussion of this amendment after others have spoken.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me again strongly associate myself with the comments of the Senator from Michigan. Although it is suggested that somehow this amendment does not violate the distinction between the illegal and the legal immigration issue, I do not know how else you can say it. It is indisputable that this amendment is not only about people who may at one time be illegal immigrants. But they are legal immigrants. It is not about people engaged in any kind of activity that is illegal.

I made this point in my earlier remarks. Senator ABRAHAM and I did offer an amendment that was approved in committee for those situations where someone has come here legally and then overstays their visa. We increased the penalties for that. That is appropriately in an illegal immigration bill. But this amendment has nothing to do with that issue at all. It has to do with which family members and which relationships and in what order people should be able to come to this country in a strictly legal context.

So I am troubled by the attempt here to, on the one hand, suggest that, of course, we should separate these two issues and then come right here at the beginning of this bill and offer an amendment that clearly goes over the line, that clearly goes into legal immigration, and to somehow suggest it is just one little amendment. It is not one little amendment. It is a big deal that is going to affect thousands and thousands of families, of people who are acting completely legally, and they are going to be forced into a bill that is all about the public anger and concern having to do with illegal immigration. I think that paints the issue.

That is why I think an overwhelming majority of people in this body, if they are given a simple opportunity to vote.

whether they wanted to consider illegal and legal immigration separately would vote to separate the issue.

Mr. President, what I am going to suggest, since the amendment came up in this order, is that this is going to be the key vote on whether or not you really think the issues of legal and illegal immigration should be separated. I talked to a number of Senators about this issue. They think it is very clear. There is no question in their minds that the illegal and legal issues should be separate. Make no mistake. This is the amendment that will decide whether that is really their position.

Those who vote for the Simpson amendment cannot possibly argue that they have kept the faith of keeping the legal and illegal issues separate. It is impossible. It is too big of an issue. In fact, I would even argue that it is worse than just straightforwardly saying, "We are going to merge legal and illegal immigration." It is just piecemeal. It takes one very significant aspect of legal immigration, family immigration, and somehow decides it in the context of an illegal immigration bill while leaving other important issues having to do with legal immigration to this side, presumably to be dealt with when we bring up the legal immigration bill.

This is the worst of all worlds because it does not allow people to look at the legal immigration issue in its context. It just separates one thing, puts it in the illegal bill, and in my view it is a disingenuous attempt to have the cake and eat it, too—that you respect the split, but, nonetheless, we are going to resolve the very basic issue at this time.

Whatever the merits of the issue, I think the Senators from Michigan, Ohio, and others have done a wonderful job of explaining the problems with the extreme limitations that this amendment brings forward. Whatever your view on the merits, I hope Senators will realize that this is the vote about whether you want to keep the issues of illegal and legal immigration separate. There may be other related amendments later. There may be a sense of the Senate. But if you go ahead and pass this amendment, you have already broken the line between the two issues, and you cannot put it back together.

Mr. President, I hope all Members realize the importance of this, not just from the point of view of the merits, which are terribly important, but also from the integrity of this whole process, which the vast majority of the House and the vast majority of this body believe it would receive by separating and keeping separate the issues of legal and illegal immigration.

Mr. President, I suggest that it is very, very important that we reject this amendment.

I yield the floor.

Mr. DEWINE. Mr. President, I would like at this point to try to respond to my friend and colleague from Wyoming and to some of the comments that he has made. I think we are engaging in a good debate here. This has gone on for a few hours. It is probably going to go on for a few more hours. But I think these are very, very important issues.

I believe that the Simpson amendment is in fact antifamily, anti-family reunification, and goes against the best traditions of this country.

Let me explain why I say this because this can get very, very confusing, and you have to really spend some time. It has taken me some time to get into it. I certainly do not today pretend to be any kind of expert. But let me explain what I understand the facts to be.

The Simpson amendment would have the effect of pushing aside adult children of U.S. citizens. It would have the effect of pushing aside the minor children of U.S. citizens who happen to be married. It would say to a U.S. citizen—let me again emphasize "a U.S. citizen"—you cannot bring in your adult child. We are not going to consider that person part of your nuclear family anymore. That is going to be your extended family, those of us who have children over a wide range of ages. Try to tell that to your older children, my son Patrick, or Jill, or John, that they are no longer part of our family; you cannot come in.

It says to a U.S. citizen, if your minor child has made the decision to get married, well, you cannot even bring your minor child in. It says that to the U.S. citizen. It pushes these children aside in favor of—let us be very careful how we state this—the spouses and minor children of illegal aliens, people who were illegal aliens, who came here illegally and who were ultimately granted amnesty in the Simpson-Mazzoli bill.

That is the choice. That is what it is doing. But when you get into it further, what you also find out is that the vast majority of these people, which this amendment purports to help, with children, with spouses, people who were illegal aliens, who came in here then because of the amnesty provision of Simpson-Mazzoli, were legalized, we say that is OK—their children.

The facts are the vast majority of their children and their spouses are already here. They are already in the country. They are not leaving one way or the other, no matter what this bill does. That is the reality. No one can come to this floor and say this is going to impact it one way or the other. So we are pushing aside family members of U.S. citizens purportedly for the reason to help other people, the vast majority of whom are already here anyway. That is antifamily. It is wrong. It is wrong. It is wrong. We should not do it.

How did this all come about? Let us look at the facts. Let me cite the Jordan commission because my colleague from Wyoming very correctly cites the Jordan commission for many things. Let me cite the Jordan commission. It is stated, stated by proponents of the Simpson amendment—it was talked about in our committee—that there are 1.2 million spouses and children of permanent resident aliens who are waiting to come in. That is the people the Simpson amendment purports to help. Let me repeat it—1.2 million spouses and children of permanent resident aliens who are waiting to come in. End of quote. Here is what the Jordan Commission says about this group of people. The Jordan commission said that at least, at least 850,000 of these people, at least 850,000 of them are already here. They are already in the country.

Who are they? Again, they are the children, they are the spouses of people who this Congress in the Simpson-Mazzoli bill in 1986 granted amnesty to.

So I think it is very important that we keep this in mind.

Now, no one can come to this floor and say these people are going to be kicked out. That is not happening. It is not going to happen. In fact, the husbands, the mothers, people who are granted amnesty, once they were granted amnesty, were on the road to citizenship if they wanted it. Now, many of them for any number of reasons that I cannot fathom have decided not to become citizens, but no one is talking about kicking them out. INS is not deporting them, nor is INS deporting their children, nor is INS deporting their spouses. And there is no one who can come to this floor and say anybody is talking about doing that. So I think it is very, very important to emphasize who these people are. And again I would cite the Jordan Commission. Mr. President, the 850,000 of this group of people the Simpson amendment purports to help—it purports to help family members—get help only on paper because they are here already. The fact is that when a legalized person becomes a U.S. citizen after 5 years, the spouses and children are legalized immediately. They can do that. All that person has to do is become a citizen. And even if that person does not elect to become a citizen, no one is going to kick those kids out and no one is going to kick the parents out. So I think, while what is said about the Simpson amendment makes sense and is technically correct, we have to look behind that and look at who these people really are and what the real facts are.

Let me turn, if I could, to another issue but it is related. It is related to Simpson-Mazzoli that passed in 1986, and it is related to the overall rhetoric about the extent, number of legal immigrants who are coming into this country. The statement is made that we are at an all-time high. That is simply not true. It is not even close to being true. It is not accurate.

We are at the rate of approximately, talking about legal immigrants, of 2 per thousand of our population. We have been at roughly this rate for 30 years. We have been at higher, we have been at lower during our history. Just to take one example, though, if you go

back to the turn of the century we were at about 10 per thousand. We are at roughly 2 per thousand now.

What about my colleagues who may say, well. we just heard the argument made that we have new statistics out from INS that show the numbers are up. Yes. What it shows is that we got what we expected. When we decided to grant amnesty in 1986, we knew there was going to be a spike, and we knew there was not only going to be a spike but there was going to be additional spiking as a result of that because of the children that could be legalized, could become U.S. citizens of those people who are granted amnesty.

That was expected. So I think you have to put this again in its historical perspective, and we have to understand that this should be a shock to no one. It was totally expected. It is an increase that we have seen as a direct result of the amnesty that was granted in 1986 and it is basically just as the amnesty was a one-time shot, the results of that amnesty are also a one-time occurrence.

Let me talk, if I could, about another argument that my friend from Wyoming made. He had a very interesting chart. I walked over to take a look at it. It was something that I heard him talk very eloquently about a great deal and that is the chain migration problem.

Just a couple comments. As my friend from Michigan said a moment ago, that chart may be accurate, it may be accurate for a family. I can come up with a hypothetical. It might be accurate—might be. But if it was accurate, assuming it was accurate, assuming that is a real case, it takes about a half a century for that all to take place. So I think we need to put that in perspective.

My colleague from Wyoming agreed with me; we should favor the gutsy people, gutsy people who picked up and came here. What is to say those people on that chart are not gutsy? What is to say they are not people who contributed to society? What is to say they are not people who work with their family, maybe work in a business to make things happen? That chart is almost the history of this country, almost a reflection of our own, not just the history of this country but a reflection of many of our own families, if we go back a generation or two or three.

I wish to return to another issue because this issue keeps coming up. I just want to return to it because it shows I think how many times the mixing in our bills and in our mind of the issue of legal immigration and illegal immigration leads not only to what I think would be bad legislation but I think bad thinking and confusing thinking and confusing rhetoric. Let me give one example. It has been stated time and time again one-half of the people who come here—let me get the precise language. I wrote it down. One-half of the people who are illegally here came here legally. One-half of the people who are illegally here came here legally. Yes, that is true. But these are not the people we are talking about when we talk about legal immigrants. These people were never immigrants, immigrants meaning someone who is here on the path to becoming a citizen.

Rather, these are people who came here—yes, legally—but who came here with absolutely no expectation that they would ever become a U.S. citizen. These are people who came here to work on visas. These are people who came here as students. Frankly, they overstayed; they overstayed their welcome, they overstayed the law, and they are a problem. This bill begins to address the problem, the bill as currently written. The Simpson amendment does not do anything about this problem.

In all due respect to my friend from Wyoming, I think the only thing this rhetoric does is confuse the issue because people then make the jump and say you have to combine the two issues. They are separate and distinct. Legal immigrants is a term of art. People who are here—that is not the problem. There are some people, a lot of them, who overstay the law. They came here legally but they were never legal immigrants. I think it is important to keep those two things in mind.

The statement is also made that aliens use social services more than native-born Americans. Again, every statistic, every study that I have seen, as well as anecdotal evidence that I think most of us have seen in our home States, would indicate that you have to look beyond that statement. That statement may be technically true, but if you break out legal immigrants, people who came here legally, people who have become citizens, people who got in line the way they were supposed to get in line, people who are now naturalized citizens or who are legal resident aliens, in line to become citizens—if you look at that group, and that is the group that the Simpson amendment is going to affect, what you find is statistically they are on welfare less than native-born Americans; less. Again, I think it shows the problem when we try to mix the arguments and when we try to combine legal and illegal.

This vote is a vote not just on the merits of the Simpson amendment. It is also a vote on whether or not this Senate is going to take an illegal immigration bill that I do not think is perfect—in fact, I have a couple of amendments. One amendment I am going to offer; another amendment from Senator ABRAHAM I am going to support. We are going to fight about those and vote on them. But it takes an illegal immigration bill that I think is a very good bill, a bill that addresses the legitimate concerns that honest Americans have that their laws be enforced, that we play by the rules and that people who come here illegally are dealt with—it it takes that concern and superimposes on it—this is what the Simpson amendment does—a whole other issue, an issue that this Senate should debate, should talk about. But on a different day. It confuses the two issues, puts them together, and I think that is a mistake.

For those of my colleagues who are concerned, and I think virtually everybody in this Senate is, about passing an illegal immigration bill and getting it signed and having it become law, the best way to do this is to defeat the Simpson amendment.

Do not take us down the path of getting in the swamp, getting in the muck of all the other issues we are going to be into if, in fact, the Simpson amendment passes. Legal and illegal, they simply, I believe, have to be kept separate.

I am going to have a few more comments later on. I do see several of my colleagues who are on the floor waiting to speak. I will, at this time, yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I rise in favor of the Simpson amendment. First of all, let us understand something very clearly. The discussion about separating the bills, the legal and illegal bills, boils down to one simple political fact. Those who do not want any changes in the laws relating to legal immigration in this country, who do not want to change the numbers, who want to continue to see the number of legal immigrants in this country continue to rise, as the charts that were shown earlier indicate—those people who do not want to see any constraints on legal immigration also do not want to see the issues of legal and illegal immigration combined into one bill because they understand that there is a very strong political desire to deal with the problem of illegal immigration. This body will not refrain from dealing with the problem of illegal immigration. Therefore, if we are talking about the same subjects in the same bill—there is going to be a bill and there could be a change in the law relative to legal immigration—so they do not want to see that. They would rather see the legislation regarding illegal immigration pass and then do nothing with respect to legal immigration.

The Jordan Commission made some very substantial recommendations about both legal and illegal immigration. Specifically, it determined that our law should be changed to put some caps on the numbers of people legally immigrating to the United States. The basis for the recommendation was what has occurred in the last 10 years, both with respect to illegal immigration and the increases in legal immigration. Ten years ago or so when the law was changed, the assumption was that we would stop illegal immigration. How naive, I guess, everyone was. We thought by making it illegal to hire those who were here illegally, we would remove the magnet and people would stop coming here illegally. We would

not employ them. Therefore we would not have as many illegal entrants. And, therefore, we could afford to raise the number of legal entrants.

So the Senate and the House in their wisdom, before the occupant of the chair and I came to the Congress, decided that what they would do, since we were going to have so many fewer illegal immigrants, was to simply raise by almost a quarter of a million the number of people who could come here legally.

Of course not only have we had more legal entrants every year, but illegal immigration has also risen. It is the combination of both of these numbers increasing that has resulted in the substantial majorities of people surveyed, regardless of which survey you look at, who say we need to do something about the problem, both problems. We need to get a handle on controlling our borders. We need to make it harder for illegal immigrants to be employed and receive welfare benefits. And we also need to reduce somewhat the number of people coming into the country legally.

You can argue about where the numbers should be. My own view is that at least it ought to be taken about to the level that it was 10 years ago. It is still about a quarter of a million people a year. The Jordan Commission actually recommended fewer than that. The Simpson amendment actually recommends more than the Jordan commission did, but it recommends it as a true cap. It says this is a real number; 480,000 will be it. Period. That is, each year, how many people can come in legally.

The bill, as it came out of the Judiciary Committee and as it is here on the floor, however, does not really limit the numbers. It provides a cap but it is called a pierceable cap, meaning you can actually have more numbers than that. And, because of a phenomenon which I will discuss in a moment, the net result is that there really is no cap at all. So let us speak very plain English here. Nobody is trying to cut off legal immigration. Nobody is trying to cut it in half. Nobody is trying to cut it even by 25 percent. But what we are saying is that there should be some limit on it, as opposed to the bill, which will enable it to escalate substantially.

Those who favor basically open, legal immigration, will say, "Oh, no, the bill actually has a cap in it." That is true. But, as I will point out in a minute, the cap does not mean anything. It can be pierced and it will be pierced because of the large number of people who are awaiting their turn to become legal citizens, just precisely as Senator ALAN SIMPSON pointed out during his remarks about an hour ago.

Let me return to a point that I made just a second ago and actually cite some numbers. A recent ABC poll showed that 73 percent of the people in the country want reduced immigration. A recent Roper poll showed that only 2 percent of the respondents supported the current levels of immigration; only 4 percent of blacks and Hispanics supported the current level. There is overwhelming view in our country that immigration numbers should be somewhat reduced.

If I look at the actual survey numbers, as was pointed out before, most of our citizens would reduce those numbers far below what any of us are talking about doing here today.

We ought to be responding to what our constituents are asking, but as happens so much here inside the beltway, with various lobby groups putting pressures on Members, we are not even going to come close to what the majority of the people in this country are asking. We are not going to reduce the number of legal immigrants in the country to 100,000 per year, as a majority of Americans would like to see. We are not going to call a time out on any legal immigration. We are not going to reduce it to 200,000 or 300,000 or 400,000.

The most that we are going to do is to get it about at the level that it was 10 years ago, somewhere in the neighborhood of 480,000. So all of the great speeches about how we are shutting off immigration and we are keeping people from coming to this country obscures the fact that we would be allowing about one-half million legal immigrants into the country every year. Of course, this bill applies only to 5 years, and then we go back to the levels that exist today. The Simpson amendment is just a temporary 5-year breathing space to establish a true priority system for family immigration.

As Senator SIMPSON pointed out, one of two things has to happen here. Either we have to change the priorities so that instead of spouses and minor children, the two groups that we want to grant the top priority to—that is existing law; I think that is what all of us would agree to—we are either going to have to change that priority so that brothers and sisters or others could come in ahead of them or, if we are going to do what the proponents of more immigrants want, we are going to have to increase the total numbers, because the current priority system will result in far more people coming in than the current numbers allow. That is why this pierceable cap—it is only a cap in name, because the fact is the proponents of more immigration understand that if you leave the priority system as it is, inevitably there will be far more legal immigrants than there are today.

The goal with the Simpson amendment is reunification of the nuclear family to ensure that the spouses can come in, that they have a top priority and that the minor children have a top priority.

One of my colleagues made this argument, "Well, Senator SIMPSON is actually giving a greater priority to the children of permanent residents than to the children of citizens." That is not true. Mr. President. Minor children of citizens are the first priority. Minor children of permanent residents are the second priority. It is true that minor children of permanent residents have a priority above adult children of either citizens or permanent residents.

I ask my colleagues who made the argument, would they change that priority? Would you put a higher priority on the adult children of citizens than on the minor children of permanent residents? Because, remember, permanent residents are legal, too. They have a right to live in this country as long as they live, and if we are talking about keeping nuclear families together, we have to be very straightforward about this, and I do not think there is anyone here who would not agree that the current priority, which is for spouses and minor children, should be the top priority.

So let us not hear discussion about how we are putting the children of permanent residents above the children of citizens. We are putting the minor children of permanent residents above the adult children of those who become citizens.

Mr. DEWINE. Will the Senator yield for a moment?

Mr. KYL. Yes, just for a moment.

Mr. DEWINE. Does the Senator agree with the Jordan Commission when they said that of those individuals that you just referenced, there are at least 850,000 of them who are not waiting to come in but who are already, in fact, here?

Mr. KYL. As has been noted earlier, that statistic could well be accurate, and about 65 percent of those people who are here are here illegally, if Senator SIMPSON's statistics are correct, which would suggest to me that we should not be granting a priority to people who, though they are here, got here illegally. I will be happy to yield for another question.

Mr. DEWINE. If you will yield for an additional comment or additional question.

Mr. KYL. Sure.

Mr. DEWINE. If the figures of the Jordan Commission are true, that 850,000 spouses and children are here, would you agree that no one is seriously talking about kicking them out of the country? So, in other words, when we talk about it is important to reunify these families, that may be true on paper but in reality they are already reunified. They were never apart because they are here together.

Mr. KYL. My colleague makes a point. I think he proves too much by his argument, though. Nobody is going to kick them out. That is the whole point. So all the bleeding heart stories about how these people are not going to be reunified is, frankly, beside the point. They are here. Many of them are here illegally, but they are here. What they will have to wait for is simply their opportunity in line to have their status recognized as legal. So in point of fact, they are not being hurt one iota.

Mr. DEWINE. Will the Senator yield?

Mr. KYL. Let me finish making this point. Because what we are talking about with the backlog requires two points of clarification.

One, that backlog will be cleared up; those people will get their legal status eventually and, in the meantime, as my colleague points out, they are here already, they are already unified, they are not suffering apart from each other.

Second, it is important to note that the Simpson amendment grandfathers all of those people who came, I believe it is before May 1988—the exact date Senator SIMPSON can clarify—so that we are really not talking about in any real numbers creating a hardship for those adult children who would want to be reunified under the third priority.

Mr. President, I really would like to get on.

Mr. DEWINE. Will the Senator yield for just one more?

Mr. KYL. I will yield one more time.

Mr. DEWINE. Then I will sit down and get my own time. I appreciate my friend's generosity with his time.

I wonder if he could just respond to this. Is it not true that the individuals he just described who are already unified, who are together, are the people that Senator SIMPSON says his amendment is intended to benefit and who, I argue, because of that amendment, are people who really do not need to be unified anyway; they are already unified. They, with his amendment, would be pushing out adult children, yes—adult children—of U.S. citizens who could not come in and minor children of U.S. citizens who happen to be married?

I want to clarify for the membership who we are really talking about. These are people—850,000 of them—who are already here. My colleague says no one is talking about kicking them out. They are already in the country. So to me it is a little misleading, or maybe it does not tell the whole story, to use the term we are "reunifying" these people—and that is the purported sense of the Simpson amendment—when, in fact, they are already physically unified. They may not be on paper unified but they are here and living together. That is who he intends to benefit.

I appreciate the Senator's generosity.

Mr. KYL. It is a point well made, but I believe the point relates to all the categories. As Senator SIMPSON related before, in all four categories of priorities, there are people here illegally who are simply waiting for their turn to become officially recognized as legal. The largest number is in the first category, and then it goes down in number to the point in the bottom category it is the fewest.

So in each of these categories there are people who are here illegally who will have to wait a while before their status can be made legal and who, as my colleague from Ohio rightly points out, are not going to be kicked out.

It is important for us, however, therefore, to focus on this question of priority. Senator SIMPSON and I and others simply believe that the first priority should be the priority of the Jordan Commission and of the existing law that minor children and spouses are the first to receive their legal status. In some cases, it will be legal status for the first time reunifying the family because the rest of the family is not in the country. In other cases, they are already here, and it is simply legalizing the status quo.

The next priority and the priority after that would then come into play. In each case, there are some people who are already here illegally who would become legal, and there are others who were abroad and would be allowed to come to the country, reunify with the family, and eventually become legal. It is all a matter of priorities, Mr. President.

As Senator SIMPSON noted, one of two things is true: Either we change the priorities—and, again, I do not really think anybody is really suggesting that—or we have to recognize that there are so many people who are eligible that the numbers are going to increase dramatically. I think there is an interesting story.

By the way, may I just go back and point out when I talked about pierceable, I meant to describe what we mean by that. The Simpson amendment provides for 480,000 admissions per year. The question is whether or not that number is pierceable or not. The Simpson amendment is a true number. What you see is what you get. What the Jordan Commission recommended was a far lower number, 400,000, but theirs was pierceable, as is the current bill. "Pierceable" means that, because admission of nuclear family members of citizens is unlimited, the admission limit can be pierced. That is the top category, the citizen category. It is actually two categories, because the citizen's both minor children and spouses and then also other relatives of citizens.

Because the number of relatives of citizens is unlimited, when we say there is a cap of 480,000 or 400,000 or whatever it may be, that is not really true. It is that number plus however many additional relatives of citizens are allowed to come in.

The Simpson number is a true number: 480,000, period. Over time, that will accommodate all of the categories that they want to come in. Some will simply have to wait longer than others. We say the ones that should have to wait longer are the more distant relatives, not the spouses and the minor children.

What are the official estimates of how many numbers we are talking about? According to the official INS estimates, immediate relatives will range from 329,000 to 473,000. Mr. President, let me read those numbers again for the benefit of my colleagues. Remember, the Simpson amendment calls for 480,000 family members—additional employment and diversity numbers—but 480,000 family members. INS' official estimates are there will be from 329,000 to 473,000 immediate relatives over the next 7 years, with an average of about 384,000 for immediate relatives.

So the number of 480,000 is plenty to accommodate these immediate relatives. There would be about 100,000 additional slots for family-based categories other than the immediate relatives, the people who my colleagues from Ohio and Michigan have primarily addressed, 100,000 a year.

It does not provide additional slots for the legalization backlog reduction. It is assumed those individuals will be absorbed in the immediate relatives category of U.S. citizens, many of whom, as my colleague noted, are now eligible for naturalization. As I noted, at the end of 5 years this limitation of 480,000 ends anyway. So under the official INS statistics, there is plenty of room for all of the people who have been talked about here to become legal in the United States of America.

The facts, however, are somewhat different than the official story. Here is where we find out the rest of the story, as Paul Harvey would say. It appears that there are some informal INS estimates that differ from the formal estimates. In fact, according to the San Diego Union-Tribune article that has been mentioned here, there will be a significant increase, a 41-percent increase in legal immigration that the INS now says will enter the United States over the next 2 years. They have undercalculated or miscalculated too low for the next 2 years, and the fact of the matter is, we are going to see about a 41-percent increase in the next 2 years.

The article provides details about unreleased data from the INS showing that immigration will rise 41 percent this year and next year over 1995 levels. This is the result of an approximate 300,000 administrative backlog of relatives of individuals who have not realized applying for alien status. Therefore, the fact is, under the bill as currently written, we are not going to see a slight decrease. As the proponents like to say, we are going to see a huge increase.

As Senator SIMPSON noted, you cannot have it both ways: Either you change the priority, which nobody wants to do, or recognize there have to be a whole lot more numbers. The truth is, as the INS-reported numbers in the San Diego paper show, that will be substantially increased over 1995: 41 percent in both years.

As I said, the Simpson amendment is important because it provides a true temporary limit. In 1990—in 1990—the level of immigration was increased substantially, by 37 percent. There was an increase because it was thought that the new employer sanctions would reduce illegal immigration, as I mentioned before. That has not occurred. We know that there are approximately 4 million illegal immigrants in the country and about 300,000 to 400,000 new

illegal immigrants entering the country each year. So that number has to be added to the numbers that we are talking about for legal immigrants.

Mr. President, the United States has always been—and, as long as I have anything to say about it, is going to be—a land of opportunity both for U.S. citizens and certainly for all of those who come here legally. But as much as we are a nation of immigrants, we are also a nation of laws. We cannot afford, as a nation, to continue to incur the unrestrained costs of both legal and illegal immigration in jobs, welfare, education and health care. Senator SIMPSON is trying to get a handle on this by limiting immigration very slightly over a very limited period of time, 5 years, as the American people have demanded.

Unless we reform our legal and illegal immigration laws. I believe we will undermine the United States as a land of opportunity for all, both foreign and native born. Everybody has a story to tell how they got here.

My grandparents emigrated here from Holland. My grandmother hardly spoke English. I am very proud of my Dutch ancestry and the traditions that we have maintained, but I think that my grandparents, who assimilated into our society and became Americans, would be rather shocked and somewhat disappointed at the way that the system has grown over recent years. My guess is that they would be supporting attempts of people like Senator SIMPSON to try to bring the right kind of balance and to try to provide opportunity for all of those who are here already and who we will invite legally to come here in the future.

That is why I support the Simpson amendment. I think it is a very reasonable amendment. It is even more liberal, if you want to use that term, than the Jordan Commission recommendation. I know that we all regret that the chairman of the Jordan Commission, Barbara Jordan, herself is not here, cannot be here, because of her untimely death, to defend the rationale for the Jordan Commission report, which, as I said, is even more conservative in this regard than the Simpson amendment. But I think we ignore that report at our peril, and we ignore the sensible arguments that Senator SIMPSON has made here at our peril. As I said, that is why I support and hope that others will support the Simpson amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, a number of my colleagues have made some comments with regard to the underlying legislation, with regard to the amendment that is before the Senate, and also in reference to the Jordan Commission. I will make a brief, brief comment about those comments and also come back to the underlying reason why I am opposed to the Simpson amendment.

Mr. President, we can talk about numbers, and I will get back to where we are in terms of numbers, but for the purpose of understanding in family terms—in family terms—what this amendment is really all about: If you are an American citizen today, you can bring your wife in, you can bring minor children in, you can bring parents in without any limitation at all. That is the same with the Simpson proposal and the underlying amendment. That will not change under this particular proposal.

Under the current law, if you are an American citizen, you can bring your adult children and your brothers and sisters in. There are numbers for those. Today the demand on that does not overrun the numbers which are available. We are talking about 23,000 adult children that come in and some 65,000 brothers and sisters. All of those get in now currently. Under the Simpson amendment, there would not be the guarantee that those would get in. I think it is highly unlikely they would be admitted.

Today, if you are an American citizen, you can bring in the adult children and the brothers and sisters of American citizens. Beyond that, we also have for the permanent resident aliens, slots for minor children and spouses. There are numbers for them, but they get in now. They are able to rejoin. We are talking about the minor children and the wives of the permanent resident aliens that are coming in here today. They are all at risk. There are some 85,000 of those. They get in today.

Now, what does the Simpson proposal basically do? It provides for a limitation on the overall numbers. Then there is what is called the spillover. There are 7,000 slots for that spillover. Mr. President, 7,000 slots for the spouses and minor children of permanent resident aliens. It was 85,000 last year. Those wives and those children were able to get in here. Under the Simpson proposal, there will only be 7,000 available.

Then the Simpson proposal says if the wives and small children all get in here, we will spin what else is left over to take care of the adult children and brothers and sisters. That is just pie-in-the-sky if you look at what the numbers are and what the demands are.

Effectively, what the Simpson amendment does, by his own description: We will say, OK, we will permit citizens to bring their spouses and minor children and parents in here but virtually no one else, at least in the first year, because the other groups now, the adult children, which are 23,000 that are coming in here, and the brothers and sisters, which are 65,000 that are coming in here, and the children and wives of the permanent resident aliens that are coming in here, SIMPSON will say all of those together will get 7,000 visas.

Effectively we are closing the door on those members of the family. That is the principal reason I oppose it. No. 1, it is dealing with legal immigration and not illegal. If we are interested in legal, we have a variety of different additional issues. This is the heart of the legal immigration, the numbers of families. It is the heart of the whole program. Always has been. It is the heart of it. That is what he is changing.

We say that the reason we have this slight blip in the flow line of the increase is because of a set of circumstances that were put in motion by Senator SIMPSON, myself, and others who voted for that 1986 act and the amnesty. It has taken 12 years or so for those individuals to get naturalized that were under the amnesty and now are joining members of the family. After a couple of years, it begins to go down.

As a matter of fact, for example, the total immigration for 1995 in the family preference was 236,000; in the year 2001, it will be 226,000. These are the latest figures. We have the blip now on personal family members. We are committed, even with that, when we get to legal immigration, to lower those numbers in a way that is going to be fair in terms of the different groups that are coming in here. We are not reducing the numbers on the real professionals that are coming in here. Senator SIMPSON reduces it to 100,000. The fact is they are not using 100,000. Do we understand that? We are not using the 100,000 that is incorporated in the Simpson amendment. There is no cutback there. No cutback there, my friends. Mr. President, 32 percent in families—no cutbacks in the permanent numbers.

Where are some of those permanent? We are talking about cooks, auto mechanics. They will be able to come in here. But the reunifications of brothers and sisters—no, they are not.

Mr. President, I do think that what we ought to do is say, Look, on this issue, we had tried. Senator ABRAHAM and myself had offered an amendment in the Judiciary Committee to reduce the overall numbers by 10 percent on that. We have found out in recent times that the numbers have bubbled up. Doris Meissner testified in September of last year that the numbers were increasing. Barbara Jordan had highly professional staffers, and they had access to the same information. They did not identify this kind of a bubble. Senator ABRAHAM indicated—and I join with him—when we get to legal immigration, we will see a fair reduction across the board in terms of these visas, 32-percent reduction for brothers and sisters and the wives and small children of permanent residents. Now, that is not fair.

Finally, Mr. President, I think the argument that has been made by my colleagues and friends about not addressing this issue at this time but addressing it at the time we were going to deal with the legal immigration is the preferable way of proceeding.

I listened to the presentation of my friend and colleague from Alabama,

Senator SHELBY, and I watched those charts go up and come down. The fact about the presentation was that we had the mixture of legal and illegal. He points out that 25 percent are in jail. The problem is about 85 or 90 percent of those are illegals that are in jail. When he says on the chart, looking at this foreign born, "They are in jail, they are using the system." those are illegals. Most are involved in drug selling in the United States. They ought to be in jail. They ought to be in jail. They are violating our laws. They are the ones who are in jail.

The fact of the matter is, as others have pointed out during the course of this debate, when you are talking about illegal, you are talking about people who are breaking the rules, talking about unskilled individuals who are displacing American workers, you are talking about a heavier incidence in drawing down whatever kind of public assistance programs are out there. That is the fact. That is why we want to address it.

When you are talking about legals, you are talking about individuals who, by every study, contribute more than they ever take out in terms of the tax systems, who do not overutilize any more than any native American the public programs for health and assistance—with the one exception of the SSI where they have greater use, primarily because of the parents who have come here for children after a period of time are older and therefore need those services. We have addressed that with our deeming provisions. We will have an opportunity to go through the progress that has been made in saving the taxpayer fund.

We are asking, why are we getting into all of those issues suddenly? We will take some time, when we address the legal immigration issue, to go over what has happened in terms of the deeming provisions for senior citizens. That makes a great deal of sense.

Finally, I heard a great deal about the Jordan Commission. The fact of the matter, on the Jordan Commission numbers it is recognized it would be 400,000 that would come here with families. They had another 150,000 in backlog which would be added on to that. They did not even include refugees, which they cited would be 50,000. You add all of those up and you are talking about 400,000 for family, 100,000 in employment, 150,000 in backlog, and 50,000 in refugees. That comes to between 700,000 to 750,000. All of these figures are virtually in the ballpark.

The point my friend from Arizona left out is that one of the central provisions of the Jordan Commission was to do something about the backlogs of spouses and children. It is out there now. With this amendment, you are going to make it even worse. You are going to say to any spouse or child of any American citizen, "You are not coming in here for 5 years, and you will be lucky if you get in after that because of the way this is structured." No backlog reduction, ignoring one of the basic facts.

Mr. President, I think the family issue is the most important. We can work out our numbers in ways that it is going to be fair and balanced along the way. We are seeing the tightening of the screw, a 32-percent reduction with the Simpson proposal, if this measure is adopted, for immediate members of the family. Nothing in terms of the employment. They were down to 83,000 last year. Senator SIMPSON allows for 100,000. Those numbers can continue to grow. I think that is absolutely wrong.

Even if we were dealing on the merits of it, I do not know why we should tighten the belt on families quicker than on those that are coming in and displacing American workers, and, in many instances, they are, as I mentioned, auto mechanics and cooks and other jobs. I think families are more important than those, if you have to choose between them.

Mr. President, we have had a good discussion. Many have spoken about this. I hope the Simpson measure will not be accepted.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Madam President, while we are debating the Simpson amendment on legal immigration, let me stress the need to address the problem of illegal immigration as part of Senate bill 1664. I support S. 1664. Madam President, stopping illegal immigration is one of the most difficult problems facing the United States.

A recent study concluded that, since 1970, illegal immigrants have cost the American people over $19 billion in both direct and indirect public assistance.

None of us doubt that illegal immigration is soaring in the country. Some estimate that the number of illegal aliens in the United States is over 4 million people. Moreover, the number of illegal immigrants coming into the United States is growing by over some 300,000 a year.

During the recent recess, I visited many counties in North Carolina. It was very interesting that each county I went into, the county commissioners and the health officials all said, "We have a particular problem in this country that does not apply to other counties. We are being inundated with illegal immigrants." Well, it became almost a joke because each county was of the assumption that they were the only one that had the problem. The truth of it is, the problem is not only statewide, but it is nationwide. We need to stop it.

Illegal immigrants are not supposed to be able to get public benefits; yet, over time, this has been changed. The Supreme Court ruled that children of illegal immigrants are entitled to a public education. Illegal immigrants are entitled to Medicaid benefits under emergency circumstances—which are most circumstances. Further, illegal aliens may receive AFDC payments and food stamps for their children. This is simply another burden on the working, taxpaying people of this country. In defiance of all common sense, it seems that only in America can someone who is here illegally be entitled to the full benefits that the Federal Government has to provide.

We are stripping the money out of the paychecks of the working people, to support 4-million-plus illegal immigrants. Is it any wonder that they are pouring into the country at an enormous rate of something like 30,000 a month?

What does this say about the breakdown in the welfare system—that it can provide benefits for illegal aliens? We simply should not be doing it. That was not the design of the welfare system. We are bankrupting it and corrupting it by continuing to sponsor and support illegal aliens in this country.

Madam President, we have people coming into the United States illegally for higher-paying jobs, free schools, food stamps, and Government-sponsored health care. By flooding the United States, the illegal immigrant population is taxing fewer and fewer public resources. We simply cannot afford the continuing rise in illegal immigration.

Madam President, this bill is not perfect, but at the very least it will attempt to control the flow of illegal immigrants coming into this country by providing additional enforcement and personnel and by streamlining the deportation procedures, so that they can be removed.

Further, this bill will stop the practice of people entering the country legally—and then going onto our welfare rolls. Anyone who goes on welfare within 5 years after arriving here can be deported. This is not as much as we ought to be doing, but it is a start.

Madam President, we need to pass this bill to stem the flow of illegal immigrants. We cannot let this become another issue that the Democrats in the Senate stop. It is too important to stop. For that reason, I hope the Senate can act on this legislation.

I thank the Chair and yield the remainder of my time.

Mr. SIMPSON. Madam President, I think we may be nearly ready to properly proceed to a rollcall vote on this issue. And then I think that will remove greater delay, as we move into the other items that are in the amendments that we are presently aware of.

I hope that people with amendments will submit those, giving us an opportunity on both sides of the aisle to see what amendments there may be yet forthcoming, because at some point in time—maybe today—we can close the list of amendments so that at least we would have some perspective. I have given up one or two of my amendments—one that Senator FEINGOLD and

I debated in committee. I have withdrawn that. I hope that that marvelous, generous act will stimulate others to do such a magnanimous thing as to take one of their "babies," one of their very wonderful things, and lay it to rest, perhaps.

In any event, I think that we are nearly ready to proceed to a final vote on that. I think anything else I would say would be repetitive, other than to say that the choices are clear. To do all the things we want to do: which play upon your heartstrings, you have to raise the numbers. If you do not raise the numbers, then you have to make priorities. If you are making priorities, it was my silly idea that you ought to have the priorities as minor children and spouses, and not adult brothers and sisters. That is where my numbers would come from. No mystery. That is where they would come from. They would go to spouses and minor children and come from adult brothers and sisters, who, in my mind, are removed from the immediate family category. That comes with wife, children, mother, father. All of us surely will remember that that is from whence we all sprang.

We can proceed, hopefully. I yield the floor.

Mr. ABRAHAM. Madam President, I have a couple of more issues that I want to inject at this point relative to this amendment.

I know there is at least one, or maybe two, of our colleagues who have come by this morning and indicated they wanted to speak. So I urge them, if they are in their office, or if their staff is watching, at this point to please proceed here if they are still interested. I do not have any intent to prolong the debate much further. But I want to make sure that some people who we had promised to find a time for will come here for that opportunity.

I would like to comment again on a couple of points I have been making today but also on some other issues that have been raised by previous speakers. One is the issue of polls and polling data.

I think certainly it is a responsibility of elected officials to be observant of public opinion and constituent views. But I think it is also important to understand that polling and the use of polls is oftentimes quite contradictory and quite confusing. We all know that the polls have said for years that Americans overwhelmingly want a balanced budget. But then, as we have learned, if they are told it means something specific that affects them, they all of a sudden have a little different opinion.

In that vein, I say that some of the polling related to immigration can be both, on the one hand, telling and, on the other hand, contradictory. Yes, it is true, overwhelmingly people want to deal with the immigration problems. The polling I have seen suggests, though, that the first priority they have is to deal with illegal immigration. That is why the first bill before us is a bill on illegal immigration.

I also suggest that those who say they want to see the number of people who are permitted to come to the country legally reduced, those who say that would have different opinions if they understood the ramifications that might affect them or their communities. I have not seen polls go to that kind of extent. But I suspect if people understood that the children of U.S. citizens would have a lower priority than the children of noncitizens, they would surely not favor that form of legal immigration changes.

I also would like to comment just as a postscript to the comments of the Senator from North Carolina. He is deadly accurate in his comments about the impact this bill has on the welfare access that noncitizens will have. Indeed one of the foremost objectives of this bill on illegal immigration has been the objective of trying to address the issuance of public assistance to noncitizens. One of the reasons we think this is a major problem with regard to immigration has been that people have—some people at least—tried to come here illegally to gain access to benefits. This bill attempts to address it. I think it forcefully will.

The point I would like to touch on now very specifically is the broad question of numbers because the comments of the Senator from Arizona a few moments ago in the dialog between him and the Senator from Ohio—I do not know how many Members were watching—I thought that was perhaps as telling as any other discussion we have had here today on the question of exactly what really is going to happen if this amendment passes.

As has been pointed out, the Immigration and Naturalization Service has noted that there will be a spike, an increase, in the number of people who become able to become legal immigrants in the next couple of years under the so-called family preference categories of spouses and children of U.S. citizens. That is an unlimited category. That is going to go up. But what the Senator from Ohio, I think, has said and which I think is important, is that all Senators considering this amendment should understand that increase does not mean new people coming into the United States. What it reflects overwhelmingly is a group of people who, because of the 1986 act which gave amnesty to those in the country illegally and a subsequent action by the Congress in 1990 which gave quasi-legal status to the spouses of minor children of those who gained amnesty, these people are largely overwhelmingly already in the United States. Consequently, the increase that has been alluded to is not an increase in people coming to the country; it is a shifting of people already in the country from one category to another, from a quasi-legal status category to a legal status category. It does not mean a lot more people coming as immigrants to the United States.

That said and acknowledged—I might add, by everybody who has spoken here today—let us think about the ramifications of the Simpson amendment before us. What that amendment will do is basically preclude others who are not already here from coming in huge numbers and in what I consider to be appropriate priorities, as I said in my last statement. In other words, people who are noncitizens will be able to bring their children to this country and people who are citizens will not be able to bring their children if their children are either married or adults. That will be the ramification, because the use of these 480,000 visas that are part of this amendment will be exhausted by the first categories of the relatives; that is, spouses and minor children of U.S. citizens and permanent resident noncitizens.

In short, we will be placing priorities, in my judgment, in the wrong bay. We will be giving the children of citizens a lower priority than the children of noncitizens. We will be giving the children of citizens a lower priority than the children of people who came here as illegal immigrants. We will be giving children of U.S. citizens a lower priority simply because of making a paper transaction in the status of folks who are already in the country. That, in my judgment, is not the way we should be dealing with legal immigration issues.

I also point out that the impact of this is really quite profound. We are talking about, I think, turning away from in many ways, really, the historic basis on which this country was built. Legal immigrants, the children of U.S. citizens, have been great contributors to this country. They have come here and made contributions. Literally hundreds of this Nation's Medal of Honor winners were legal immigrants. Hundreds of people who make contributions in the sciences, high-tech industries, and so on, and built our great cities are the children of legal immigrants. This amendment will basically shut the door on them—those children of legal immigrants who are not minors.

Much has been made of this distinction between minors and so-called adult or married children, that somehow they are no longer part of the nuclear family. Maybe that is true for some families in this world, but it is certainly not the case in my mind. It is not the case for the Senator from Ohio, as he pointed out. I do not think it should be the policy of the U.S. Government to distinguish in that fashion. I think that would be a huge step in the wrong direction.

So, Madam President, I stress that the priorities in the Simpson amendment in terms of who has access to immigration are wrong. Even if you think there should be changes in legal immigration, these are not the priorities that we should establish.

Let me now move on to the point that I made a little earlier in a little different way. The complexities of

these issues, the sorting out of what ought to be the priorities, the sorting out of what ought to be the method by which people gain legal access to the country ought not be dealt with in this type of vacuum, ought not to be dealt with as an amendment to the illegal immigration bill.

This Senate should focus—and I would be perfectly happy to have the comments made by an earlier speaker—I would be happy to have the legal immigration at the desk be brought up for full consideration and passed. But let us deal with these issues in their totality, not a small part of them. I think that approach is the wrong way to go.

That is why we, from the beginning of this discussion in the Judiciary Committee, urged that these issues be divided. It is how the House did it. It is how the Judiciary here did it, both in the full committee and in the subcommittee, and that is how the full Senate ought to do it as well.

Finally, we should not lose sight of the fact that countless organizations and groups who represent the most directly affected in all of this strongly believe in maintaining the separation.

It is interesting to note the many organizations that share this opinion: The American Electronics Association, American Council on International Personnel, the American Business Software Alliance, the Electronic Industries Association, the National Association of Manufacturers, the U.S. Chamber of Commerce, the Information Technology Association of America.

They believe we should not try to merge these issues of legal immigration into the bill before us, the bill on illegal immigration. Their opinion is the same whether the amendment is one pertaining to business immigration or an amendment, as the current one is, that pertains to family immigration.

They believe we should continue the distinction we have made here all the other times we have considered immigration questions, and separate these legal immigration issues that are very weighty and very complicated from issues of illegal immigration, which are equally complicated and weighty. And that I strongly urge, Madam President, be the approach we take today.

I am perfectly willing to have Senator SIMPSON's proposals and the proposals to be offered later by Senator FEINSTEIN, from California, on legal immigration debated fully here the way that we did in committee along with the rest of the issues that are all around legal immigration.

That is the way we should proceed. I do not fear that debate, and I suspect a bill such as was the case in the Judiciary Committee can be passed, but the sequence ought to be illegal immigration is the top priority. We have a good bill. Let us pass it and conference it with the House bill that is already out there on this topic, and then let us bring legal immigration from the desk to the floor and have at that issue as well.

I know the Senator from Wyoming would like to speak, and there is one other Senator on the way here, so I am going to yield the floor at this time.

I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I believe Senator GRAMM is coming to indicate his support against the amendment so we certainly will withhold. I just want to say to my friend from Michigan, I think what happens in issues like this is you establish a degree of trust. You may have your own views, but we do not lay snares on each other. That is a very important part of legislating—to establish trust, and then you get in there and belt it around and then you move on. That is what I do and have always done in 30 years of this work. I have been in some that are much, much more intense than this particular one.

However, I do have to comment on the one thing that keeps coming back like a theme.

Oh, then I wanted to say that there is one group the Senator left off of that list, the American immigration lawyers. You would not want to leave them off the list. They have messed up more legislation in this area than any living group, and they will continue to do it forever. This is their bread and butter. The bread and butter of the American immigration lawyers is confusion. And when you try to do something, you use families, children, mothers, sons and daughters, and violins. That is the way they work, but they never give us many other options, nor do the opponents ever give us many options.

What priorities would you, I say to the opponents, like to take away if you do not raise the numbers? If you do not raise the numbers, what priorities of the preference system would you reduce? You cannot have it both ways. It cannot be. That is really one of the big issues.

Then the argument is we need to separate legal and illegal immigration because legal immigration reform is so important that it deserves our full and separate consideration on the Senate floor. That is the theme of all of those who are opposed to this amendment.

It is curious, very curious, that many, in the House at least, who support no benefits at all for permanent resident aliens, none, are talking about that as if it were separate and apart. I do not see how that can be. You are talking about permanent resident aliens. That means you are talking about illegal immigration and legal immigration. You cannot separate them.

It is a purpose of the original measure—and I compliment those who created this remarkable—not the Senator from Michigan. Some of the think tanks, whoever, some of the Government reps. Give them the credit. When you see it work, give them the credit. I compliment them on that issue because here we are—and this is the curious part. They say out there, down the street, wherever they are, in support of the argument, that the House voted to divide the legal and illegal issues. That is very true. The House voted to split their bill, and I assume the same arguments were made about the importance of legal immigration and the need to deal with that separately.

What actually occurred in the House is quite instructive. Legal immigration in the House is dead—dead. That is exactly what the message was in the House—dead. It will never get the careful and separate consideration that this body wishes to give to the issue—period. That is exactly what many of those who complain about combining the issues want—death. They want to kill legal immigration in all of its reforms, in every form of reform as suggested by the Commission on Immigration Reform. They want to kill legal immigration reform in any form, in any incubation, in any rebirth, in any form in the Senate just as it has happened in the House. They do not want a reduction of numbers. They do not want reform of the priorities. They want death, and that has worked very well in the House.

In the Senate, I appreciate the remarks of those in opposition because they are telling me they want a separate and careful consideration. I think that is great. I am going to wait for that. I am waiting for the separation. I will wait after this bill is finished to hear the separate and careful consideration of legal immigration. It is very pleasing to me to know that we will have that debate, I take it. I am overjoyed. Perhaps we can work out a time agreement. Perhaps we can work up the amendments. I would certainly drop away from some of the things. But to know that these things should be separated and to know with a heartening of my bosom that we will have that separate and careful consideration of legal immigration, that will be a very appropriate response at some future time. I think that all of us then will be looking forward to that because we know that in the House it was simply the death knell, and to hear it is not here is quite heartening.

I thank the Chair.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I would like to reiterate the sincerity of my comments with respect to having the legal immigration bill considered separately. I was under the impression—during the April recess, in fact. I was approached, I know, by the majority leader and asked if that was an acceptable approach. I know that the people who are here today arguing that these issues be maintained separately, approved and signed off and said they were fully supportive of having that bill come to the floor.

It was my understanding that the Senator from Wyoming had opposed that, and so I am a little bit uncertain right now exactly what did happen a couple of weeks ago. But I would just reiterate, from my point of view, our sincerity, and I guess my understanding was that a proposal to bring the legal bill to the floor had been rejected by the chairman of the Immigration Subcommittee.

Maybe I got the wrong story, but it is my understanding that offer was already extended and rejected. That is why, instead, we are here today trying to merge these issues, notwithstanding the fact that the House sought to split them, notwithstanding the fact that the Senate Judiciary Committee sought to split them. But I will reserve further comments for the moment. I see other speakers here.

Mr. SIMPSON. Madam President, I appreciate that.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I guess I remain somewhat skeptical—not of the Senator. Of course there is no House conference, but we will hold the debate. I think that is good. It will be good for America. I yield to the Senator from Texas—I yield the floor.

Mr. GRAMM addressed the chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I rise in opposition to the pending amendment. There is something in American folklore that induces us to believe that America has become a great and powerful country because brilliant and talented people came to live here. There is something in the folklore of each of our families that leads us to believe that we are unique. We all have these stories in the history of our families, of how our grandfathers came here as poor immigrants who did not speak the language.

I love to tell the story of my wife's family. My wife's grandfather came to America as an indentured laborer, where he signed a contract to come to America with a sugar plantation where he agreed to work a number of years to pay off that contract. And, when he had worked off that contract, he looked in a picture book and picked out the picture of a young girl and said, "That's the one I want." And he tore that picture out of the book and sent for her to come to America to be his wife.

His son became the first Asian American ever to be an officer of a sugar company in the history of Hawaii. And his granddaughter—my wife—became Chairman of the Commodity Futures Trading Commission which, among other commodities and commodity futures, regulates the market for cane sugar in the United States of America.

I could have told much the same story about Spence Abraham, and about his grandfather coming to this country, and about my own grandfather, who came from Germany. But the point is, each of us in our own family has a folklore that basically tells a story, and the story is partly true but it is not totally true.

Folklore holds that America became a great country because of us: that America is a great and powerful country because these brilliant people from Lebanon and from Korea and from Germany and from everywhere in the world came to live here and their innate genius made America the richest, freest and happiest country in the world.

And because we believe that, we believe that America became great because we were unique and this miracle only worked for us, but it is not going to work for other people; that is, if people come here and they look different than we do or they sound different than we do or if their customs are different than ours or if their native clothing is different than ours, somehow they are different where we were unique and made America great by our coming, they are "different" and it will not work on them. That is a myth, and this amendment is based fundamentally on a belief in that myth.

America is not a great and powerful country because the most brilliant and talented people in the world came to live here. America is a great and powerful country because it was here that ordinary people like you and me have had more opportunity and more freedom than any other people who have ever lived on the face of the Earth. And, with that opportunity and with that freedom, ordinary people like us have been able to do extraordinary things.

While it is somehow not so reassuring about ourselves to say it, it is very reassuring about our country to know it. Most of us would be peasants in almost any other country in the world. We are extraordinary only because our country is extraordinary.

Now, with the best of intentions, this amendment says that we have immigrants coming to America and by getting here and getting a foothold and getting a job and building a life, that they are reaching out as each of us would do if we came from somewhere else, and they are trying to bring their mama and their daddy and their sisters and brothers and their cousins and their aunts to America. So what?

Let me just take that one point and develop it for a moment, if I may. Of all immigrant groups in America, to the best of my ability to ascertain, the identifiable group that uses things like the fifth preference in the immigration laws, the people who are the most focused on their extended family, the people, as immigrants to America, who have reached out the most to try to bring their families to America, are people who are from the Indian subcontinent.

Probably more than any other immigrants, at least if one looks at the use of things like the fifth preference—and I am not an expert in this area, but a fifth preference is a preference where you are trying to bring somebody in who is not, by the conventional definition, that close kin—this is a group that has used this provision of law that this amendment tries to reduce.

Let us look at a subsample of this group—Indian Americans. No. 1, of all identifiable ethnic groups in America, Indian Americans have the highest per capita income. Some people might find that shocking. The average Indian American in this country makes more money than does the average Episcopalian—which, if you break down by religious groups, is the highest income group in America. The average Indian American makes substantially more money than the average American who traces his or her lineage back to Great Britain. Madam President, 50 percent of all motels in America are owned by Indian Americans. In fact, 80 percent of them have the same family name. If you go to a hotel and you see an Indian American working there, and the chances are you are going to, and you want to guess at his name or her name, say, "Mr. or Mrs. Patel," and you are going to be right 80 percent of the time. Now, this is not the same family, but it is a very common name.

The point being, why in the world are we trying to keep out of America an ethnic group that has the highest per capita income and the highest average education level in the country? It struck me as I was walking over here for this debate, I was talking to my youngest legislative assistant, named Rohit Kumar, Indian American, honor graduate from Duke University, that his family story is a perfect example of why we ought to crush this amendment. Let me just tell his family story.

His father and mother came to this country in 1972. They did not come on any kind of family preference. They were original immigrants. They both became medical doctors.

They then started the process of bringing their family to America. They brought their brother. He became a doctor. In fact, he is an oncologist in northern California. He brought his wife, who became an interior designer. They brought their nephew, who is a computer engineer. And they brought their father.

My point is, and I am a conservative as many of you know, but if we add up the combined Federal income tax that was paid 10 days ago by the people who came to America as a result of this first Kumar who came in 1972, this little family probably paid, at a minimum, $500,000 in taxes. Our problem in America is we do not have enough Kumars, working hard and succeeding. We need more.

Why do we want to stop this process? We want to stop it because somehow we believe that people are changing America instead of America changing people. We could have had this debate in the early 1900's. In fact, my guess is if we went back somewhere, we would find we did have the debate, because in

Mr. SIMPSON. Let me say, Mr. President, to my friend from North Carolina, it is perfectly appropriate with me that every succeeding vote will be 10 minutes in duration. But I have a bit of a problem with regard to the amendment, the first amendment of Senator FEINSTEIN. One of our Members who would like to speak on that issue has been a great supporter of the amendment as it left the Judiciary Committee, and so I would ask that that simply not be part of the vote, and it is not. We were going to possibly accept that, but there will be further debate on that at least from one Member on our side.

So we will have four amendments to vote on so that our colleagues will know the lay of the land. The first amendment is a Kennedy amendment to determine work eligibility of prospective employees. The second is a Simon amendment to adjust the definition of "public charge." The third is to allocate a number of investigators with regard to complaints.

Now, that one we may get taken care of with a colloquy.

And then the fourth one, and I would ask unanimous consent that a vote occur with respect to the Feinstein amendment No. 3776 last in the sequence under the same terms as previously entered.

The PRESIDING OFFICER. The Chair would ask the Senator from Wyoming to withhold the unanimous-consent request until we act on the unanimous-consent request of the Senator from Massachusetts.

Does the Senator from North Carolina object?

Mr. HELMS. I will object unless it is made clear in the unanimous-consent request that the first vote be 15 minutes and the succeeding three be 10 minutes each.

Mr. SIMPSON. Mr. President, I would certainly add that.

Mr. HELMS. Very well. In that case, I have no objection, Mr. President.

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

Mr. SIMPSON. Mr. President, we move fast. Let me just say that if someone on the other side of the aisle were late for the first 15-minute vote, it might be a problem. It is not to me. But let the record show that there is also 2 minutes equally divided on each of these amendments, so that our colleagues will be aware of that.

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

Mr. KENNEDY. Mr. President, have the yeas and nays been ordered on 3816?

The PRESIDING OFFICER. Yes, they have been ordered.

VOTE ON AMENDMENT NO. 3816

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3816. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—32

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Inouye	Pell
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—67

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Baucus	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Boxer	Gregg	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Roth
Burns	Helms	Santorum
Campbell	Hollings	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Levin	Thurmond
Domenici	Lieberman	Warner
Exon	Lott	Wyden
Faircloth	Lugar	
Feinstein	Mack	

NOT VOTING—1

Cohen

So the amendment (No. 3816) was rejected.

AMENDMENT NO. 3809

The PRESIDING OFFICER. On amendment No. 3809, there will now be 2 minutes for debate equally divided.

Mr. SIMPSON. May we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SIMPSON. Mr. President, so that our colleagues will know the procedure and the schedule, we have three amendments with a 10-minute time agreement. One of those may be resolved within a few minutes. So the maximum will be three, unless the leader has something further. The minimum will be two.

Mr. President, now we are on the Simon amendment No. 3809 with 1 minute on each side. I yield to my friend, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. This is an amendment, my colleagues, that conforms the Senate bill to the House bill for the basis

legal immigrant, has $10,000 or $15,000 and the sponsor has $30,000, you are still eligible under the Stafford loan program for a Stafford loan and to repay it.

The way I read this, it talks about "for purposes of subparagraph, the term 'public charge' includes any alien who receives benefits under any program described in paragraph D for an aggregate period of more than 12 months."

Then it describes the program. In line 18 it says, "* * * any other program of assistance funded in whole or in part by the Federal Government."

Stafford loans are. That individual may have a higher rate of repayment, be able to get a smaller loan but still would get some kind of public help and assistance, because education loans are not considered to be welfare. The idea is individuals will pay that back. So they can conform with the provisions of the assets of both of them and still, as the Senator points out, receive that and under this be subject to the deportation, the way I read it. I think the Senator from Illinois has a balanced program here, and I hope that it will be accepted.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I do not want to postpone this much longer. Let us just say Christopher Reeve was a sponsor, and he went through this devastating accident. Let us say the people he sponsored live in Oklahoma in a rural community and they take advantage of transportation for the elderly and the disabled. Under this proposal, without my amendment, they can be deported.

I do not think that is what the American people want. I do not think that is what the U.S. Senate wants. I really do not believe even my good friend, ALAN SIMPSON, wants that, upon greater reflection. I hope we will conform the language to the way it is in the House and say on the six programs—AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance—if they take advantage of these programs for a year, then they can be deported. That is even harsher, frankly, than I would like, because I think there will be some circumstances that are unusual.

To just say sweepingly for any kind of Federal program you can be deported, like the Stafford Loan Program, I think is a real mistake. I hope the Senate will accept my amendment.

Mr. SIMPSON. Mr. President, I am going to leave it at that. I am using precious time, but I will just say that all these things do not take place, all these horrible things, little old ladies, veterans, people. Nothing here takes place if there is a sponsor who stepped up to the plate and said, "I'm going to take care of this person, I vow that, I promise that."

So anything means tested we are simply saying the assets of the sponsor become the assets of the immigrant. If you wish to allow newcomers to come here spending more than 20 percent of their time on public assistance during the first 5 years after entry, that seems quite strange to me when people are hurting in the United States. That is where we are.

I thank the Chair.

Mr. KENNEDY. Mr. President, can we just review where we are? We have all received a lot of questions about the order. It was my understanding that we had the labor enforcement amendment and the intentional discrimination amendment. I think we are very close to working out language of the labor enforcement provisions. I hope that we will be able to do that.

We have the intentional discrimination amendment, which I hope we can in a very brief exchange dispose of, in terms of the time factor. So we might be able to do that.

The Simon amendment on public charge, do we feel we are finished with that debate? That is another item. I do not know what the other Simon amendment is, whether that is going to be brought up. Or is that in line?

Mr. SIMON. Whatever. We can bring it up tonight. It should be debated very briefly.

Mr. SIMPSON. Mr. President, if we could perhaps deal with the intent standard language, which we had discussed earlier, I maybe have another 5 minutes or so on that. And then Senator FEINSTEIN.

Mr. KENNEDY. Then we can do Senator FEINSTEIN's amendment and see if it is possible—I do not know what the length of it is—maybe it is possible to add that on as well. Maybe it will not be.

Mrs. FEINSTEIN. Very short.

Mr. KENNEDY. That will be what we will try, so Members will have an idea of what we are going to do, if that is agreeable. I will just talk very briefly.

Mr. SIMPSON. Mr. President, can we say then, at least for the purposes of those of us here debating, that we close, informally close, the debate with regard to the Simon amendment, and maybe in a few minutes close debate with regard to the intent standard and maybe perhaps be in a position to have four or five votes which should satisfy all concerned?

Mr. KENNEDY. That would be fine.

Mr. SIMPSON. Would that not be a joy?

Mr. KENNEDY. Would that not be, and then we look forward to tomorrow.

Mr. President, I will just take a brief time with regard to the amendment on discrimination and, hopefully, we will be able to get it worked out.

Let me just ask then, before we do that, on the labor provisions, on line 6, if we strike "or otherwise" and put in there "based on receipt of credible material information," does that respond to the principal concerns? I thought that might have been worked out with your staff.

Mr. SIMPSON. I am not aware of that, Mr. President, but I will certainly inquire.

in the past, I think, year as being a public charge. This is despite the fact that research shows more than 20 percent of immigrant households are on welfare—households, not individuals. So the committee bill restored the public charge deportation. The bill already includes provisions to respond to concerns of some on the other side of the aisle. We have not destroyed the safety net. A generous safety net is provided for immigrants who must use more than 12 months of public assistance within the first 5 years of entry before becoming deportable as a public charge.

This new provision for public charge deportation is entirely prospective. It is not applicable to anyone who has already emigrated to the United States. Only those who come in the future will be affected.

And the Simon amendment permits future immigrants to receive any amount of assistance from Federal, State and local governments, as long as the newcomer avoids six major welfare programs. Newcomers would be able to access almost all noncash welfare programs for the entire time they are in the United States, without ever being deportable as a public charge. That is contrary to the stated national policy that no one may immigrate if he or she is likely to use any needs-based public assistance.

I know my friend from Illinois so well, after 25 years, nearly, of friendship. And know in each occasion that he speaks it is in the finest of intent and compassion and caring. This is one of those. But a deal is a deal. If you come here as a sponsored immigrant and somebody says we are not going to let this person become a public charge, that is it. You make a person do what I know the Senator from Illinois would like to do: If you have the bucks, you keep your promise. And the promise is they not become a public charge. And, if the sponsor cannot meet the debts and goes broke, cannot cut it anymore, then we pick up the slack as taxpayers. But why on Earth would we take up the slack on any kind of issue when they said: This person, I promise by affidavit of support, will not become a public charge? I would resist the amendment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Illinois.

Mr. SIMON. Mr. President, the Senator from Wyoming is correct. It was not "OK," he was scribbling there.

We do not do anything about the deeming requirements here. What we are simply saying—and I would add the administration supports this amendment—what we are simply saying is that there are going to be programs that people may be taking advantage of, that are available, with no knowledge it could be a basis of deportation. Let me give an example. In rural Illinois—my guess is in rural Minnesota, rural Massachusetts and Wyoming too—there are transportation programs available for the elderly and the disabled. Under this amendment, if somecne takes advantage of those programs for 1 year, that is a basis for deportation. That is crazy. You know, if you have a child in Head Start you can be deported. Maybe a spouse abuses someone and they go to legal aid. If they get legal aid they can be kicked out of the country, for getting legal aid.

I just think we have to be reasonable. I think the House language takes care of the big program. I know my friend from Wyoming agrees on this, the big program of abuse overwhelmingly is SSI. In addition to SSI, it has AFDC, food stamps, Medicaid, housing, and State cash assistance.

I think this amendment makes sense. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. May I inquire of the Senator, ask a question?

Mr. SIMON. I will be pleased to yield.

Mr. KENNEDY. Mr. President, we had some debate and discussion about education earlier in our amendments. Is the Senator saying if you have a legal immigrant and that legal immigrant is going to take advantage of a Pell or a Stafford loan, and that person goes to the sponsor and they find out that they are still eligible for that loan, so they are playing by the rules—they waited their turn, 76 percent of those are members of American families, so they have been deemed and they go in—and then they take that Stafford loan, for example, for a year, that that subjects that person to deportation?

Mr. SIMON. The Senator from Massachusetts is absolutely correct. These people are preparing themselves to be productive citizens and all of a sudden, because they are preparing themselves, they can be deported. If they are under a JTPA program they can be deported.

Mr. KENNEDY. This is even after we have had a good deal of discussion. I think for the benefit of most Members here—they felt: OK, they should be deemed, in terms of the sponsors. And even if they play this by the rules, they waited their turn to get in here, they are rejoining their families, they get accepted into the universities and college in the Senator's State, they run through the process of checking their sponsors to deem their income to theirs and they are still qualified for a Stafford loan, they take that loan to improve themselves and they take that for 1 year, then it is your understanding that under the Simpson proposal that that individual is subject to deportation?

Mr. SIMON. That is correct. And it just makes no sense whatsoever. The sponsors may very well have had a medically devastating problem that just wiped them out. So the person who is here legally is eligible for these programs and we ought to be assisting them.

Here, let me just remind everyone again, legal immigrants take advantage of these programs, with the exception of SSI, less, as a percentage of the people, than native-born Americans. So I would hope we would use some common sense here and accept this amendment.

Mr. SIMPSON. Mr. President, I feel like somehow I have spoken on this, I think, probably 10 times today, and I am using up my precious time. Let us, if we can all understand this—maybe I do not understand, which would not be the first time, but I think I do.

We are not talking about the poor and the wretched and the ragged here, and people being taken advantage of. We are talking about people who are here under the auspices of a sponsor, a sponsor who signed up and said: I promise that this person will not become a public charge. That is who we are talking about.

If a person is as ragged as I have heard in the last 15 minutes, cannot do this, cannot do that, stumbling around—those people are taken care of under the present law. We are talking about a person who is here under the good faith and auspices of a sponsoring person. We are not talking about anything that is not means tested. Anything that is not means tested somebody is going to get. We are talking about, when you line up for whatever it is—Stafford or Pell, whatever it is, that is means tested and you line up and say, "Here I am. I need this program." And they are going to ask you, "You are an immigrant and you have a sponsor. What assets does your sponsor have?" And then they are going to say, "Those assets are deemed to be your assets for the purpose of receiving this means-tested grant." And all we are saying is the sponsor is going to be responsible before the taxpayer is responsible. There is no mystery to this. This is not some strange thing where we are pulling the rug out from under people.

They say why do we do this with legal and not illegal? Illegal immigrants receive the benefits that I have discussed: WIC, emergency medical assistance, immunization. And why? Because they are here and we want to take care of them so they do not become sick and so on. We know that.

Then the argument is why do legal persons not get the same benefits that the illegal get? The reason is simple beyond belief. It is because a sponsor, who had enough assets and resources to take care of them, promised to do so. And should. And there is no reason on God's Earth, why the taxpayer should have to pick it up, unless the sponsor cannot cut the mustard anymore, has died, is bankrupt. And we have in the bill: Under those conditions the taxpayers will pick up the slack.

Mr. KENNEDY. Mr. President, could I ask the Senator from Wyoming: You can be eligible for Stafford loans up to $60,000 if you have three kids in school.

Now, you mean to tell me that if that person, say that individual who is the

AMENDMENT NO. 3809

Mr. SIMON. Mr. President, I should like to call up 3809. It has already been offered but it was set aside.

The PRESIDING OFFICER. The amendment is now pending.

Mr. SIMON. What this does is to change the basis for deportation from the Senate language to the House language. The Senate language, frankly, is so wide open in terms of deporting people. For example, someone who is a legal immigrant, who receives higher education assistance, or, Mr. President, someone in the State of Minnesota who would not be aware of it and got job training assistance under this amendment, unless it is changed, that person could be deported for getting job training assistance—someone who is here legally, going to become a citizen. I just do not think that makes sense. If they have a child who gets Head Start, that can be a basis.

So what we ought to do is do as the House did. Frankly, that is still pretty sweeping. AFDC, SSI—and the SSI program is the one that is abused. I think all of us who have been working in this area know this is the area of great abuse. Overall, those who come into our country who are not yet citizens use our welfare programs less than native-born Americans percentagewise. But limited to AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance. This is the language on the House side.

I think it makes just an awful lot more sense. If someone, for example, gets low-income energy assistance in the State of Minnesota, that would be a basis for deportation the way the bill reads right now. I do not think you want that. I do not think most Members of the Senate want that.

So that is what my amendment does. I think it makes the legislation a little more sensible, and I hope that my colleague, who is, I see, scribbling very vigorously over there, is scribbling the word "OK" and that he would consider accepting this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I was not scribbling the word "OK" on this document, this tattered amendment here.

I oppose the amendment. I feel this amendment will create a very large loophole in our Nation's traditional policy that newcomers must be self-supporting. Under the bill, of course, an immigrant is deportable as a public charge if he or she uses more than 12 months of public assistance within 5 years after entry.

All of the means-tested programs, means-tested welfare programs—SSI, public housing, Pell grants—count toward this 12-month total for deportation. An exception is provided only for those programs that are also available to illegal aliens —emergency medical services, disaster relief, school lunch, WIC, and immunization.

Under the House bill, only certain programs make the immigrant subject to public charge deportation, and those programs are SSI, AFDC, Medicaid, food stamps, State cash assistance, and public housing.

The Senator's amendment would limit the public charge programs to the same welfare programs as the House bill but all others would not be included—and that would be Pell grants, Head Start, legal services, noncash—in determining whether an alien should become a public charge.

I remain quite unconvinced why any newcomer should be able to freely access the majority of Federal noncash welfare programs within the first 5 years after entry, given that all aliens must promise not to become a public charge at any time after entry. It seems most inappropriate to exclude most noncash welfare from counting against the newcomer.

I oppose it. Our Nation's laws since the earliest days have required new immigrants to support themselves. The first time was in 1645. Massachusetts refused to admit prospective immigrants who had no means of support other than public assistance. That was in 1645 in the State of our Democratic leader of this legislation.

In 1882, we prohibited the admission of any person unable to take care of himself or herself. We know those things. I keep repeating them. Likely to become a public charge, section 212 of the immigration law always saying that those who become dependent on public assistance may be deported. So not only would the immigrant not only promise to be self-sufficient before receipt of an immigrant visa, but he or she should remain self-sufficient for any appropriate period after arrival. We set that period.

Where all this came about is in a 1948 decision by an administrative judge within the Justice Department. Various administrative judges made it virtually impossible to deport newcomers who became a public charge. Under the current interpretation of the law, the Government has to show, one, the alien received the benefits; two, the agency requested reimbursement from the alien; and, three, the alien failed or refused to repay the agency.

The decision has rendered this section of the law virtually unenforced and unenforceable, and, as Senator DOMENICI said, we have deported 13 people

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments en bloc (Nos. 3855, 3857, 3858, 3859, 3860, 3861, and 3862) were agreed to.

Mr. SIMPSON. Mr. President, just to review the matter at this time, the clock is running on the 30 hours. There are many amendments filed and few people to come to present them. That is usual procedure. We do not want to inconvenience people.

There are several amendments. Senator KENNEDY, I believe, does the desk reflect that there are two amendments of Senator KENNEDY that are pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. Two total?

The PRESIDING OFFICER. That is correct.

Mr. SIMPSON. Then there are two of Senator SIMON, one of Senator SHELBY. Are those at the desk or have they been presented?

The PRESIDING OFFICER. There are several Simon amendments at the desk.

Mr. SIMPSON. We can proceed with the Simon amendments, discuss those, debate those, and see if we can process those this evening.

I would like to get a time agreement if at all possible. We are trying to give our colleagues some indication as to the requirements of their preparation here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Is that the regular order?

The PRESIDING OFFICER. It is the pending business.

Mr. SIMPSON. Let me just briefly and in 1 minute tell you what we have done. In this amendment, we provide that the new counterfeit and tamper-resistant driver's license in the bill, whatever they are, whatever State, will be phased in over 6 years, and the new standards will apply only to new, renewed or replacement licenses—not something issued 10 or 20 years before.

After this change, the bill will no longer be an unfunded mandate. CBO has an estimate after total State and local cost of driver's license and birth certificate improvements, finding it to be $10 to $20 million spread over 6 years. New minimum standards on birth certificates go into effect only after the Congress has had 2 years to review them, and cannot require all States to use a single form.

I talked to the manager of the bill and will now urge the adoption of the en bloc amendment by voice vote.

Mr. President, the amendment would phase in the bill's requirements for improved driver's licenses and State-issued I.D. documents over 6 years, beginning October 1, 2000—the year suggested by the National Governors' Association.

Under my amendment, the improved format would be required only for new or renewed licenses or State-issued I.D. documents, with the exception of licenses or documents issued in one State where the validity period for licenses is twice as long—12 years—as that in the State with the next longest period. This one State would have 6 years to implement the improvements.

Furthermore, the bill's provision that only the improved licenses and documents could be accepted for evidentiary purposes by government agencies in this country would—under the amendment I am now proposing—not be effective until 6 years after the effective date of this section, October 1, 2000. By this time 49 of the 50 States will have the new licenses and I.D. documents without any requirement for early replacement. In one State, some individuals wanting their license to be accepted by governments for evidentiary purposes would have to renew earlier than would be required without enactment of the bill, but would still have more time—6 years—than every other State except one, which would also have 6 years.

Thus, the amendment would mean that 6 years after the general effective date for this subsection of the bill—October 1, 2000—the improved licenses would have completely replaced the old ones and would be required for evidentiary purposes in all government offices.

Mr. President, I want to remind my colleagues that fraud-resistant I.D. documents will not only make possible an effective system for verifying citizenship or work-authorized immigration status—and thus greatly reduced illegal immigration. The improved documents will also make possible an effective system for verifying immigration status for purposes of welfare and other government benefits—resulting in major saving to the taxpayers. Additional benefits to law-abiding Americans would come from reduced use of fraudulent I.D. in the commission of various kinds of financial crimes, voting fraud, even terrorism.

My amendment is a response to the Congressional Budget Office's estimate of the cost of the bill's current requirement that improvements in driver's licenses and I.D. documents be implemented October 1, 1997.

If the amendment is adopted, the additional cost of replacing all licenses and I.D. documents by 1998, including those that would otherwise be valid for an additional number of years would be eliminated. Instead of costing $80 to $200 million initially, plus $2 million per year thereafter, CBO estimates that the total cost of all the birth certificate and driver's license improvements would be $10 to $20 million, incurred over 6 years.

CBO has written a letter confirming that fact.

Mr. President, with respect to birth certificates, the bill now requires that, as of October 1, 1997, no Federal agency—and no State agency that issues driver's licenses or I.D. documents—may accept for any official purpose a copy of a birth certificate unless (a) it is issued by a State or local government, rather than a hospital or other nongovernment entity, and (b) it conforms to Federal standards after consultation with State vital records officials. The standards will affect only the form of copies, not the original records kept in the State agencies.

The new standards will provide for improvements that would make the copies more resistant to counterfeiting, tampering, and fraudulent copying. One important example: the use of "safety paper," which is difficult to satisfactorily photocopy or alter.

There is no requirement in the bill that all States issue birth certificate copies in the same form. But in response to concerns that some have expressed, the amendment I am now proposing explicitly requires that the implementing regs not mandate that all States use a single form for birth certificate copies, and requires that the regs accommodate differences between the States in how birth records are kept and how certified copies are produced from such birth records.

The bill provides that the regulations are to be developed after consultation with State vital records officials. Therefore, the differences between the States in how birth records are kept and how copies are produced will be fully known and accommodated by the agency developing the regulations.

Mr. President, my amendment also requires a report to Congress on the proposed regulations within 12 months of enactment. In addition, the amendment provides that the regulations will not go into effect until 2 years after the report. This will give Congress plenty of time to consider the report and take action, if necessary, to prevent implementation of the regulations.

The amendment also provides for a number of other changes suggested by HHS in a written comment sent in March, during the Judiciary Committee markup process:

First, the implementing regs will not necessarily be issued by HHS, but by an agency designated by the President—and the agency developing the regs must consult not only with State vital records offices, but with other Federal agencies designated by the President.

Second, in the description of the standards to be established in the regs, the reference to "use by imposters" will be deleted and replaced by the phrase "photocopying, or otherwise duplicating, for fraudulent purposes." This change makes clear that there is no longer any requirement in the bill for a fingerprint or other "biometric information."

Third, funding is authorized for the required HHS report on ways to reduce fraudulent use of the birth certificates.

Fourth, the definition of "birth certificate" is modified to cover not only persons born in the United States, but also persons born abroad who are U.S. citizens at birth—because of citizenship of their parents—and whose birth is registered in the United States.

Fifth and finally, the effective date for the provisions relating to the new grant program for matching birth and death records and the requirement that the fact of death—if known—be noted on birth certificate copies of deceased persons will be 2 years after enactment rather than October 1, 1997.

These modifications represent most of the changes suggested by HHS.

Mr. President, back to the subject of driver's licenses: There is a technical correction that needs to be made to the grandfathering provision in the driver's license section of the bill. This grandfathering provision is one that my colleague, Senator TED KENNEDY, and I agreed to at the Judiciary Committee markup.

The agreement was that States would be exempted from the bill's requirement that State driver's licenses and I.D. documents contain a Social Security number, if—at the time of the bill's enactment—the State requires that applicants submit a Social Security number with their application and that a State agency verify the number with the Social Security Administration—but does not require that the number actually appear on the license or document.

This agreement is not reflected in S. 1664 in its present form. The amendment I am proposing will correct that.

Mr. SIMON. Mr. President, these amendments are acceptable on our side. We support them.

CRIMINAL ALIEN TRACKING CENTER

Mr. LEAHY. Mr. President, yesterday, the Senate approved an amendment that Senator HUTCHISON and I offered to bolster one of the strongest tools local and State law enforcement agencies have to identify and deport criminal aliens in our country. The Criminal Alien Tracking Center—also known as the Law Enforcement Support Center [LESC]—is the only online national data base available to local law enforcement agencies to identify criminal illegal aliens. I am proud that this facility is located in South Burlington, VT.

Our amendment will increase the authorization for the LESC in recognition of the need to bring additional States online as well as expand the scope of the work being done at the tracking center. President Clinton recently signed the Terrorism Prevention Act into law. The bill identified how important the Tracking Center has become and proposed that the Center become the repository for an alien tracking system.

Even before these additional responsibilities, the LESC staff in Vermont had demonstrated that the Center is a valuable asset and essential to our national immigration policy. The Center provides local, State, and Federal law enforcement agencies with 24-hour access to data on criminal aliens. By identifying these aliens, LESC allows law enforcement agencies to expedite deportation proceedings against them.

The Center was authorized in the 1994 crime bill. The first year of operations has been impressive as the 24-hour team identified over 10,000 criminal aliens. After starting up with a link to law enforcement agencies in one county in Arizona, the LESC expanded its coverage to the entire State. In 1996, the LESC is expected to be online with California, Florida, Illinois, Iowa, Massachusetts, New Jersey, Texas, and Washington.

The Tracking Center has become the hub at INS for seamless coordination between Federal, State, and local authorities. I would suggest to Commissioner Meissner, that the facility become the national repository for all INS fingerprint records relating to criminal aliens. Information from the fingerprints would be most accessible if the Center stored this information in an AFIS/IDENT data base with a link to FBI data bases.

As a former State's attorney, I also know that even the best tracking system does not work unless there is an adequate system to ensure that criminal files are promptly sent to investigators. That is why it would also make sense to have the LESC serve as the repository for INS A-files related to aggravated felons and aliens listed in the NCIC deported felon file. Locating these files at the Tracking Center will improve their accessibility to INS agents and U.S. attorney offices throughout the United States.

Mr. President, Congress must continue the empowerment of local law enforcement agencies in their efforts to identify criminal illegal immigrants. I am pleased that the Senate approved our amendment, No. 3788, that will increase the authorization for the Tracking Center—a resource every State should have in the fight against criminal aliens. I thank, in particular, the managers of the bill, Senator SIMPSON and Senator KENNEDY, for including these provisions in the manager's amendment.

Mr. KYL. Mr. President, I rise to comment on a provision that is included in the managers' amendment to S. 1664, the immigration reform bill. I am pleased to introduce this amendment, which will require verification of citizenship and/or immigration status for those applying for housing assistance. The applicant will have 30 days to provide proper documentation, or assistance will not be provided; applicants who have failed to provide documentation in that time will be taken off the waiting list. For those who already receive housing assistance, a verification of immigration status may be required at the annual recertification. Annual recertification for housing assistance is already required to determine income levels, and I would urge housing authorities to make good use of this option. If a housing authority requests verification, a household will have a 3-month period to obtain proper documentation or assistance will be terminated. Once the 3-month appeal is exhausted, a hearing may be granted in the fourth month. It is important to note that political refugees and asylum seekers are exempt from my proposal. The amendment I offer today passed the House immigration reform bill unanimously as part of the managers' amendment.

In 1980, Congress passed the Housing and Community Development Act, which included a section prohibiting illegal aliens from receiving Federal housing assistance. In 1995, 15 years after the bill passed, HUD issued regulations to implement the 1980 changes. Its regulations, however, will do little to prohibit illegal aliens from continuing to receive taxpayer-supported housing.

Under current regulations, illegal aliens can be placed on a waiting list and then granted housing assistance without having to provide documentation proving that they are eligible to receive the assistance. If a household is not eligible to continue receiving assistance currently it may appeal the decision in 3-month increments for up to 3 years. That is 3 years of taxpayer assistance for someone who may not be eligible to receive the funds.

In my home State of Arizona, officials of the Maricopa Housing Authority (which is primarily Phoenix) told me that, by their estimates, fully 40 percent of the people receiving housing assistance in Maricopa County are illegal. In Maricopa County, there are 1,334 Section 8 units and 917 public housing units available. The waiting list for units has 6,556 on it. If 40 percent of the current occupants are illegal, that means 900 housing units should be made available to those citizens or legal immigrants waiting their turn.

The problem in Arizona is dramatic; nationwide it is even more dramatic. In his report entitled "The Net National Costs of Immigration," Dr. Donald Huddle of Rice University estimates that the cost of public housing provided to illegal immigrants in 1994 was roughly $500 million.

Even President Clinton acknowledged that there is a problem. When proposing guidelines for public housing this year, he said most public housing residents have jobs and try to be good parents, and, that it is unfair to let lawbreakers ruin neighborhoods, especially since there are waiting lists to get into public housing. "Public housing has never been a right," he said, but rather "it has always been a privilege. The only people who deserve to live in public housing are those who live responsibly there and those who honor the rule of law."

The public housing authorities, of course, are the entities that will have to implement any new policy we enact. I contacted the housing authorities of Tempe, Yuma, Tucson, and Maricopa County. Not one of the housing authorities disagreed with my proposal. They all said that once an applicant or resident checks on an affidavit that he/she is a legal citizen, they are not allowed to pursue the issue. The housing authorities currently only ask for verification of immigration status if the applicant checks that he/she is an immigrant.

This amendment will curb the amount of housing assistance—paid for by taxpayers—going to illegal immigrants. It will return housing opportunities to the people who are here legally. I thank my colleagues for supporting this amendment.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, what is the status of things at the moment? I know that is unfair.

The PRESIDING OFFICER. We have several amendments pending in the second degree. Which amendment would the Senator want to consider?

AMENDMENTS NOS. 3855, 3857, 3858, 3859, 3860, 3861, 3862

Mr. SIMPSON. The amendments have been consolidated en bloc; 3855, 3857, 3858, 3859, 3860, 3861, 3862 all relating to the birth certificate issue and driver's license portion—has my amendment on birth certificates and driver's licenses.

have sponsors that promised to provide support—when many citizens are having difficulty affording the high costs of college. We have already provided exemptions for those students who are in school—they will have no deeming applied to their financial aid. Are we going to educate those who come from around the world—promising never to use public assistance as a condition of coming here—before we provide enough funds to educate all the people who are here right now and who are having trouble with college expenses right now? It seems most puzzling.

I thank the Chair.

VOTE ON AMENDMENT NOS. 3820 AND 3823, EN BLOC

The PRESIDING OFFICER. The question is on agreeing to amendments Nos. 3820 and 3823, en bloc. The yeas and nays are ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—46

Akaka	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Pell
Breaux	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnston	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Snowe
Dorgan	Kohl	Specter
Exon	Lautenberg	Wellstone
Feingold	Leahy	Wyden
Feinstein	Mack	
Ford	Mikulski	

NAYS—53

Abraham	Domenici	Lott
Ashcroft	Faircloth	Lugar
Bancus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Bryan	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thurmond
DeWine	Levin	Warner
Dole	Lieberman	

NOT VOTING—1

Thompson

So the amendments (Nos. 3820 and 3823), en bloc, were rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3822

The PRESIDING OFFICER (Mr. ABRAHAM). The question is now on agreeing to amendment 3822.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are quite prepared to go to a vote on this. We addressed the Senate and had a short debate and discussion earlier today. Effectively, what this is doing is you have deeming for all of the Medicaid programs. What we are doing is carving out three narrow areas: children, expectant mothers, and veterans. There is $2 billion for all of the Medicaid programs. This is $125 million in terms of cost.

For the same reasons we have outlined here, we think that the expectant mothers ought to get the treatment because they are going to have a child that will probably be an American citizen. We think veterans—you have 24,000 veterans that will be under a means-tested program. The reality is those veterans, particularly with regard to prescription drugs, ought to be attended to. Obviously, the emergency kinds of assistance under Medicaid they should be eligible for.

A very narrow carveout. It costs $125 million over the next 5 years as compared to $2 billion. That is effectively what the carveout is.

Mr. SIMPSON. Mr. President, if Senator KENNEDY had an opportunity to address that issue, obviously, I should have the same opportunity. I think all would concur. So I want to have approximately 1½ minutes, whatever that was.

First, let me say the veterans are well taken care of in this country. That one just will not even float. We spend $40 billion for veterans. They have their own health care system. This is another hook. I yield to Senator SANTORUM.

Mr. SANTORUM. Thank you, I say to the Senator.

I just remind Senators that 87 Members of this Chamber voted for a welfare reform bill that passed the U.S. Senate that said all legal-sponsored immigrants receive no deeming. We eliminate deeming. Under the welfare bill we passed there is no deeming. If you are a legal immigrant in this country, sponsored, you are not eligible for welfare benefits until you become a citizen. And 87 Members of the Senate voted for that.

This is a much weaker version. What this keeps in place is a deeming provision that says that you are not eligible for benefits unless your sponsor cannot pay for it. We had no provision like that. There was no fallback. You just were not eligible, period.

Under the Simpson bill we are considering, at least there is a fallback that says if your sponsor can no longer help you, then we will.

So this is a weaker provision under the existing Simpson language than what 87 Members of the Senate voted for previously. So understand that you are falling back already, and those who were support this amendment would be falling back even further from the changes 87 Members voted for.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—47

Akaka	Glenn	Lieberman
Biden	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Bradley	Hatfield	Moynihan
Breaux	Heflin	Murray
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Specter
Feingold	Lautenberg	Wellstone
Feinstein	Leahy	Wyden
Ford	Levin	

NAYS—52

Abraham	Exon	McCain
Ashcroft	Faircloth	McConnell
Bancus	Frist	Murkowski
Bennett	Gorton	Nickles
Bingaman	Gramm	Nunn
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thurmond
DeWine	Lott	Warner
Dole	Lugar	
Domenici	Mack	

NOT VOTING—1

Thompson

So the amendment (No. 3822) was rejected.

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

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. I wonder, Mr. President, if I might have a brief intervention here.

Mr. SIMPSON. That will be on the Senator's hour.

CHANGE OF VOTE

Mr. CHAFEE. Mr. President, on vote 94, the Kennedy amendments Nos. 3820 and 3823 en bloc, I voted "nay," and I would ask unanimous consent that I might be recorded as "yea." That will not affect the outcome of the vote.

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

Mr. CHAFEE. I thank the Chair.

(The foregoing tally has been changed to reflect the above order.)

documents and we are going back to the root causes for those breeder documents, and then we are going to test various kinds of programs in terms of what can be most effective in verifying that it is Americans who are getting jobs and not the illegals.

We are going to have votes on those particular measures. But I am going to stand with the Senator from Wyoming on those measures because they are a key element if we are serious about dealing with illegal immigration. Then there are provisions dealing with the border and Border Patrol and enhanced procedures. All of those, we believe, can be effective in terms of dealing with the job magnet that draws people here.

Our problem is not with the children. Our problem is not with the expectant mothers, the expectant mothers who are going to have children born here and will be Americans. In the current bill, we have said that the mother has to be here for 3 years, so we are not encouraging expectant mothers to come over here and take advantage of the program.

This particular amendment that I have offered says we will make the Senate bill consistent with what has been passed in the House of Representatives on those key elements that primarily affect children, expectant mothers, and are listed and are structured in order to protect community health and public health issues.

That is basically what we are attempting to do with this. This amendment is effectively the identical amendment in the House of Representatives. We want to make sure that we are going to say to legal immigrants—these are people, 76 percent of whom are relatives of American families. All have played by the rules. All of them have waited their turn to get in and be rejoined with their families, all who have been qualified and may have fallen on some hard and difficult times, and what we are going to say is in this very limited area which the Congress has made a decision and determination, we are making these policy determinations not to benefit the child but to benefit Americans.

Do we understand that? These proposals have been accepted in the House of Representatives, and I am urging that they be accepted here because they protect Americans. They should not follow the same deeming requirements as in other aspects of the bill. That is effectively what this proposal does and what it would achieve. I think it is warranted. I think it is justified. We have debated it in our Judiciary Committee, and I hope it will be accepted.

Mr. PELL. Mr. President, I rise today to speak on behalf of the Kennedy amendment to S. 1664. I support the Kennedy amendment because it would protect the multitudes of students who are eligible for Federal student aid under title IV of the Higher Education Act.

Under current law, only legal immigrants are eligible to receive Federal financial aid to attend college. However, provisions in the bill that stands before us today would require that for Federal programs where eligibility is based on financial need, the income and resources of the sponsor of a legal immigrant would be deemed to be the income of the immigrant. Simply put, the resources of an immigrant student would be artificially inflated, therefore, most legal immigrants would not qualify for Pell grants or student loans.

I have always sought to expand educational opportunities for the students of this country. To my mind, any person with the desire and talent should be afforded the opportunity for at least 2 and possible 4 years of education beyond high school. The students that have legally immigrated to this country should not be excluded from the vast opportunities that a higher education can provide them.

Half of the college students in this country rely on Federal grants or loans to help pay for college. Student aid more than pays for itself over time. A college graduate earns almost twice what a high school graduate earns—and pays taxes accordingly. Denying a postsecondary education to economically disadvantaged legal immigrants is profoundly unfair and economically shortsighted. Legal immigrants pay taxes and can serve in the military. Legal immigrants also contribute significantly to the national economy. For these reasons I encourage my colleagues to join me in support of the Kennedy amendment, therefore, eliminating the deeming requirements as they apply to Federal student aid programs.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Kennedy amendments 3820 and 3823 en bloc at the hour of 4:50 this evening, to be followed immediately by a vote on or in relation to the Kennedy amendment 3822.

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

Mr. SIMON. Reserving the right to object, will the Senator make it 4:53, so I can get 3 minutes in here?

Mr. SIMPSON. We have people apparently going to the White House. I will yield my time to the Senator. Take the 2. I was going to conclude. You may take that, and I will come at my friend with vigor at some later forum.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I will try to be more brief than the 3 minutes. I think so much of this makes sense. People who are here legally should get the same services as those who are here illegally.

What I particularly want to point out is the higher education provision really would devastate many campuses and the future of many young people. People who came here legally, whose children are going to American colleges and universities taking advantage of our programs in terms of loans and other programs, we ought to be encouraging that higher education rather than discouraging it. The Kennedy amendments, it seems to me, move in the right direction.

Finally, to protect pregnant women and children, I think that is kind of basic. So I strongly support the Kennedy amendments.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I have about 30 seconds. Let me just say we have already exempted school lunch and WIC in the managers' amendment which we passed yesterday.

This amendment combines several distinct exemptions to the "deeming" requirements in the bill. Everyone should understand what "deeming" does. Deeming requires sponsors to keep their promises.

Since 1882, our law has stated that no one may immigrate to this country if they are "likely at any time to become a public charge." Many individuals—about half of those admitted in 1994—were only permitted to enter after someone else promised to support that newcomer. The sponsor guarantees that the sponsored immigrant will not require any public assistance.

Senator KENNEDY's amendment provides a number of exceptions to this "deeming" rule for:

First, emergency Medicaid; second, foster care; third, Headstart; and fourth, Pell grants and other federally funded assistance for higher education.

On the general issue of exemptions from deeming, I would stress that deeming only prevents a sponsored individual from accessing welfare if the sponsor has sufficient resources to disqualify the applicant. When a sponsor is not able to provide assistance, then the Government will provide it.

I am not certain that there should be any exemptions from deeming. Why should we permit individuals to access our generous social services, when they have sponsors who have promised to provide for them and presumably have the wherewithal to provide the needed assistance?

Furthermore, I have concerns about exempting Headstart and Pell grants from the deeming requirements. These programs are not open to every American. Even though we spend more than $3 billion on Headstart, the program only serves about 30 percent of poor children ages 3–4. I am not certain that we should continue to permit newcomers access without regard to the incomes of the sponsors that promised to support them.

The Government has limited money for Pell grants as well. At a time that college tuition costs are rising, it does not make sense to provide scarce resources to sponsored individuals—who

the U.S. sponsors of immigrants in order to increase the likelihood that aliens will be self-sufficient in accordance with the Nation's longstanding policy, and to reduce any additional incentive for illegal immigration provided by the availability of welfare and other taxpayer-funded benefits.

S. 1664 provides that if an alien within 5 years of entry does became a public charge, which the bill defines as someone receiving an aggregate of 12 months of welfare, he or she is deportable. It is even more important in this era that there be such a law since the welfare state has changed both the pattern of immigration and immigration—both the pattern of immigration and immigration—that existed earlier in our history because, before the great network of social systems, if an immigrant cannot succeed in the United States he or she often returned "to the old country." This happens less often today because of the welfare safety net. Many back through the chain of history in my family returned "to the old country" because they could not make it here. That is not happening today because of the support systems within the United States.

The changes proposed by the bill clarify when the use of welfare will lead a person to deportability. These changes are likely to lead to less use of welfare by recent immigrants, or more deportation of immigrants who do become a burden upon the taxpayer. One of the ways immigrants are permitted to show that they are not likely to become a public charge is providing an "affidavit of support" by a sponsor, who is often the U.S. relative petitioning for their entry under an immigrant classification for family reunification.

You heard that debate when we spoke briefly of numbers and legal immigration. We talked of that. That is what those classifications, or preferences, for family reunification are.

Under current law, sponsors agree to provide support only for 3 years. That is current law. Furthermore, the agreement is not legally enforceable, because it has been ripped to shreds by various court decisions down through the years.

The bill's sponsor provisions are based on the view that the sponsor's promise to provide support, if the sponsored immigrant is in financial need, should be legally enforceable and should be in effect until the sponsor's alien (a) has worked for a reasonable period in this country paying taxes and making a positive economic contribution or (b) becomes a citizen, whichever occurs first.

That is the provision. The bill provides that the maximum period for the sponsor's liability is 40 "Social Security quarters"—about 10 years—the period it takes any other citizen to qualify for benefits under Social Security retirement and certain Medicare programs.

The bill also provides that deeming of the sponsor's income and assets to the sponsored alien should be required in nearly all welfare programs—all—and for as long as the sponsor is legally liable for support, or for 5 years, a period in which an alien can be deported as a public charge, whichever is longer.

Remember, we are talking about means-tested programs. We are talking about all programs. Yet, amendments make distinctions, and those things have been addressed as we debated. But it is simply not unreasonable of the taxpayers of this country to expect recently arrived immigrants to depend on their sponsors for at least the first 5 years regardless of the specific terms in the affidavit of support signed by their sponsors.

It was only, I say to my colleagues, on the basis of the assurance of the immigrant and the sponsor that the immigrant would not at any time become a public charge that the immigrant was even allowed to come to our country, to come into the United States of America. It should be made clear to immigrants that the taxpayers of this country expect them to be able to make it in this country on their own.

I have heard that continually threaded through the debate—that they come here, they want to make it on their own. We are a great country for that; the most generous on the Earth. They do that, and they do it with the help of their sponsors.

Again, remember, if the sponsor is deceased, or bankrupt, or unable to provide any of the assistance or support, then, of course, the taxpayers step in in a very generous way to do that.

Mr. President, that concludes my remarks with regard to the amendments, unless Senator KENNEDY or others wish to address the issue anew.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Mr. KENNEDY. Thank you very much, Mr. President.

Mr. President, I hope that at some time in the not-too-distant future we might be able to address the two amendments, 3820 and 3823, which I have offered. These amendments are quite different in one respect, but they are also similar in another respect in terms of reflecting what I consider to be the higher priorities of the American people, particularly as focused on children, expectant mothers, and also all veterans.

Let me describe very briefly, Mr. President, our first amendment that we will offer. That is what we call the "deeming party" amendments. These amendments ensure that legal immigrants are eligible for the same programs on the same terms as illegal immigrants. My amendment says that legal immigrants cannot be subject to the sponsor deeming public charge provisions in this bill for programs which illegals get automatically and for other programs such as Head Start and public health, with a minor exception for prenatal care. This is the same amendment which was passed in the House of Representatives immigration bill.

Effectively, Mr. President, this amendment tracks what was accepted in the House of Representatives. Why did the House of Representatives accept it? Because they understand, as we understand, that when you put in effect deeming that cuts down on the utilization of the program. That is why we have supported and I support the deeming in the SSI. That is the particular program where there has been the greatest utilization. You have the AFDC and food stamp programs. But the principal reason for deeming is to reduce the utilization of that program, and it is effective.

The House of Representatives has said, look, there are certain public health programs, for example, that we ought to permit the illegals to be able to use. Why? Because if they use those particular programs, this will mean that it is healthier for Americans. They do it not because they want to benefit the illegal children but because they want to protect American children.

What do I mean by that? I am talking about immunization programs. I am talking about emergency health programs—emergency Medicaid, where a child goes into the school, then ends up having a heavy cough, perhaps is denied any kind of attention in the school health clinic because he is illegal, although he should get it, and eventually goes down as an emergency student, stays in the classroom and goes down to the local county hospital and is admitted for TB, and in the meantime, while that child has not had any kind of attention, has exposed all the other American children to the possibility of tuberculosis.

That is true with regard to immunization programs. That is basically the type of issue we are trying to look at. It also includes the school lunch program, saying that if the children are going to be educated, we do not want to ask the teachers to try and separate out the illegal children in school lunch programs. That would be very complicated. It would turn our schoolteachers into really agents of INS. It would have the teachers going around and reviewing documents for each and every child to try and identify and then take those children out, separate them out.

It seems to me that we ought to understand the broader policy issue. The real problem in dealing with illegal immigration, as the Hesburgh commission found out 15 years ago and as the Jordan commission has restated, the jobs are the magnet that brings foreigners into our country illegally. Jobs is the magnet.

The real problem is, how are we going to deal with that? Senator SIMPSON has, to his credit, worked out an orderly kind of process by which we are going to reduce the number of breeder

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, let me go forward with the debate on the Kennedy proposals, so that we might press forward toward the dual votes within the shortest possible period of time. I will simply go to the root of the matter.

Mr. President, with regard to the Kennedy amendment, the American people believe strongly in the principle that immigrants to this country should be self-sufficient. We continue to emphasize this principle, as I said several times today. It has been part of U.S. immigration law since the beginning, and the beginning in this instance is 1882.

There is a continuing controversy on whether immigrants as a whole or illegal aliens as a whole pay more in taxes than they receive in welfare, noncash plus cash support. Or whether that is the case with public education and other Government services, there are experts, if you will, on both sides who say that they are a tremendous drain, and others say they are no drain at all. I have been, frankly, disenchanted by both sides in some respects, especially on the side that says bring everybody in you possibly can because it enriches our country regardless of the fact that some may not have any skills, some may not have any jobs. and without jobs there is poverty, and with poverty the environment suffers in so many ways. But that is another aspect of the debate.

I believe that, at least with respect to immigrant households—this is an important distinction; that means a household consisting of immigrant parents, plus their U.S. citizen children who are in this country because of the immigration of their parents—there is a considerable body of evidence that there is a net cost to taxpayers in that situation. George J. Borjas testified convincingly on this issue at a recent Judiciary Committee hearing.

Mr. President, an even more relevant question, however, may be whether any particular immigrant is a burden rather than immigrants as a whole. I respectfully remind my colleagues that an immigrant may be admitted to the United States only if the immigrant provides adequate assurance to the consular office, the consular officer, and the immigration inspector that he or she is "not likely at any time to become a public charge."

Similar provisions have been part of our law since the 19th century, and part of the law of some of the Thirteen Colonies even before independence. In effect, immigrants make a promise to the American people that they will not became a financial burden, period.

Mr. President, I believe there is a compelling Federal interest in enacting new rules on alien welfare eligibility and on the financial liability of

desk is much different. In this amendment we have relieved the burdens of some national standard card; we have relieved the burdens of the unfunded mandate, and that debate will take place. I urge all who wish to engage in that to be prepared for that scenario. I yield to my friend and colleague.

Mr. KENNEDY. Could I ask for the yeas and nays on amendments 3820 and 3823.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, what I would like to do since, hopefully, those will be the two measures, is maybe just take 2 minutes now and explain them just briefly so that at the end we will vote on the D'Amato resolution and then hopefully vote on these two amendments.

Do I need consent to be able to proceed for 3 minutes? Do I need consent for that now?

Mr. SIMPSON. Mr. President, just a moment.

Mr. KENNEDY. I withdraw my request.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, Senator HATFIELD would like to speak for, I believe, 7 minutes on his own hour with regard to any matter that he might address. Then we will try to do this procedure. We have two Senator KENNEDY amendments. I do not think there will be any extensive—there will be debate, 30 minutes, 40 minutes, with regard to those amendments. Then those two amendments will be considered and taken up back to back.

Then we will lay down and proceed to the amendment, which is already in the mix, with regard to birth certificates and driver's licenses. I cannot describe when that might come to a vote, but that will be the matter of business.

So I urge all who wish to be involved in that debate to please review the complete changed amendment. That is a very different procedure from what was passed out of the Judiciary Committee with regard to driver's licenses, birth certificates, the breeder document that causes the most concern.

So that is the agenda. Then, of course, the time is running, under the constraints after cloture. We will simply proceed. There are many amendments and no time for many persons to do anything but speak very briefly. Some are listed with no particular topic or subject. Some 20 are by one Senator. I hope that the breath of reality will enter the scene with regard to some of those.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

NOT VOTING—1

Thompson

So the amendment (No. 3760) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I believe under the previous order we now go to the next amendment with a 1 minute explanation on each side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3803

Mr. GRAHAM. Mr. President, the second amendment relates to the issue of deeming, that is, counting the income of the sponsor to that of the alien. Under the current law there are three categories in which this is done: SSI, food stamps, and aid to families with dependent children. What is significant is that under the current law, each instance of deeming is specifically listed. Under the legislation that is before us, there is a vague standard which says, "Any program which is in whole or in part funded with Federal funds shall be deemed."

There are literally hundreds, maybe thousands, of those types of programs. This amendment speaks to the principle, let us continue the policy of specifically listing all of those programs that we intend to be deemed. We have suggested 16 programs to be deemed. It is open for amendment if others wish to offer additional programs to be deemed. But let us not leave this matter open-ended and as obscure as it is in the legislation that is before us.

Mr. SIMPSON. Mr. President, the question here is, who should pay for assistance to a new immigrant? Should the sponsor who brought the person in the United States and made the promise, the affidavit of support, or should the taxpayer? The bill before the Senate requires that all means tested—I am talking only about means-tested welfare programs—include the income of the sponsor, the person who promised their relative would never use public assistance, when determining whether a new arrival is eligible for assistance.

That is as simple as it can be. The only exceptions are for soup kitchens, school lunch and WIC. That is it. This truth in application, that is it. The U.S. Government expects sponsors to keep their promises to care for their immigrant relatives.

The Graham amendment would gut the provisions of this bill, would limit sponsored-alien deeming to only SSI, AFDC, food stamps, and public housing programs, that being almost unchanged from current law. It would exempt Medicaid, job training, legal services, a wide range of other multibillion-dollar noncash welfare programs from welfare provisions in the bill. I oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3803. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—36

Akaka	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Heflin	Murray
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Chafee	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Lautenberg	Specter
Dorgan	Leahy	Wellstone
Feinstein	Lieberman	Wyden

NAYS—63

Abraham	Faircloth	Lott
Ashcroft	Feingold	Lugar
Bancus	Frist	Mack
Bennett	Gorton	McCain
Biden	Gramm	McConnell
Bond	Grams	Murkowski
Bradley	Grassley	Nickles
Brown	Gregg	Nunn
Bryan	Harkin	Pressler
Burns	Hatch	Reid
Campbell	Hatfield	Robb
Coats	Helms	Roth
Cochran	Hutchison	Santorum
Cohen	Inhofe	Shelby
Coverdell	Jeffords	Simpson
Craig	Johnston	Smith
D'Amato	Kassebaum	Snowe
DeWine	Kempthorne	Stevens
Dole	Kohl	Thomas
Domenici	Kyl	Thurmond
Exon	Levin	Warner

NOT VOTING—1

Thompson

The amendment (No. 3803) was rejected.

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

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that in accordance with the provisions of rule XXII the following Senators be considered as having yielded time under their control as follows: Senator THURMOND and Senator COHEN yield 60 minutes each to Senator SIMPSON; Senator NICKLES and Senator COCHRAN yield 60 minutes each to Senator DOLE; Senator AKAKA and Senator PELL yield 60 minutes each to Senator KENNEDY; Senator FORD and Senator ROCKEFELLER yield 60 minutes each to Senator DASCHLE.

The PRESIDING OFFICER. The Senators have that right.

AMENDMENT NO. 3871, AS MODIFIED

Mr. SIMPSON. Mr. President, I ask unanimous consent to make a modification to correct a drafting error in amendment 3871. That amendment was offered and accepted by the Senate this morning. I ask unanimous consent to modify it as indicated in the copy I am sending to the desk. I have reviewed that with my colleague.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment (No. 3871), as modified, is as follows:

Section 204(a) is amended to read as follows:

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any Federal program of assistance, or any program of assistance funded in whole or in part by the Federal Government, for which eligibility for benefits is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, except as provided in section 204(f), be deemed to be the income and resources of such alien.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a resolution I now send to the desk on behalf of Senator D'AMATO relative to the extradition of the murderer of Leon Klinghoffer.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do not want to and will not object, and hopefully we will move right to that. I wanted to ask, just for the sake of the Senate, if we could take a moment on what the schedule is.

Mr. SIMPSON. Mr. President, I further ask unanimous consent that there be 10 minutes for debate to be equally divided in the usual form.

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

Mr. SIMPSON. I further ask that the vote occur on adoption of the resolution immediately following the use or yielding back of time and that no amendments or motions be in order.

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

Mr. SIMPSON. And before that procedure, let me just review matters. At the conclusion of this proceeding, Senator KENNEDY will go to the amendments which were discussed this morning, the deeming-parity amendment, which are two en bloc, and the Kennedy Medicaid amendment. There will be two rollcall votes obviously. There will be the vote on the Klinghoffer matter apparently, and then we will go to further debate, if any, on the two Kennedy amendments. But those will be coming shortly, I would believe. I think that debate is pretty well concluded.

Then we will go to the debate on the driver's license issue. This is not about verification. This is about driver's licenses. The language of the committee amendment and the amendment at the

This amendment, I would add, is supported by State and local governments.

I think there is consensus that while you may want to deport people who are taking advantage of welfare generally, someone who has become totally disabled is in a very different kind of situation.

This exempts them from deeming, not deportation.

Again, our colleague from Wyoming is not here, so I would ask unanimous consent that it also be set aside while we proceed to vote on the other amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is set aside. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, are we under a time limitation now prior to 2:45 or can we use our own time?

The PRESIDING OFFICER. There are 2½ minutes remaining under the previous time agreement controlled by the majority.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 3760

Mr. DODD. Mr. President, I wonder if I might speak in opposition to the Graham amendment for 1 minute while we are waiting.

The PRESIDING OFFICER. Is there objection? The Senator is recognized to speak for 1 minute.

Mr. DODD. Mr. President, I thank my colleagues.

I just did not realize the language of this amendment was coming up. I say to my colleagues here—and I suspect this may carry fairly overwhelmingly—I hope people understand this applies to illegal aliens, not legal aliens. So you illegally arrive anywhere in the United States from Cuba. You are given a status we do not give anywhere else in the world. You arrive from the People's Republic of China. You do not get this status. You arrive from North Korea. You do not get this status. You arrive from Vietnam, still a Communist country. You do not get this status.

So here we are taking one fact situation, no matter how meritorious people may argue, and applying a totally different standard here for one group of people and not to others. If you come to this country from the People's Republic of China, you have lived under an oppressive government, and we are making a case here that if you come out of Cuba, even as an illegal, that you get automatic status here. Why do we not apply that to billions of other people who live under oppressive regimes?

I would say as well, in 30 additional seconds, if I may, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, I would say to my colleagues, the people of Florida, too, I might point out, have their economic pressures as well. Frankly, having people just show up and all of a sudden given legal status automatically by arriving, I think is creating incredible pressures there. And if we are going to do it there, then I would suggest we go to another place.

I urge that this amendment be rejected, come back with an amendment that covers people who come from all Communist governments, not just this one. If we are truly committed to that, then people all over this globe who live under that kind of system ought to be given the same status.

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

Under the previous order, the vote occurs on amendment No. 3760, offered by the Senator from Florida [Mr. GRAHAM]. The vote occurs on the conditional repeal of the Cuban Adjustment Act, on a democratically elected government in Cuba being in power. The yeas and nays have been ordered.

Mr. GRAHAM. Mr. President, under the unanimous consent, was there not an opportunity for a minute to present the amendment prior to the vote?

The PRESIDING OFFICER. It was the understanding of the Chair that that time was subsumed within the additional 30 minutes allocated for debate. Without a unanimous-consent request and agreement——

Mr. GRAHAM. I would ask unanimous consent for 1 minute on the amendment prior to the vote.

Mr. SIMPSON. Mr. President, I think it would be appropriate to each take 1 minute, and I would like to do that.

The PRESIDING OFFICER. Is there objection? Without objection, the time will be equally divided, 1 minute each, between the majority and minority.

Mr. GRAHAM. Mr. President, I urge my colleagues to listen to this because there have been some myths and misstatements with regard to the Cuban Democracy Act. The Cuban Democracy Act, which has been the law of this land since November 2, 1966, explicitly states that it only applies to aliens who have been inspected and admitted or paroled into the United States. You do not get the benefit of the Cuban Adjustment Act unless you are here under one of those legal status conditions, have been here for a year, request the Attorney General to exercise her discretionary authority, and she elects to do so.

That is what the current law is. That is the law which I believe should continue in effect until there is a certification that a democratic government is now in control of Cuba. The law was passed for both humanitarian and pragmatic reasons, to provide a means of expeditious adjustment of status of the thousands of persons who are coming from a Communist regime, not halfway around the world but 90 miles off of our shore. The simple reason that was relevant in 1966 is applicable in 1996, and therefore the law should be retained until democracy returns to Cuba.

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

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, it was never referred to as the Cuban Democracy Act. There is no such provision. It was passed to allow the adjustment of hundreds of thousands of Cubans fleeing Castro's communism. They were welcomed with open arms. We have done that. They were given parole. They needed a means to adjust.

You can come here legally and violate your tourist visa, stay for a year, and you get a green card. You can come here on a boat illegally and after 1 year get a green card. We do not do that with anyone else in the world, and we are trying to discourage irregular patterns of immigration by Cubans. We expect them to apply at our interest section in Havana.

We do not need it. It is a remnant of the past. We have provided for the Cubans. Please hear this. We have provided in this measure for the Cubans coming under the United States-Cuba Immigration Agreement that was entered into between President Clinton and the Cuban Government. We should repeal it. It discriminates in favor of Cubans to the detriment of all other nationalities.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment, No. 3760, offered by Senator GRAHAM of Florida. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 62, nays 37, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—62

Abraham	Glenn	Mack
Baucus	Gorton	McCain
Bennett	Graham	McConnell
Biden	Gramm	Mikulski
Bond	Gregg	Murkowski
Bradley	Hatch	Nickles
Breaux	Heflin	Nunn
Bryan	Helms	Pressler
Burns	Hollings	Pryor
Cohen	Hutchison	Reid
Conrad	Inhofe	Robb
Coverdell	Kempthorne	Rockefeller
Craig	Kerrey	Santorum
D'Amato	Kerry	Sarbanes
DeWine	Kohl	Smith
Dole	Kyl	Snowe
Domenici	Lautenberg	Specter
Dorgan	Leahy	Stevens
Faircloth	Lieberman	Thomas
Ford	Lott	Warner
Frist	Lugar	

NAYS—37

Akaka	Exon	Moseley-Braun
Ashcroft	Feingold	Moynihan
Bingaman	Feinstein	Murray
Boxer	Grams	Pell
Brown	Grassley	Roth
Bumpers	Harkin	Shelby
Byrd	Hatfield	Simon
Campbell	Inouye	Simpson
Chafee	Jeffords	Thurmond
Coats	Johnston	Wellstone
Cochran	Kassebaum	Wyden
Daschle	Kennedy	
Dodd	Levin	

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMON. Mr. President, I ask unanimous consent that the present amendment be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3809 TO AMENDMENT NO. 3743

(Purpose: To adjust the definition of public charge)

Mr. SIMON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3809 to amendment No. 3743.

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

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

The amendment is as follows:

In Section 202(a), at page 190, strike line 16 and all that follows through line 25 and insert the following:

"(v) Any State general cash assistance program.

"(vi) Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.".

Mr. SIMON. Mr. President, my amendment conforms the Senate amendment to a similar provision in the House amendment in terms of being eligible for deportation if you are here illegally and you use Federal programs of assistance.

Under the Senate bill, an immigrant receiving public assistance for 12 months within his first year in the United States may be deported as a public charge. That would include, for example, higher education assistance. The Presiding Officer, the Senator from Indiana, is on the Labor and Human Resources Committee. If a legal resident came in and got job training, under this amendment, unless we conform it to the House amendment, that would make you subject to deportation. If one of your children got into Head Start, that would do it.

My amendment would make this bill precisely like the House bill and limit the assistance to the basis for deportation to AFDC, SSI, and, frankly, SSI is the program that is being abused. As to the other welfare programs, legal immigrants to our country use these programs less than native-born Americans. But my amendment would limit the AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance.

I think it makes sense. I cannot imagine any reason for opposition. But I see my friend from Wyoming is not on the floor right now. I am not sure what his disposition may be on this amendment. But I would be happy to answer any questions that my colleagues have.

Mr. President, if no one else seeks the floor, I ask to set aside my amendment so that I may offer a second amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3810 TO AMENDMENT NO. 3743

(Purpose: To exempt from deeming requirements immigrants who are disabled after entering the United States)

Mr. SIMON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3810 to amendment No. 3743.

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

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

The amendment is as follows:

In section 204, at page 201, after line 4, insert the following subparagraph (4):

(4) ALIENS DISABLED AFTER ENTRY.—The requirements of subsection (a) shall not apply with respect to any alien who has been lawfully admitted to the United States for permanent residence, and who since the date of such lawful admission, has become blind or disabled, as those terms are defined in the Social Security Act, 42 U.S.C. 1382j(f).

Mr. SIMON. Mr. President, I see my colleague from California, who has greater concern in these areas than any other, for obvious reasons, because of the huge impact on California.

The PRESIDING OFFICER. If the Chair could interrupt the Senator for a moment, the allocated time under the previous unanimous-consent agreement has expired on the Democrat side of the aisle. Time could be yielded from the Republican side of the aisle for the Senator from Illinois to continue.

Mr. SIMON. Mr. President, I confess some lack of understanding of precisely where we are in terms of the parliamentary situation.

The PRESIDING OFFICER. The Senate is operating under a unanimous-consent agreement which provided time equally between the two sides to expire at 2:45. The time allocated to the Democrat side of the aisle has been utilized.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I will be happy on behalf of our side to yield 2 minutes to the Senator from Illinois if that will be helpful.

Mr. SIMON. I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. SIMON. My second amendment simply says—and I will just read it:

The requirements of subsection (a)—

That is deportation.—

Shall not apply with respect to any alien who has been lawfully admitted to the United States for permanent residence and who since the date of such lawful admission has become blind or disabled, as those terms are defined in the Social Security Act.

of Labor in H-1B nonimmigrant cases, indicating this simply provides similar investigative authority to the Department of Labor as in labor certification cases, but in this amendment, the DOL can initiate its own investigations. It is given authority under section 556 of title V which it does not have in H-1B cases. There is an array of penalties and remedies that is greater than that in 212. I certainly think it would not be appropriate, and I would speak against it.

Quickly, with regard to the amendment dealing with the "intent standard," I oppose that amendment. I have heard many more horror stories from employers who, when trying in absolute good faith to avoid hiring illegal aliens, have for one reason or another required more documents than the law requires or the wrong documents or fail to honor documents that appear to be genuine.

Here is a common scenario. We often hear scenarios of the aggrieved. Here is one.

A worker initially submits an INS document showing time-limited work authorization. At a later verification, however, the same employee produces documents with no time limitation—for example, a Social Security card—to show work authorization and a driver's license to show identity, both of which the employer knows are widely available in counterfeit form. What is the employer supposed to do?

Under current law, if the employer asks for an INS work authorization, he or she can be fined, for a first offense, up to $2,000 per individual. Yet, if the employer continues to employ the individual, he or she will be taking the chance of unlawfully hiring an illegal alien. Remember that compliance with the law requires an employer to act in good faith. Would there be good faith under such suspicious circumstances?

Furthermore, in hiring the individual, the employer would be facing the possibility of investing considerable time and resources, including training, in an individual whom the INS might soon force the employer to fire. There is also the loss of the work opportunity for the legal U.S. worker, people we speak of here.

In another example, a college recruiter cannot ask a job applicant, "Do you have work authorization for the next year?" That is discrimination because it would discriminate against asylees or refugees with time-limited work authorization. A recruiter may only ask, "Are you permitted to work full-time?"

Employers cannot even ask an employee what his or her immigration status is. An employer may only ask, "Are you any of the following? But don't tell me which."

I oppose any kind of employment discrimination, always have throughout the whole course of years. Employers who intentionally discriminate in hiring or discharging are breaking the law. Scurrilous. But I do not believe it fair to fine the employers who are trying in good faith to follow the law.

Under this amendment, law-abiding employers would continue to be threatened with penalties. The amendment says an employer may not ask for different documents, even when the employer has constructive knowledge that the applicant's documents are likely to be false; must reverify an employee if their time-limited work authorization expires, and must accept documents provided; and will be fined for employer sanctions or unfair discrimination unless he or she asks for any specific documents from the alien. This is the same as current law, and I think this is unacceptable.

We will review and discuss it further. I will have further comments. But I believe, under the previous order, that we will now proceed to regular order with the direction of the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 2:15 p.m. today.

Thereupon, at 12:44 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, on behalf of the leader, I ask unanimous consent that the previously scheduled vote now occur at 2:45 today under the earlier conditions, and time between now and then be equally divided.

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

Mrs. HUTCHISON. Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, it had been our intention to start voting at 2:15, but at least one of our colleagues—maybe more—is involved in heavy, heavy traffic and trying to reach the Capitol in time for the votes. We have agreed to set aside those votes. What we are trying to do now, to accommodate our colleagues who cannot reach the Capitol now, is take up a couple of more amendments and have those votes along with the other votes that we have already agreed to.

I think Senator ABRAHAM on our side has an amendment, and we will ask him to come to the floor and present that amendment. Maybe Senator SIMON on the other side will have an amendment.

other entity may not request a specific document from among the documents permitted by section 274A(b)(1).

"(B) REVERIFICATION.—Upon expiration of an employee's employment authorization, a person or other entity shall reverify employment eligibility by requesting a document evidencing employment authorization in order to satisfy section 274A(b)(1). However, the person or entity may not request a specific document from among the documents permitted by such section.

"(C) ABILITY TO PRESENT PERMITTED DOCUMENT.—Nothing in this paragraph shall be construed to prohibit an individual from presenting any document or combination of documents permitted by section 274A(b)(1).".

(b) LIMITATIONS ON COMPLAINTS.—Section 274B(d) (8 U.S.C. 1324b(d)) is amended by adding at the end the following new paragraph:

"(4) LIMITATIONS ON ABILITY OF OFFICE OF SPECIAL COUNSEL TO FILE COMPLAINTS IN DOCUMENT ABUSE CASES.—

"(A) IN GENERAL.—Subject to subsection (a)(6) (A) and (B), if an employer—

"(i) accepts, without specifying, documents that meet the requirements of establishing work authorization,

"(ii) maintains a copy of such documents in an official record, and

"(iii) such documents appear to be genuine, the Office of Special Counsel shall not bring an action alleging a violation of this section. The Special Counsel shall not authorize the filing of a complaint under this section if the Service has informed the person or entity that the documents tendered by an individual are not acceptable for purposes of satisfying the requirements of section 274A(b).

"(B) ACCEPTANCE OF DOCUMENT.—Except as provided in subsection (a)(6) (A) and (B), a person or entity may not be charged with a violation of subsection (a)(6)(A) as long as the employee has produced, and the person or entity has accepted, a document or documents from the accepted list of documents, and the document reasonably appears to be genuine on its face.".

(c) GOOD FAITH DEFENSE.—Section 274A(a)(3) (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral. This section shall apply, and the person or entity shall not be liable under paragraph (1)(A), if in complying with the requirements of subsection (b), the person or entity requires the alien to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b), and the document or documents reasonably appear to be genuine on their face and to relate to the individual, unless the person or entity, at the time of hire, possesses knowledge that the individual is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment. The term "knowledge" as used in the preceding sentence, means actual knowledge by a person or entity that an individual is an unauthorized alien, or deliberate or reckless disregard of facts or circumstances which would lead a person or entity, through the exercise of reasonable care, to know about a certain condition.".

Mr. KENNEDY. Mr. President, this proposal goes to the heart of the dilemma that employers feel they are facing in the hiring of employees, many of whom speak with a different tongue, maybe have a skin color that is different from others. Many employers feel they are caught between a rock and a hard place. If they are too vigilant about ensuring they do not hire illegal aliens, they get charged with discrimination. If they are not vigilant enough, they get socked with employer sanctions.

This amendment eliminates that dilemma by amending both the employer sanctions and the document abuse provisions. For the first time, there is now explicit language guaranteeing that if the employers follow a few simple rules, they cannot be held liable under either the employer sanctions provisions or the document abuse provisions.

Here are the simple rules: As long as an applicant produces a document from the accepted list of documents—that will be the reduced list, the six that will be as a result of this bill —and the document appears authentic, the employer cannot ask for additional documents to prove employment eligibility.

If the employer follows these simple rules, my amendment contains explicit language ensuring that the employer is off the hook for employer sanctions on discrimination. If the applicant provides one of the six documents, and it is authentic or looks to be authentic and that person is hired, then effectively this provision will be a good-faith response to any charge that there was any intentional kind of discrimination against that individual.

The document abuse provision now states if the employer follows these rules, the Justice Department "shall not bring an action alleging a violation of this section." These are entirely new provisions. Everybody agrees there is a serious problem against foreign-looking and foreign-sounding American citizens and legal immigrants. Everybody agrees also, and studies have confirmed, that employer sanctions have been used to discriminate.

The most widely utilized procedure is when employers see or understand that a Puerto Rican is applying and they ask for the green card. They ask for the green card, the Puerto Rican does not have a green card because he or she is a U.S. citizen, and, therefore, they discriminate against those individuals.

What this would say is, if the individual provided any of the six, then that effectively ensures that the employer will not be subject to the charge of discrimination. It basically resolves, I think, in a very important way, the employer and the applicant's interest.

It makes no sense to enact a provision that everyone knows can lead to possible problems of discrimination. The problems are document fraud and the pressure created by the employers by the employer sanction provisions. We already addressed the document fraud problem elsewhere in the bill: We are reducing the number of applicable documents from 29 to 6, and we are making it harder for criminals to manufacture the phony document.

This amendment eliminates the pressure on employers created by employer sanctions provisions. It also provides protections for the applicants. I think it is a preferable way of dealing with this particular issue. We had discussion on this in the committee and we did not accept these provisions, but it does seem to me that they meet the challenge of protecting us against discrimination and, also, against the employer being subject to employer sanctions.

Those are the principal items. As I said, we have had a good opportunity. The members of the Judiciary Committee are familiar with these measures. We have been on the legislation for a few days. These measures are complex, they are difficult, but they are enormously important because they reach the issues of discrimination. In the last instance, they reach the whole question about the assurance that we are going to give adequate notice for Americans when there are job openings so they can be protected, their interests can be protected, and we can ensure that when there are openings for American workers and they are qualified, that they are going to be able to gain the employment and there is not going to be a circuitous way to effectively undermine the interests of workers.

What we have found is that, in so many instances, when there is a hiring of a foreign worker the salaries go down and other benefits go down for that worker, so the American worker, first of all, does not get the job. And, then, if the foreign worker gets paid less, which means that an American company on the one hand is competing with this company and the second company has an advantage because they are paying their foreign workers less, and therefore they have a competitive advantage, the American workers at the second company lose their jobs, too.

So we want to try, to the extent we can, to make sure the current law is being enforced. When we come back to the issues of legal immigration, we will have an opportunity to address some of those items, which I think are very, very high priority.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have just 5 minutes remaining. We will, of course, return to these issues. I appreciate the cooperation of my friend from Massachusetts.

The first amendment at the desk—I do not recall the number, but the one on enforcement of labor conditions—is similar to the one my colleague offered at a subcommittee markup.

It concerned me then because of the broad grant of power that it makes to the Secretary of Labor to bring employers before a tribunal, demand various kinds of information and assess substantial penalties, and I remain very concerned about the same problems in this amendment.

He has argued that it provides investigative authority to the Department

move this process along. I had hoped that we would be able to go back and forth, we would have one from one side, one from the other, and be able to intersperse my own amendments in with others. But as often happens around here, our colleagues are committed to important hearings over the course of the morning, so I will just finalize the last two amendments that I have. And then we will have an opportunity to address those in the postlunch period. That will conclude the debate on that.

Mr. President, I ask the current amendment be temporarily set aside. I will send——

Mr. SIMPSON. Mr. President, may I just enter this unanimous-consent request, to correct the withdrawal moments ago?

AMENDMENTS NOS. 3853 AND 3854, EN BLOC

Mr. SIMPSON. Let me ask unanimous consent the pending amendment be set aside temporarily, and ask unanimous consent amendments 3853 and 3854 be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes en bloc amendments numbered 3853 and 3854.

The amendments are as follows:

AMENDMENT NO. 3853

Amend section 112(a)(1)(A) to read as follows:

(A)(i) Subject to clauses (ii) and (iv), the President, acting through the Attorney General, shall begin conducting several local or regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(iv) At a minimum, at least one project of the kind described in paragraph (2)(E), at least one project of the kind described in paragraph (2)(F), and at least one project of the kind described in paragraph (2)(G), shall be conducted.

Section 112(f) is amended to read as follows:

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—(A) If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(B) If the Attorney General makes the determination referred to in subparagraph (A), the Attorney General may require other, or all, employers in the geographical area covered by such project to participate in it during the remaining period of its operation.

(C) The Attorney General may not require any employer to participate in such a project except as provided in subparagraph (B).

AMENDMENT NO. 3854

(Purpose: To modify bill section 112 (relating to pilot projects on systems to verify eligibility for employment in the U.S. and to verify immigration status for purposes of eligibility for public assistance or certain other government benefits) to define "regional project" to mean a project conducted in an area which includes more than a single locality but which is smaller than an entire State)

Sec. 112(a) is amended on page 31, after line 18, by adding the following new subsection:

"(1) DEFINITION OF REGIONAL PROJECT.—For purposes of this section, the term "regional project" means a project conducted in a geographical area which includes more than a single locality but which is smaller than an entire State.".

AMENDMENT NO. 3829

(Purpose: To allocate a number of investigators to investigate complaints relating to labor certifications)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask the pending amendment be temporarily set aside and it be in order to consider my amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3829.

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

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

The amendment is as follows:

On page 8, line 17, before the period insert the following: "except that not more than 150 of the number of investigators authorized in this subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or otherwise, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application".

Mr. KENNEDY. Mr. President, under my amendment, up to 150 of the 350 Department of Labor wage and hour investigators authorized in the bill will be assigned the task of ensuring that employers seeking immigrant help do so according to our laws.

This amendment simply takes the same enforcement authority that is available to the Labor Department in the temporary worker program and makes it available to the permanent worker program. It does not create anything new. Enforcement activities covered under my amendment include the investigations of cases where there is a reasonable cause to believe the employer has made a misrepresentation of a material fact on a labor certification application. These enforcement activities are vital to reduce the number of immigrant and nonimmigrant victims of illegal immigration practices.

There is no better example of the need for better DOL enforcement than in the recruitment area. For example, employers currently are required to recruit U.S. workers first, bringing in permanent immigrants, but the recruitment process result is the hire of a U.S. worker only 0.2 of the time. A recently released report of the Department of Labor's inspector general shows recruitment in the permanent employment program is a sham.

Another example, the IG reports that during one 6-month period, 28,000 U.S. applicants were referred on 10,000 job orders and only 5 were hired.

I have other amendments to address these problems. At the minimum, what we should do is increase our capacity to enforce our current law.

That is it basically. It is a pretty straightforward issue. We discussed this issue in general terms during the course of the amendment debate.

Mr. President, I ask it be in order to temporarily set aside the existing amendment.

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

AMENDMENT NO. 3816

(Purpose: To enable employers to determine work eligibility of prospective employees without fear of being sued)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3816.

The amendment is as follows:

On page 37 of the matter proposed to be inserted, beginning on line 12, strike all through line 19, and insert the following:

(a) IN GENERAL.—Paragraph (6) of section 274B(a) (8 U.S.C. 1324b(a)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—

"(A) IN GENERAL.—For purposes of paragraph (1), a person's or other entity's request, in order to satisfy the requirements of section 274A(b), for additional or different documents than are required under such section or refusal to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals. A person or

I wish to give Senator KENNEDY an appropriate time to respond before the hour of 12:30 when by previous order we will recess, but what we have tried to do is remind our colleagues once again that fraud resistant ID documents will not only make it possible for an effective system of verifying citizenship or work authorization but also greatly reduce illegal immigration.

The amendment is in response to the CBO estimate of the current requirement that these documents be implemented prior to October 1, 1997. The additional costs of replacing all licenses and ID documents by 1998, including those that would otherwise be valid for an additional number of years, would be eliminated. So instead of costing $80 to $200 million initially, plus $2 million a year thereafter, CBO estimates that the total cost of all the birth certificate and driver's license improvements would be $10 million to $20 million incurred over 6 years, and the CBO has written a letter to me confirming that fact. I ask unanimous consent it be inserted in the RECORD at this time.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested by your staff, CBO has reviewed a possible amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996, which was reported by the Senate Committee on the Judiciary on April 10, 1996. The amendment would alter the effective date of provisions in section 118 that would require states to make certain changes in how they issue driver's licenses and identification documents. The amendment would thereby allow states to implement those provisions while adhering to their current renewal schedules.

The amendment contains no intergovernmental mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments. In fact, by delaying the effective date of the provisions in section 118, the amendment would substantially reduce the costs of the mandates in the bill. If the amendment were adopted, CBO estimates that the total costs of all intergovernmental mandates in S. 1664 would no longer exceed the $50 million threshold established by Public Law 104-4.

In our April 12, 1996, cost estimate for S. 1664 (which we identified at the time as S. 269), CBO estimated that section 118, as reported, would cost states between $80 million and $200 million in fiscal year 1998 and less than $2 million a year in subsequent years. These costs would result primarily from an influx of individuals seeking early renewals of their driver's licenses or identification cards. By allowing states to implement the new requirements over an extended period of time, the amendment would likely eliminate this influx and significantly reduce costs. If the amendment were adopted, CBO estimates the direct costs to states from the driver's license and identification document provisions would total between $10 million and $20 million and would be incurred over six years. These costs would be for implementing new data collection procedures and identification card formats. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. SIMPSON. So with respect to birth certificates, the bill already requires, the bill we are debating, that as of October 1, 1997 no Federal agency—and no State agency that issues driver's licenses or ID documents—may accept for any official purpose a copy of a birth certificate unless it is issued by a State or local government rather than a hospital or nongovernmental entity, and it conforms to Federal standards after consultation with the State vital records officials. The standards would affect only the form of copies, not the original records kept in the State agencies.

The standards would provide for improvements that would make the copies more resistant to counterfeiting and tampering and duplicating for fraudulent purposes. An example is the use of safety paper, which is difficult to satisfactorily copy or alter.

There is no requirement in this bill that all States issue birth certificate copies in the same form, but in response to concerns that some have expressed the amendment I now propose explicitly to require that the implementing regs not mandate that all States use the single form for birth certificate copies and require the regs to accommodate differences among the States in how birth records are kept and how copies are produced.

These are the things that this provides. There is more. We will discuss it in further depth after we return from recess for our caucuses. But these are modifications suggested by the Governors and some of my colleagues, and the real issue is a very simple one. Birth certificates are the breeder document. You get the birth certificate—you can get it by reading the obituaries. Read the obituaries and write for the birth certificate—no proper certifications.

I yield to my colleague for any time he would wish on this or any other matter.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just a brief comment on this measure. I think that Senator SIMPSON has made several valuable changes in the bill on the driver's licenses and birth certificates. I strongly support his proposal in this area to alleviate the concerns that the provisions amounted to an unfunded mandate. He has addressed those issues.

In addition, Senator SIMPSON has made important changes in the provision on the birth certificates. The amendment instructs the HHS, when issuing the guidelines for birth certificates, to not require birth certificates to be one single form for every State, and the other measures he has outlined.

This is a difficult issue for many, but it is an absolutely essential one. We are not serious in trying to deal with illegals unless we get right back to the breeder document, which Senator SIMPSON has done, and also in terms of a verification program, which we will have an opportunity to debate, and also in terms of the Border Patrol. Those are the essential aspects.

That is where the target is. Jobs are the magnet. This helps provide assurances that illegals are not going to get the jobs and legals, legal Americans will be protected. This is an extremely important provision. It is a difficult one and we will have a chance to address some of the related matters later in the afternoon.

Just very briefly, Mr. President, on some of the matters that were talked about earlier, I know my good friend from New Mexico talked about the SSI issues and also about how legals have moved into this process and have been drawing down on the program.

This issue of deeming has worked effectively with the SSI, and Senator SIMPSON has addressed that issue as presented in the SSI because it will go on for some 10 years—10 years. The deeming is an effective program, and it will go on for a period of 10 years.

So the principal concerns that the Senator from New Mexico has as has been pointed out here will be addressed in the Simpson program. Many of us are looking at other measures where we think the deeming should not be applicable and that is to try and ensure that legal immigrants are going to be treated identically to illegal immigrants for what are basically programs that will have an impact on the public health.

My good friend from Wyoming says we ought to deem those, too. The principal fact is when you deem those programs, deeming is effective and that gets people out of the programs. We do not want children with communicable diseases out of the program. We want them to be immunized. We want them to have the emergency care so that they will not infect other children. There is a higher interest, I would say, in those limited areas. The House of Representatives has recognized it as we do.

And then in the second proposal that I have put forward we recognize the importance of protecting expectant mothers, children and the veterans. Out of the $2 billion, it is $125 million. Again I think for those who have served under the colors of the United States, they ought to have at least some additional consideration as well as children. But we will have an opportunity to address those later on in the afternoon.

I see my colleague rising. I ask unanimous consent to be able to proceed for another 15 minutes.

Mr. SIMPSON. I think that would be all right.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, there were two other items. We have tried to

system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services, in consultation with other agencies designated by the President, shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

AMENDMENT NO. 3858

(Purpose: To amend sec. 118 by providing that the birth certificate regulations will go into effect two years after a report to Congress)

In sec. 118(e), on page 41, strike lines 1 and 2, and insert the following:—

"(6) EFFECTIVE DATES.—

"(A) Except as otherwise provided in subparagraph (B) and in paragraph (4), this subsection shall take effect two years after the enactment of this Act.

"(B) Paragraph (1)(A) shall take effect two years after the submission of the report described in paragraph (4)(B)."

AMENDMENT NO. 3859

Section 118(b)(1) is amended to read as follows:

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document or license is issued by a State that requires, pursuant to a statute, regulation, or administrative policy which was, respectively, enacted, promulgated, or implemented, prior to the date of enactment of this Act, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States, but not that the number appear on the card.

AMENDMENT NO. 3860

(Purpose: To amend sec. 118 by revising the definition of birth certificate)

In sec. 118(a), on page 40, line 24, after "birth" insert:

"of—

"(A) a person born in the United States, or

"(B) a person born abroad who is a citizen or national of the United States at birth, whose birth is".

AMENDMENT NO. 3861

Amend sec. 118(a)(4) to read as follows:

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—(A) not later one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(B) Not later than one year after the date of enactment of this Act, the agency designated by the President in paragraph (1)(B) shall submit a report setting forth, and explaining, the regulations described in such paragraph.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary for the preparation of the report described in subparagraph (A).

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth registered in the United States.

AMENDMENT NO. 3862

Amend section 118(a)(1) is amended to read as follows:

(a) BIRTH CERTIFICATE.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local authorized custodian of record and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Federal agency designated by the President after consultation with such other Federal agencies as the President shall designate and with State vital statistics offices, and shall—

(i) include but not be limited to—

(I) certification by the agency issuing the birth certificate, and

(II) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, for fraudulent purposes;

(ii) not require a single design to which the official birth certificate copies issued by each State must conform; and

(iii) accommodate the differences between the States in the manner and form in which birth records are stored and in how birth certificate copies are produced from such records.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

Mr. SIMPSON. Mr. President, these series of amendments deal with a certain issue. They are intended to improve section 118 of the bill which relates to the improvements in the birth certificate and driver's license. These were contained in a single amendment to this section of the bill, and they have been united en bloc.

These amendments in their en bloc form provide for a 6-year phase in of the driver's license improvements. It provides that the agency will develop the new minimum standards for birth certificate copies—the agency designated by the President and not necessarily the Department of Health and Human Services.

The second amendment, or the amendments, eliminate the reference to the phrase "use by imposters." And the purpose here is to remove any implication that fingerprints, or other so-called biometric information will be required. That came up in the debate in committee. I have no desire to go to that intrusive level, and it is not there.

It directs the agency developing the new standards for birth certificate copies not to require a single design. That was part of the debate. Surely we cannot require a single design, and we do not.

All of the States would not have to conform to this, and it directs the agency to take into account differences between the States and how birth records are kept and copies are produced. And it directs the agency developing the birth certificate standards to first consult with other Federal agencies as well as with the States.

It requires the agency developing the minimum standards to submit a report to Congress on their proposed standards within 1 year of enactment, and then it also modifies the definition of "birth certificate" to clarify that it includes the certificate of a person born abroad who is a citizen at birth if the birth is registered in a State.

It also provides new minimum standards for birth certificate copies—copies—which will be in effect beginning 2 years after the report to Congress by the agency developing the standards. And it makes a technical amendment to part of the driver's license provision so that it will more accurately reflect the agreement between Senator KENNEDY and I during the Judiciary Committee markup.

That is the essence of the material, but let me add this. The amendment would phase in the bill's requirements for the improved driver's licenses and State issued ID documents over 6 years beginning October 1, 2000, the year suggested by the National Governors' Association.

Under my amendment, the improved format would be required only for new or renewed licenses or State issued ID documents with the exception of licenses or documents issued in one State where the validity period for licenses is twice as long—12 years—as that in States with the next longest period. This one State would have 6 years to implement the improvements. This is an accommodation that Senator KENNEDY is aware of. His State has some very interesting and sweeping legislation with regard to licenses.

Furthermore, the bill's provision that only the improved licenses and documents could be accepted for evidentiary purposes by Government agencies in this country would under the amendment I am now proposing not be effective until 6 years after the effective date of the legislation.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Graham amendment No. 3760 at 2:15 today, and immediately following that vote there be 2 minutes of debate equally divided in the usual form to be followed by a vote on or in relation to the Graham amendment No. 3803 with the clarification that there be 2 minutes of debate equally divided on each of those amendments, and that the debate begin at 2:15.

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

Mr. SIMPSON. Mr. President, I send an amendment to the desk.

Mr. President, I will submit the amendment in a moment. As we prepare to do that, let me say that I will proceed to an amendment. Senator KENNEDY has certainly accelerated the process. I am very appreciative. He and I intend to deal with the hot button items, and certainly the one with regard to deeming and public assistance and welfare is one of those. Anything to do with verification is one of those.

So now I do not think this one will be exceedingly controversial because it will deal with the issue of the birth certificate, and the birth certificate is the most abused document. It is the breeder document of most falsification. I have tried to accommodate the interests of Senator DEWINE.

I may not have met that test. But I certainly have tried. I have tried to meet the recommendations of Senator LEAHY, and certainly we have met the test of the issue of cost. Because we have it now so provided that I think we have met those conditions.

AMENDMENTS NOS. 3853 AND 3854, EN BLOC

Mr. SIMPSON. Mr. President, I call up amendments at this time 3853 and 3854 and ask that they be considered en bloc.

The PRESIDING OFFICER. If there is no objection, the pending amendments are set aside, and without objection it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes amendments numbered 3853 and 3854 en bloc.

Mr. SIMPSON. Mr. President, I believe that those relate to verification. I am not prepared to bring those up at this time, and I ask unanimous consent that that request be withdrawn.

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

AMENDMENTS NOS. 3855 AND 3857 THROUGH 3862, EN BLOC

Mr. SIMPSON. I call up amendments 3855 and 3857 through 3862, en bloc.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes amendments numbered 3855 and 3857 through 3862, en bloc.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The text of the amendments follow:

AMENDMENT NO. 3855

(Purpose: To amend sec. 118 by phasing-in over 6 years the requirements for improved driver's licenses and State-issued I.D. documents)

In sec. 118(b), on page 42 delete lines 18 through 19 and insert the following:

"(5) EFFECTIVE DATES.—

"(A) Except as otherwise provided in subparagraphs (B) or (C), this subsection shall take effect on October 1, 2000.

"(B)(i) With respect to driver's licenses or identification documents issued by States that issue such licenses or documents for a period of validity of six years or less, Paragraphs (1) and (3) shall apply beginning on October 1, 2000, but only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law.

"(ii) With respect to driver's licenses or identification documents issued in States that issue such licenses or documents for a period of validity of more than six years, Paragraphs (1) and (3) shall apply—

"(I), during the period of October 1, 2000 through September 30, 2006, only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law, and

"(II), beginning on October 1, 2006, to all driver's licenses or identification documents issued by such States.

"(C) Paragraph (4) shall take effect on October 1, 2006."

AMENDMENT NO. 3857

Amend section 118(a)(3) to read as follows:

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate

resolve that issue on the side of American taxpayers, who work hard to earn their money and then give it to the Government and find that, in turn, there is such dramatic abuses of our welfare assistance to those in need, perhaps by aliens who seem almost to be brought here in contemplation of taking advantage of all of this. It seems that simply making the support affidavit legally enforceable is a legislative wish.

Once again, in testimony in front of the Budget Committee, where we were concerned about the skyrocketing costs, there was an analogy drawn between a sponsor's affidavit of enforcement and child support enforcement. I only raise that because child support enforcement is almost one of these things that bear the wrong name because you cannot enforce it. You do not have enough bureaucracy or computers to enforce it. I think when we are finished, we may find ourselves in the same place again because the enforceability of these affidavits is going to be such a monster job that I am not sure it is going to work. But at least we are on record saying it is to be enforced, and we have set the rules in this bill to make this a better opportunity on behalf of our taxpayers.

A panelist asked, How can we expect to make enforcement of affidavits work? Then they said the 20 years of experience in the child support program would indicate it may not work.

Does the Immigration Service, or any other entity charged with implementing this bill, have the resources to effectively administer the deeming requirement and enforce the affidavit? I am not sure. Perhaps the sponsors can address that in due course.

Do we think that there are other steps that should be taken, perhaps along the lines of immigrant restrictions that are in the welfare bill—a 5-year ban on receipts, all noncitizens ineligible for SSI and food stamps?

Could these steps be an interim solution until we have an effective screening mechanism for public charges, enforcement of support orders and deeming requirements?

Mr. President, I did not come to the floor to criticize the bill because, in fact, it makes a dramatic change in the direction of seeing to it that the public charge is minimized when indeed it should be minimal, not played upon, abused in some instances, and even planned abuse to see to it that aliens come and when they get old enough, they go on the public welfare rolls, even though that was never contemplated by our laws—either immigration or welfare.

Mr. President, I thank Senator SIMPSON for yielding the floor so I could use part of my time.

I yield the floor.

Mr. SIMPSON. Mr. President, I hope every one of our colleagues have heard the remarks of the senior Senator from New Mexico. They were powerful, startling, and here is the man whom we entrust with handling our budget activities. And who does it with greater skill and dogged determination than this man? He is citing what has happened to the things that we believe in and that we try to support. I know they have been so seriously disrupted and distorted. They could not have been made more clear. I thank the Senator. With a few words, and with a graph or two, he placed it in better perspective than I possibly could. The present situation is simply unsustainable, and it is going to become ever more so.

Mr. DOMENICI. I thank the Senator.

I will add one further comment. I am firmly convinced—and I think the Senator from Wyoming is—that if the American people understood this problem they would be on his side on this bill. I do not believe with the budget constraints—and having to look at the many programs affecting American citizens and immigrants who become citizens who are working and moving America ahead—that we have this kind of situation involved with reference to in the broadest sense our welfare programs. That does not mean in every single sense I agree with the Senator's approach in this bill. Maybe lunches for school kids may be an exception. It is a bit burdensome. But essentially we have to know what we are giving these people, and decide what we can afford. I think that is to be the prevailing test. And, frankly, we cannot afford a lot. We just cannot. We cannot take care of American citizens in this country.

I thank the Senator for his comments.

Mr. SIMPSON. I thank the Senator from New Mexico.

I have toyed with the issue of doing something with regard to legal immigration, and that was a rather less effective exercise. Somebody else can deal with that one in the years to come because this is all a part of that.

AMENDMENTS TO BE CONSIDERED EN BLOC—NOS. 3855 AND 3857 THROUGH 3862; AND 3853 AND 3854

Mr. SIMPSON. I have two unanimous-consent requests.

I ask unanimous consent that amendments 3855 and 3857 through 3862 be considered en bloc, and I also ask unanimous consent that amendments 3853 and 3854 be considered en bloc.

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

to veterans. This is a hook. This is one of those hooks we use to do a debate; mention the word "veterans" or "kids" or "seniors." That is how we got here to a debt of $5 trillion, which is now $5.4 trillion. If we do all the evil, ugly things that will be done or could be done in our discussion, the debt will be $6.4 trillion at the end of 7 years.

So my colleagues know that the Federal Government spends more on Medicaid than any other welfare program. Use of this program by recent immigrants is very significant. For Medicaid alone, CBO estimates that the United States will pay $2 billion over the next 7 years to provide assistance to sponsored aliens. So I hope we might dispose of that amendment.

The Senator from New Mexico is here and in a time bind. I yield to Senator DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico, Senator DOMENICI, is recognized.

Mr. DOMENICI. Might I ask, are we on time limits?

Mr. SIMPSON. The Senator's own time.

The PRESIDING OFFICER. The Senator has 1 hour under rule XXII.

Mr. DOMENICI. I yield myself 7 minutes and hope I do not interrupt what all of you have been talking about.

Mr. President, let me just suggest that if the American people understood what we have let happen to immigration in the United States with reference to the welfare program, I believe, in spite of their genuine interest in immigration and in letting the mix continue in America, I believe they would come very close to saying, "Stop it all." I am going to tell you why.

First, Senator DOMENICI from New Mexico is not against letting people from all over the world come to our country under an orderly immigration process. How could I be against that? I would not be here if we did not have such a policy at the turn of the century. Both of my parents—not grandparents—came from the country of Italy.

In fact, my mother, unknowingly, remained an illegal alien well into the Second World War because the lawyers had told my father that she was a citizen, and she was not because the law had changed. So I understand all of that. I even witnessed her getting arrested by the immigration people after she had been here 38 years with a family and was a stalwart of the community, because technically a lawyer had told my father she was a citizen, and she was not.

I understand how immigrants add to the energizing of this great Nation. I understand how they provide through their gumption and hard work, how they provide very positive things for America. I am not here talking about changing that or denying that. But I want to just start by ticking off a couple of numbers and then telling the Senate what has happened that I think this bill fixes. And welfare reform, as contemplated, completes the job.

We tend to think we have a policy that we will not provide welfare to legal aliens who come to America because we think they all want to go to work, want to take care of themselves, and we have sort of let the programs develop without any supervision. So let me give you a couple of examples.

There are 2.5 million immigrants on Medicaid—2.5 million. There are 1.2 million on food stamps—1.2 million. AFDC, 600,000.

It seems to me that, if we have a policy that you bring in aliens and somebody is responsible for them, then how did we let this happen? Then, to top it off, let me give you the case with reference to the SSI program and immigrants. SSI is itself a welfare program. It is paid for by the general taxpayers of America, not to be confused with a Social Security program for disability that is paid for with Social Security trust funds and people had to work a certain number of quarters to earn it.

I want to say since our earliest days, colonial days, excluding likely public charges has been a feature of our immigration laws.

Also, once immigrants are here and they become a public charge, that immigrant could then be deported. Let me repeat. From our earliest days, likely public charges excluded from the welfare system was part of the American tradition and law, and once here, if they became a public charge, they would be deported.

Data shows that immigrants, in fact, become public charges, and the problem is growing. In testimony before the Budget Committee, George Borjas, of Harvard University, presented some startling data showing the immigrants' use of welfare benefits, and showing that it is now higher than that of the general population. Let me repeat. This professor showed that immigrants are using our welfare system benefits in higher percentages than that of the general population.

Let me take one program on and lay it before the Senate and the public today—the supplemental security program, SSI. That is the fastest growing program in the Federal budget. It is the fastest growing program in the Federal budget. This rapid growth, Mr. President, is due largely to elderly sponsored immigrants coming onto the rolls. That means elderly immigrants are being brought to America under a law that says Americans who bring them will be responsible for them, and they sign agreements saying that is the case.

Now, is it not interesting that if that is what we intend, that something is going wrong? The American taxpayers, who are asking us to take care of Americans in many areas where we do not have money, are paying through the nose for immigrants who came here under the pretense that they would be taken care of, but now we are taking care of them.

According to the Congressional Budget Office, 25 percent of the growth in SSI—that is the supplemental security income participants—between 1993 and 1996 is due to immigrants. Now, that is an astounding number because if you look at the percentage that the immigrants bear to that population, the elderly immigrants represent 6 percent of the elderly SSI population and, today, 3 percent of the population of older Americans are legal immigrants, but 30 percent of the SSI beneficiaries are legal immigrants.

Something has gone awry when a large portion of this population is immigrants. That is what this very simple chart shows: 2.9 percent of the general population are immigrants and 29 percent of the SSI-aged beneficiaries are immigrants—10 times the ratio that their population bears to the group that would be entitled to SSI. One might say that is such a gigantic mismatch that it seems like it is almost intentionally occurring. Somebody is planning it so that Americans pay for immigrants who come here with a commitment that somebody else will take care of them, but when they get old, the Government takes care of them.

I believe that there are data—and they are growing—that maybe sponsors bringing their relatives to the United States do so intending to put them on SSI. This chart shows that the minute the deeming period is over, immigrants apply for SSI. In fact, let us look at this one. Within 5 years of entry into the United States, over half of those on SSI have applied. It almost seems that they come here, and those who bring them here plan to put them on the public welfare rolls under SSI at the very earliest opportunity.

For those of us who promote family unification, which is one reason they get their elderly parents into America, we are beginning to be very suspicious of whether the promoting of this family unification by many is to bring parents here so the Government of the United States can take care of them as immigrants in the United States. That is something that none of us really believe should happen.

There are over 1 million aliens on food stamps; half a million are on AFDC; 2½ million are on Medicaid; and untold hundreds are on small means-tested benefit programs. Clearly, there is a large number of aliens receiving public benefits and, therefore, they are now public charges.

I want to suggest that it is amazing. The testimony before our committee said that even though the INS, Immigration and Naturalization Service, is charged with deporting public charges, through the last 10 years only 13 people were actually deported. Of the millions that came in—and hundreds of thousands are obviously public charges in dereliction of our Federal law—there was a response of only 13 deportations.

So my question is, How does this happen, and will we let it happen and continue to grow? My opinion is that this bill goes a long way in trying to

The committee report shows that the number of illegal aliens apprehended each year since 1990 has been over 1 million. This figure alone justifies the steps that need to be taken to reduce illegal immigration.

The provisions in title I of this bill will strengthen law enforcement efforts against illegal immigration. The bill provides for additional law enforcement personnel and detention facilities, authorizes pilot projects to verify eligibility for employment and contains provisions to reduce document fraud.

Title I contains higher penalties for document fraud as well as alien smuggling, and it also streamlines exclusion and deportation procedures and establishes procedures to expedite the removal of criminal aliens.

The provisions in title II relating to financial responsibility of aliens is very important. I believe that aliens should be able to support themselves and, in fact, the U.S. law requires that an immigrant may be admitted to the United States upon an adequate showing that he or she is not likely to become a public charge. This has been a longstanding policy of our Nation, and the legislation before this body would strengthen that policy.

Title II contains certain provisions to reduce aliens being a burden on our Nation's welfare system. It contains a provision that an alien is subject to deportation if she or he becomes a public charge within 5 years from entry into the U.S.

Title II prohibits the receipt of any Federal, State or local government assistance by an illegal alien, except in rare circumstances, such as emergency medical care, pregnancy service or assistance under the National School Lunch or Child Nutrition Act.

Further, one of the ways an alien can prove he or she will not become a public charge is to have a sponsor in the U.S. file an affidavit of support which, under current law, requires the sponsor to support an alien for 3 years. This legislation increases a sponsor's liability to 10 years, which is the same time it takes any citizen to qualify for Social Security retirement benefits and Medicare. This liability against the sponsor is reduced if the alien becomes a citizen before the end of the 10-year maximum period.

These are some of the highlights of this important legislation. A number of amendments have been offered to this bill, some of which I will support and others that I will oppose. But I will keep my eye on the overall objective of the bill, which is to support a national policy to reduce illegal immigration and to make it unattractive for illegal aliens to come to the United States.

In these days of declining governmental resources, we must provide for our own citizens first and foremost. This legislation, under the worthy stewardship of Senator SIMPSON and augmented by Senator KENNEDY, is a step in the right direction.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON] is recognized.

Mr. SIMPSON. Mr. President, through the years of my work in this area, no one has been more available to visit with, to commiserate with, to talk with than my old friend from Alabama, Senator HOWELL HEFLIN. He has been a wonderful friend and, more appropriate, he has listened attentively to these issues of legal and illegal immigration and always, indeed, has been supportive when he could and at least I always understood when he could not. No one could have assisted me more through the years than the senior Senator from Alabama. I appreciate that very much in many ways.

Mr. President, how much time do I have remaining on my own time before seeking time to be yielded from generous colleagues?

The PRESIDING OFFICER. The Senator has 31 minutes.

Mr. SIMPSON. Mr. President, let me speak then on the Kennedy amendments. I have spoken on the Cuban Adjustment Act, and I have spoken on the Graham amendment. Let me speak briefly on the Kennedy amendment, the Kennedy amendment en bloc, the two that have been joined and the next one, a singular one, and I address them together because they are very similar.

Let me say that, indeed, I oppose the Kennedy amendment and I go back to this singular theme that we must not deviate from: Before a prospective immigrant is approved to come to the United States, that person must demonstrate that he or she is not likely at any time to become a public charge.

I know that is repetitive. It was the law in 1882. The individuals meet this public charge requirement by a sponsor's written agreement, an affidavit of support. It is to provide support if the alien ever needs support. If the alien needs nothing, the sponsor pays nothing. If suddenly the alien says, "I can't make it, I'm going to have to go on welfare, I'm going to have to receive assistance," the sponsor steps in, not the USA. We are trying to avoid the step in these various amendments to say the sponsor is not in this game and the USA is. We say that if the sponsor is deceased or bankrupt or ill, or whatever it may be, that that person will be taken care of.

The committee bill requires all welfare programs to include the sponsor's income when determining whether a sponsored individual is eligible for assistance. In other words, the U.S. Government will require the sponsors in this bill to keep their promises.

CBO has scored this as a significant private-sector mandate. I think that is a most appropriate definition because it should be a private-sector mandate. Sponsors should not expect free medical care from U.S. taxpayers for their immigrant relative when they can provide it themselves. That is what we are talking about.

If they cannot provide it themselves, I am right with Senator KENNEDY, then this Government could do so. But why let the sponsor off the hook? I think that is a mistake.

Senator KENNEDY's amendment would exempt Medicaid from any welfare restrictions for a substantial number of cases. We again should be very clear what deeming does. It does not deny medical treatment to any child or to any pregnant woman. The stories that touch our heart are not affected. You can get that kind of care. You can get that kind of emergency care. It does not deny medical treatment to any child or any pregnant woman with all of the poignant stories we can tell. But it does require that the sponsor who promised to provide the assistance will fulfill their pledge if—if—they are capable of doing so.

I say that my colleague should know that if a sponsor does not have enough money to provide medical assistance, then Medicaid and all other welfare programs are available, all of them. If a sponsor dies, then Medicaid and all of the public assistance programs are available to the newcomer. We are not going to throw sick children into the streets or deny xrays or deny care or any of that type of activity. We are only asking sponsors to keep their promises and pay the bill, if they have the means.

I chair the Veterans Affairs' Committee. I do know how tough it is to discuss the word "veterans." But I am wholly uncertain why the veteran exemption is included at all, because all veterans and their families are eligible for medical care through our veterans hospitals—all of them. Needy veterans—needy veterans, poor veterans, incompetent veterans, whatever, they are provided free medical care, free medical care, through the more than 700 veterans facilities throughout this country, under a completely separate program, which is not Medicaid. It is a huge program. The veterans of this country receive $40 billion per year, which is not Medicaid, not that health care. They have the DOD, the Department of Defense, with CHAMPUS and dependents' health care of those in the military. That is another $4 billion we do not even count. We wonder what is happening.

It is because we are generous. We should be generous. No one—no one—disputes that. But if my colleague wants to provide an exemption for these veterans hospitals, I would certainly try to work something out. I share that. But let us not, however, exempt sponsors of a large number of Medicaid beneficiaries from any responsibility for those they have pledged to support under the guise of fair treatment for veterans.

There are 26 million of us who are veterans. We spend $40 billion. The health care portion of that is huge, over half. There are 26 million of us. We go down in numbers 2 percent per year. You could not be more generous

the time immediately preceding the vote on these two amendments, but I would like to respond to some of the comments made by the Senator from Wyoming.

First, on the Cuban Adjustment Act issue, the precise issue is the one that the Senator from Wyoming has stated, and that is, is the Cuban Adjustment Act an anachronism? Is it a dinosaur which served a purpose at a time past but is no longer relevant to the future?

The fact is, Mr. President, what is an anachronism, what is a dinosaur is the Fidel Castro regime in Cuba, a regime which has held its people in tyranny for 3½ decades. Until that regime is replaced with a democratic government, the Cuban Adjustment Act continues to play the same positive role as it did when it was adopted in 1966.

I am also concerned about the statement that there is no longer a need for the Cuban Adjustment Act. Between 1990 and 1994, prior to the current Cuban migration agreement of 1995, there were an average of 20,000 persons a year who were in the country legally, had resided here for a year, and asked for the discretionary act of the Attorney General to have their status adjusted. Assumedly, there continue to be thousands of people who arrived prior to the migration agreement of 1995 who are awaiting eligibility to ask for that discretionary act. So, yes, there is a need.

Second, the proposal which is in S. 1664 would only apply to those persons who arrived under the migration agreement of 1995 in the status of parolees. According to the statistics of the Immigration and Naturalization Service, since that agreement was in effect, approximately half of the Cubans who have arrived in the United States did not arrive as parolees. They came as either refugees or as visa immigrants. Under the reading of S. 1664, those persons who came under the migration agreement of 1995, would not be eligible to adjust their status because they did not come in the specific category of a parolee.

So the anachronism is in Havana, not in the laws of the United States. The need continues to exist today as it did 30 years ago. I urge adoption of the amendment which has been cosponsored by Senator DOLE, Senator MACK, Senator ABRAHAM, SENATOR BRADLEY, Senator HELMS, Senator LIEBERMAN—a broad, bipartisan consensus that the date for the change of the Cuban Adjustment Act is the date when democracy is restored to Cuba.

Second, on the amendment relative to truth in advertising and deeming, the Senator from Wyoming says the issue is the fact that we are not covering, under the amendment which I have offered, a variety of programs for which he thinks deeming should apply. I do not see that as being the issue.

The issue is, are we going to pass a vague law which states that the income of the sponsor shall be deemed to be the income of the legal alien for any benefits under any Federal program of assistance or any program of assistance funded in whole or in part by the Federal Government.

That is the proposition which is currently before us. I might say, happily, that that represents a restriction, because the original version of S. 1664 applied that same vague language, not just to federally funded programs but to programs by governments at the State and the local level. Now at least we are only dealing with federally funded programs, in whole or in part.

But the fundamental principle of our amendment is let us be specific. Let us tell the American people, let us tell the legal aliens and their families who are affected, let us tell those persons who are attempting to provide these services in a reasonable way what it is we intend to be covering. Let us list specifically what those programs are in the future as we have in the past. The current U.S. immigration law lists specifically those programs for which the sponsor's income is deemed to be the income of the sponsored legal alien. I think that was a wise policy in the past, and it is a policy which we should continue into the future. That is the fundamental issue.

That is why the major State-based organizations, from the Conference of State Legislators, the National League of Cities, the National Association of Counties—all of those organizations are supporting this amendment because they say we want to know precisely what it is we are going to be responsible for administering, since it is going to be our responsibility to do so. That is why those organizations are concerned about the massive, unfunded mandate that is about to fall upon them, both for the administrative costs of arriving at these judgments and the cost when services that are no longer going to have a Federal partner will become the obligation of local government.

The Senator from Wyoming left the inference that there were two places through which these services for legal aliens could be paid. One was by the Federal Government; second, by the sponsor. I suggest that there is a third, fourth, fifth, sixth, and so forth additional party who will be picking up these costs. Those are the thousands of municipalities, the 3,000 counties, and the 50 States of the United States that will be responsible.

Let me remind my colleagues that, by Federal law, we require a hospital emergency room to render service to anyone who arrives and requests that service, regardless of their ability to pay. So, what currently the law is, is that if it is a legal alien who is medically indigent, that cost will be a shared cost, with the Federal Government paying a portion and the States paying a portion. With what we are about to do, we are going to make that cost an unreimbursed cost to that hospital. Typically, it will be a public hospital. So it will end up being a charge to the taxpayers of that community or that State in which the legal alien lives. It is for that reason that, in addition to those groups that I listed, the Association of Public Hospitals supports this amendment, the Graham amendment. the truth in advertising, in deeming, amendment. It is also the case this has received support of the major Catholic organizations which, of course, operate substantial health care facilities in many communities in this country.

So, it is not correct to say the only two people who are at the table are the sponsor and the Federal Government. The reality is there is a whole array of American interests at the table. Unfortunately, under the amendment as currently written, they do not know what is being negotiated at the table. They do not know what the agenda is at the table. They do not know what their responsibilities are going to be, beyond the vague standard that they have to deem the income of the sponsor for any program of assistance funded in whole or in part by the Federal Government.

So I do not think that is good government. That is not good policy. It is not a respectful relationship with our intergovernmental partners, and it is directly contrary to the spirit of the unfunded mandate bill which this Senate passed as one of the first acts of the 104th Congress.

So for that reason. Mr. President, I urge my colleagues to vote yes on each of the two amendments that we will have before us this afternoon: First, the Cuban Adjustment Act amendment and, second, the truth in advertising in deeming for legal aliens amendment.

Thank you, Mr. President.

Mr. SIMPSON. Mr. President, I believe my friend the Senator from Alabama would like to speak on his own hour. I certainly yield for that.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise today in support of S. 1664, the Immigration Control and Financial Responsibility Act, which was reported out of the Judiciary Committee, after a rather long and arduous process, by a vote of 13 to 4.

I especially commend my long-time friend and colleague, Senator ALAN SIMPSON, who is chairman of the Judiciary Subcommittee on Immigration who has guided this legislative effort which is aimed at reducing illegal immigration in this country. He has the patience of Job, and I will miss his good company when we end our Senate careers, which began together 18 years ago. Also, I commend Senator KENNEDY who has worked diligently on this bill, as he does on so many legislative proposals.

I do not believe that there is much question that we need to reduce the high level of illegal immigration in this country, which has been an enormous drain on the country's welfare system, its public education system, as well as other Government resources.

at delivery and throughout the lives of the children.

Finally, many legal immigrants serve in our Armed Forces. We mentioned that briefly at other times in the debates. Most veterans benefits are means tested. If the sponsor deeming provisions in the bill are applied to veterans benefits, some veterans will find themselves ineligible for VA benefits because the sponsor makes too much money or they are too poor to purchase health insurance.

My amendment allows those veterans to receive the health care they need under Medicaid.

This bill will make many immigrant veterans ineligible for health care assistance under their VA benefits. Currently veterans who are unable to defray the costs of medical care can qualify for means-tested benefits. There are several mandatory VA programs which are means tested. These programs provide vets with free inpatient hospital care and nursing home care. In addition, these programs help veterans pay for inhome care and out patient care. If these VA programs are deemed, Medicaid coverage may be the only safety net an immigrant veteran can receive.

Are we going to deny the 25,000 immigrants who are in the Armed Forces today—there are 25,000 of them who are in the Armed Forces today—who are sacrificing? And no one, I do not believe, was asking them when they joined whether they were being deemed or not being deemed. They were brought into the Armed Forces and served in the military. There are 25,000 of them who have served. All we are talking about are those particular ones who are going to have to have some special needs as I mentioned primarily in the area of prescription drugs. They have been serving this country and serving it well, many 2 or 3 or 4 years and even more.

So, Mr. President, this amendment effectively says that we will not have deeming when we are talking about children, mothers and veterans—children, mothers and veterans. We have carved that out of the Medicaid provision. You will not have deeming, one, for the public health purposes. I would like to do it because I think the most powerful argument is that the children are not the problem. Again, it is the problem of the magnet of jobs in this country and we should not be harsh on these children in particular.

I know there are those who say, well, the taxpayer has to do it. I am saying that it is a $2 billion tab. We are carving $125 million out of that and saying, both because the children are not the problem and for those who are looking for bottom lines, it is cheaper to have healthier children. These are children that are going to be American citizens. It is worthwhile that they are going to have an early start and we are going to be sensitive to those who have served under the colors of the country, the veterans who fall on particularly hard times to be able to benefit from the program.

Mr. President, will the clerk report.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be—

Mr. KENNEDY. It is my intention that we temporarily set aside the GRAHAM amendments, that the two amendments incorporated in the earlier presentation that said we are in this bill going to treat those limited emergency programs the way that the House of Representatives did and saying we are not going to have a dual standard for the illegals and legals—we are going to treat the legals the same as the illegals—to achieve that there had to be two amendments offered to amend two different parts of the bill, but it is a rather straightforward provision. Rather than require a vote on each provision, I had talked to the floor manager and we had hoped that we would vote on those two en bloc.

And then the second amendment that I have sent to the desk deals with carving out the areas of Medicaid, for mothers, children, and the veterans. I believe that amendment has been sent to the desk. I would ask that my first amendment be temporarily set aside so that we would have that amendment before the Senate.

AMENDMENTS NOS. 3820 AND 3823

The PRESIDING OFFICER. If there is no objection, the Graham amendment will be set aside and the two en bloc amendments by Senator KENNEDY will be considered.

The clerk will report those amendments.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes en bloc amendments numbered 3820 and 3823 to amendment No. 3743.

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

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

The amendments are as follows:

AMENDMENT NO. 3820

(Purpose: To provide exceptions to the sponsor deeming requirements for legal immigrants for programs for which illegal aliens are eligible, and for other purposes)

Beginning on page 200, line 12, strike all that follows through page 201, line 4, and insert the following:

(2) CERTAIN FEDERAL PROGRAMS.—The requirements of subsection (a) shall not apply to any of the following:

(A) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

(B) The provision of short-term, non-cash, in kind emergency relief.

(C) Benefits under the National School Lunch Act.

(D) Assistance under the Child Nutrition Act of 1996.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of communicable diseases.

(F) The provision of services directly related to assisting the victims of domestic violence of child abuse.

(G) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(H) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

(I) Benefits under the Head Start Act.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT NO. 3823

(Purpose: To provide exception to the definition of public charge for legal immigrants when public health is at stake, for school lunches, for child nutrition programs, and for other purposes)

On page 190, after line 25, insert the following:

"(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding any program described in subparagraph (D), for purposes of subparagraph (A), the term 'public charge' shall not include any alien who receives any benefits, services, or assistance under a program described in section 204(d).".

The PRESIDING OFFICER. If there is no objection, those amendments are set aside.

AMENDMENT NO. 3822 TO AMENDMENT NO. 3743

(Purpose: To exempt children, veterans, and pregnant mothers from the sponsor deeming requirements under the medicaid program)

The PRESIDING OFFICER. The clerk will report the third Kennedy amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3822 to amendment No. 3743.

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

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

The amendment is as follows:

On page 201 after line 4, insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) prenatal and postpartum services provided under a State plan under title XIX of the Social Security Act;

(C) services provided under a State plan under such title of such Act to individuals who are less than 18 years of age; or

(D) services provided under a State plan under such title of such Act to an alien who is a veteran, as defined in section 101 of title 38, United States Code.

AMENDMENT NO. 3760

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. I ask unanimous consent it be in order for the yeas and nays to be ordered on amendment No. 3760.

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

Mr. GRAHAM. Mr. President, I ask for the yeas and nays on amendment No. 3760.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM. Mr. President, I had not intended to speak further, prior to

or the 5, are exempt from this provision. They would continue to come under that agreement between the President and the Cuban Government. They are not part of this.

Mr. KENNEDY. I thank the chairman.

Mr. President, I support the Senator's opposition, or I support the provisions in the legislation that would repeal it, and oppose the amendment of the Senator from Florida.

Mr. President, to move this process forward we have invited other Members of the Senate to come forward and address the Graham amendments, and we certainly welcome whatever participation they would want to make.

I would like to—and I will—introduce other amendments that are related in one form or another to the Graham amendments because I think we will find that there will be a disposition in favor of it. I hope that the Graham amendments will be accepted. And, if they are accepted, at least one of mine then will not. I would ask that we not vote on that because effectively it would be incorporated in the Graham amendments.

There are other provisions that are related to the general idea of programs that would be available to needy people that I would want to have addressed by the Senate.

So, Mr. President, I will offer—and I have talked to the floor manager on this issue, and on the amendment that I had addressed the Senate earlier on, and that was to eliminate the deeming on those legal for those particular programs that have been included in the House of Representatives as to be no deeming eligibility for. I ask that the current amendments be temporarily set aside.

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

Mr. KENNEDY. These amendments have the way to address that rather fundamental principle which I addressed earlier which requires that there be two amendments.

I would ask they be incorporated en bloc. This has been cleared with the floor manager. Then when the vote comes, if it does come on those amendments, that the one vote would incorporate both those amendments.

Effectively, Mr. President, these two amendments amend different parts of the bill but they are essentially, as I described earlier, and that is to make the programs consistent here in the Senate bill with what happened in the House bill where over there they said that there would be no deeming for the essential kinds of programs that primarily benefit children. The reason for that is because it is in the public interest for our own children that would be adversely impacted, if the legal children did not have immunizations and other kinds of emergency kinds of services, treatments, and screening programs. I addressed that earlier. I will speak to the Senate subsequently. But I ask that that follow the Graham amendment. If the Graham amendment is accepted, then I would ask to vitiate the yeas and nays on it.

Mr. President, it would be my intention to offer an amendment on the Medicaid deeming to title II of the bill. I will send that to the desk in just a moment.

Let me explain what this amendment would do. I am deeply concerned that for the first time in the history of the program we will begin to sponsor deeming for Medicaid for legal immigrants. I recognize that this is a high-cost program of $2 billion for helping legal immigrants over the next 7 years. But public health is at stake—not just the immigrants' health. The restriction on Medicaid places our communities at risk. It will be a serious problem for Americans and immigrants who live in high immigrant areas. If the sponsor's income is deemed, and the sponsor is held liable for the cost to Medicaid, legal immigrants will be turned away from the program, or avoided altogether. These legal immigrants are not going to go away. They get sick like everyone else, and many will need help. But restricting Medicaid means conditions will be untreated and diseases will spread.

If the Federal Government drops the ball on the Medicaid, our communities and States and local governments will have no choice but to pick up Medicare and pick up the cost.

In addition to veterans, my amendment exempts children and prenatal and postpartum services from the Medicaid deeming requirements for legal immigrants. The bottom line is we are talking about children, legal immigrant children who will likely become future citizens. The early years of a person's life are the most vulnerable years for health. If the children develop complications early in life, complications which could have been prevented with access to health care, society will pay the costs of a lifetime of treatment when this child becomes a citizen.

Children are not abusing Medicaid. When immigrant children get sick, they infect American citizen children. The bill we are discussing today effectively means children in school will not be able to get school-based care under the early and periodic screening, detection and treatment program. This program provides basic school-based health care. Under this bill, every time a legal immigrant goes to the school nurse, that nurse will have to determine if the child is eligible for Medicaid. The bill turns school nurses into welfare officers. The end result is that millions of children will not receive needed treatment and early detection of diseases.

Consider the following example. A legal immigrant child goes to her school nurse complaining of a bad cough. The nurse cannot treat the girl until it is determined that she is eligible for Medicaid. Meanwhile, the child's illness grows worse. The parents take her to a local emergency room where it is discovered the little girl has tuberculosis. That child has now exposed all of her classmates—American citizen classmates—to TB, all because the school nurse was not authorized to treat the child until her Medicaid eligibility was determined.

Or consider a mother who keeps her child out of the school-based care program because she knows her child will not qualify for the program. This child develops an ear infection, and the teacher notices a change in his hearing ability. Normally, the teacher would send the little boy to the school nurse but cannot in this case because he is not eligible for Medicaid. The untreated infection causes the child to go deaf for the rest of his life.

In addition, the school-based health care program also provides for the early detection of childhood diseases or problems such as hearing difficulties, scoliosis—and even lice checks.

Prenatal and postpartum services must also be exempt from the Medicaid deeming requirements. Legal immigrant mothers who deliver in the United States are giving birth to children who are American citizens. These children deserve the same healthy start in life as any other American citizen.

In addition, providing prenatal care has been proven to prevent poor birth outcomes. Problem births, low birthweight babies and other problems associated with the lack of prenatal care can increase the cost of a delivery up to 70 times the normal costs.

In California, the common cost of caring for a premature baby in a neonatal unit is $75,000 to $100,000.

Many things can go wrong during pregnancy, and in the delivery room many more things will go wrong if the mother has not had adequate prenatal care. Without it, we allow more American citizen children to come into the world with complications that could have been prevented.

This is not an expensive amendment. According to CBO, the cost of care for children and prenatal services is less than the cost for elderly persons.

What we are talking about, Mr. President, is $125 million, the cost of this amendment—$125 million to deal with the cost to exempt children under 18, services to mothers, expecting mothers, and veterans, from Medicaid deeming—$125 million out of $2 billion. So it is a very reduced program. It is, again, for the children, again, for the mothers, and, again, for veterans who have served or who may still be legal immigrants and have served in the Armed Forces and need some means-tested program.

The most outstanding one is prescription drugs. That is really the number one program, where they be costed out, and these veterans would have difficulty in program terms for that kind of attention.

Furthermore, the cost of providing a healthy childhood to both unborn American citizens and legal immigrant children is far less than the cost to society in treating health complications

in the bill that came from the Judiciary Committee by a vote of 13 to 4—requires that all means-tested welfare programs consider the sponsor's income when determining whether or not a sponsored individual is eligible for assistance. That is as simple as it can be. The U.S. Government expects the sponsors to keep their promises in all cases. That is what it is.

We should be clear about what deeming does. Deeming is, perhaps, a bit confusing. It is a simple word that something is deemed to be. In this case, the sponsor's income is deemed to be that of the immigrant for the purposes of computing these things. Deeming—this is very important. The bill will not deny welfare to an individual just because he or she is a new arrival. That is not what this bill does. I have heard a little bit of that in the debate. I would not favor anything like that, or any approach like that.

Instead, the bill requires that the sponsor's income be counted when determining whether the newcomer is eligible for public assistance. If the sponsor is dead, if the sponsor is bankrupt or otherwise financially unable to provide support, then this bill provides that the Federal Government will provide the needed assistance. That is what this bill before you today says.

My colleagues need to know what the Graham amendment does. It is sweeping. This amendment would limit deeming to only supplemental security income, SSI; aid to families with dependent children, AFDC; food stamps; and the public housing programs. That is it. That is all. This is almost unchanged from current law. It is the current law we are trying to change in this bill—and we do, and we did in Judiciary Committee. I hope we will continue it here because it already requires deeming for SSI and food stamps and AFDC.

Senator GRAHAM's amendment would exempt Medicaid, would exempt job training, would exempt legal services, would exempt a tremendously wide range of other noncash welfare programs from the sponsor-alien deeming provisions in this bill.

This amendment effectively undermines this entire section of the bill—the entire section—because here is what would happen. Under the Graham amendment, newcomers would have access to these various programs, and it would not be regarded as part of the sponsor's obligation. Newcomers, I think most of us would agree, who are brought here on a promise of their sponsors that they will not become a public charge, should not expect access to our Nation's generous welfare programs—cash or noncash—unless the sponsor, the individual who promised to care for the new arrival, is unable to provide assistance. If the sponsor is unable to do that for the various reasons that I just noted, then there is no obligation. The Government does pick up the tab. But if that sponsor is still able to do so, that sponsor will do so because if that sponsor does not do so, there is only one who will do so, and that is the taxpayers of the United States. There is no other person out there to do it.

So that is where we are. Our Government spends more on these noncash programs than all of the cash assistance programs put together. To exempt them would relieve the sponsors of most of their promise of support. I see no reason to exempt any sponsor from their promise of support, unless they are deceased, bankrupt, or cannot do it. If that is the case, then a very generous Government will do it, that is, the taxpayers.

I must stress that immigrant use of these noncash welfare programs is truly significant. For Medicaid alone, CBO estimates that the United States will pay $2 billion over the next 7 years to provide assistance to sponsored aliens, people who were coming only on one singular basis—that they would not become a public charge. This amendment would perpetuate the current levels of high welfare dependency among newcomers, and I urge my colleagues to oppose it.

I have never been part of the ritual to deny benefits to permanent resident aliens. I think there is some consideration there to be given in these cases. I do not say that illegal immigrants should not have emergency assistance. They should. And the debate will take place today where we will say, "Well, why is it we do these things for illegal immigrants and we do not do it for legal immigrants?" The issue is very basic. The illegal immigrant does not have someone sponsoring them to the United States who has agreed to pay their bills, and see to it that they do not became a public charge, period. That is the way that works.

So it is a very difficult issue because it has to do with compassion, caring, and all of the things that certainly all of us are steeped in. But in this situation it is very simple. The sponsor has agreed to do it, and to say that their income is deemed to be that of the immigrant. And that is the purpose of what the bill is, and this amendment would effectively in every sense undermine this aspect of the bill.

So I did want to express my thoughts on the debate indeed.

Then, finally, the Cuban Adjustment Act, as I said last night, is a relic of the freedom flights of the 1960's and the freedom flotillas of the late 1970's. At those times of crisis Cubans were brought to the United States by the tens and hundreds of thousands. Most were given this parole status which is a very indefinite status and requires an adjustment in order to receive permanent immigrant status in the United States. Since we welcomed those Cubans and intended that they remain here, the Cuban Adjustment Act—a very generous act—provided that after 1 year in the United States all Cubans could claim a green card. That is the most precious document that enabled you to work. They would claim a green card and become permanent residents here.

Since 1980 we have thoroughly tried to discourage illegal entry of Cubans. There is no longer any need for the Cuban Adjustment Act. The provision in the bill which repeals the Cuban Adjustment Act exempts those who came and will come under the current agreement between the Castro government and the Clinton administration, and one which Senator DOLE so ably described having been done without any kind of participation by the Congress. Those 20,000 Cubans per year, who were chosen by lottery and otherwise to come here under that agreement, will be able to have their status adjusted under the committee bill provisions. There is no change there at all. However, other than that one exception, there is no need for the Cuban Adjustment Act and it should be repealed.

No other group—I hope my colleagues can understand—nor nationality in the world, even among some of our most brutal adversaries, is able to get a green card merely by coming to the United States legally, or illegally, and remaining here for 1 year. That is what this is. Millions of persons who have a legal right to immigrate to join family here are waiting in the backlog sometimes for 15 or 20 years. And it would seem to me it would make no sense to allow a Cuban to come here on a raft, stay offshore and tell somebody from the INS who checks the box and says, "We saw you come," and 1 year later walk up and get a green card. That is exactly what is happening under current law. You come here, or to fly in on a tourist visa, to go to see your cousin, or sister, in Orlando, and then simply stay for 1 year and go down and get a green card, having violated our laws to do so, and then are rewarded with a precious green card which takes a number away from somebody else who has been waiting for 10 or 15 years. The Cuban Adjustment Act should be repealed.

It has been repealed on this floor three separate times, ladies and gentleman. The Cuban Adjustment Act was repealed in 1982. It was repealed in 1986. And it was repealed again I believe in 1990. That date may be imprecise. Each time it had gone to the House and then repeal had been removed.

So that is the Cuban Adjustment Act. It is certainly one of the most arcane and surely one of the most remarkable vestiges of a time long past; a remnant.

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

Mr. SIMPSON. Yes. I certainly will.

Mr. KENNEDY. If the immigrants come from Cuba under the existing exchange agreement, are they denied the other kinds of benefits that are available to others that come here as immigrants, or are they treated the same?

Mr. SIMPSON. Mr. President, all of those who come under the new proposal with the 20,000 per year for the 4 years,

President, an article which appeared in the April 29 Washington Post, citing the regress that has occurred in Cuba in recent months, the heightened level of assault against human rights advocates, including journalists, the inability of human rights organizations to meet, the rollback of some of the gains that were made in terms of market economics, all of this at a time when Fidel Castro is saying that Cuba is committed to a Socialist-Communist state, will be for another 35 years and for 35 times 35 years.

That is the mindset of the regime with which we are dealing today, which is the same mindset that led this Congress in its wisdom 30 years ago to provide this expeditious procedure. The amendment before us recognizes that the Cuban Adjustment Act is intended to deal with the special circumstance, a circumstance that we hope will not be long in its future. Therefore, our amendment, the Cuban Adjustment Act, will be repealed, but it will be repealed when there is a democratic government in Cuba, not today when there is a government in Cuba which has launched a new level of repression against its people.

The second amendment, Mr. President, Senator KENNEDY has appropriately gone to the essence of that. That is an amendment which states that, if we are going to require that there be a deeming of the income of the sponsor to the income of a legal alien in making judgments as to whether that legal alien and his or her family can be eligible for literally an unlimited number of programs at the local, State, and Federal level, that we ought to be clear what we are talking about.

The way in which the legislation before us, S. 1664, describes the matter is to say that for any program which is needs based, that will be the requirement, that the income of the sponsor be attributed or deemed to be the income of the legal alien for purposes of their eligibility. I cited last night just a short list of what could have been thousands of examples of programs, from programs intended to immunize children in school, to providing after school safe places, and latchkey avoidance institutions in communities.

Is it the real intention of the U.S. Senate to say that none of those programs are going to be available to the children of legal aliens? I think not. Therefore, the thrust of this amendment is to say, let us be specific. Let us list which programs we intend this deeming of income of the sponsor to apply to.

I have listed some 16 programs which I believe are appropriate to require that deeming. As I said last evening, if it is the desire of the sponsors to modify that list by addition, deletion, or amendment, I will be happy to consider changes. But the fundamental principle, that we ought to be clear and specific as to what it is we intend to be the programs that will be subject to this deeming, I believe, is basic to our responsibility to our constituents, our citizen constituents, our noncitizen legal alien constituents, and the institutions, public and private, that render services. All of those deserve to know what it is we intend to require to be deemed.

I say, Mr. President, this is in our tradition. Currently we stipulate by statute in great detail which programs require deeming. We stipulate, for instance, that the Supplemental Security Income program be deemed. We stipulate that food stamps be deemed. We stipulate that aid to families with dependent children be deemed. Those are three programs which are in the law today specifically requiring deeming. In that tradition, if we are going to add additional programs, we should be just as specific in the future as we have been in the past.

So the challenge to us is to be faithful to our majority leader's statement earlier in this Congress in which he said this Congress is going to engage in legislative truth in advertising, we are going to say what we mean, mean what we say, and be clear in our instructions to those who will be affected by our actions.

So, Mr. President, those are the two amendments that will be voted on later today which I have offered. First the Cuban Adjustment Act, then the truth-in-advertising and deeming amendment.

I conclude, Mr. President, by asking unanimous consent that Senator LIEBERMAN of Connecticut be added as a cosponsor of the Cuban Adjustment Act amendment.

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

Mr. GRAHAM. Thank you, Mr. President.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I think we are nearly ready to perhaps close the debate and stack the votes on these two issues. I see no one further coming to speak on the issue. I will advise my colleagues—yes.

Mr. GRAHAM. Mr. President, it is my understanding there will be 5 minutes on each side immediately prior to the vote.

Mr. SIMPSON. Mr. President, that would be perfectly appropriate to me.

Mr. GRAHAM. Mr. President, I ask unanimous consent that, prior to the vote on each of those amendments, there be 5 minutes allocated to each side for closing arguments.

Mr. KENNEDY. Mr. President, reserving the right to object, and I do not object to it, I think that I generally want to see if we can vote after the disposition. I think that is a more orderly way. The leader has asked that we stack these. I would like to just see if we could see what understanding there is between Senator DOLE and Senator DASCHLE.

We ought to have at least the minute or two that we always do have. But I would like to inquire if there is no objection from the leaders on this before going along. So if we could inquire of the leadership if they are satisfied with that time, or make another suggestion, I would like to conform to that.

So would the Senator withhold that?

Mr. GRAHAM. I would like to add one other item. Senator SPECTER had asked to speak on the amendment, the truth in advertising and deeming amendment. I would like to protect his right to do so prior to the vote on that amendment.

Mr. KENNEDY. Mr. President, we will inquire of the majority and minority leaders, when we do our stacking, as to what procedure they want to follow in terms of the time. We will make it clear the Senator's request, and we will let him know prior to the time of asking consent.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, we will accommodate the Senator from Florida, but I agree with my colleague from Massachusetts that certainly that will be up to the majority leader and the minority leader as to that procedure. We will go forward on that basis.

Last night, I rather hurriedly commented on Senator GRAHAM's amendment. Let me be a little bit more precise at this time. I am speaking now of the Graham amendment to limit deeming to SSI, food stamps, AFDC, and housing assistance.

I do oppose the Graham amendment. This amendment would reopen a substantial loophole in our national—and traditional—immigration policy. Again, let me emphasize that before any prospective immigrant is approved to come to the United States, that newcomer must demonstrate that he or she is "not likely to become a public charge." That means that the newcomer will never, never, never use welfare—any welfare at all. That is what the law says, and that has been part of our immigration law since 1882.

Well, despite this stated policy, more than 20 percent of all immigrant households receive public assistance. There is a disconnect here between our Nation's stated policy, which is that no newcomer shall use welfare, period, and shall not become a public charge, and the reality in the United States, where one-fifth of our newcomers use welfare.

My colleagues could easily wonder, and are wondering, "How can this happen?" That is the question of the day. Many individuals show that they will not become a public charge by having a sponsor who is willing to provide support if the alien should need assistance of any kind. Under current law, however, this sponsor's promise is only counted when the alien applies for SSI, food stamps, and AFDC. No other welfare programs in the United States look toward the sponsor's promise of support. I hope that can be heard in the debate.

The bill now before the Senate—this is in the bill that is before you, this is

other than expensive private health insurance, for legal immigrants to take care of illness from the start, such as coughs, sore throats, skin lesions. Without this exception, immigrants will be pushed into emergency rooms to get treatment. This clogs our Nation's emergency rooms and is more expensive. Under this bill, immigrants would have to wait until their illnesses were severe enough to warrant a trip to the emergency room. This is bad health care policy.

This amendment would also exempt from the broad deeming requirements Federal student aid programs to legal immigrants to help them to pay for college. Student aid is not welfare. Student aid is not welfare. Half of the college students in this country rely on Federal grants or loans to help pay for their college, and many affluent citizens could not finance a college education without Federal assistance. Legal resident aliens are no different. Most of them would be unable to afford college without some financial help from the Government. A college graduate earns twice what a high school graduate earns and close to three times what a high school dropout earns—and pays taxes accordingly.

I want to point out, the eligibility has no impact on reducing the eligibility of other Americans. That is because the Pell and Stafford loans are a type of guarantee, so we are not saying that, by reducing the eligibility to take advantage of those programs, we are denying other Americans that. That is not the case. That is not the case. That is not so. We have some 460,000 children who are in college at the present time who are taking advantage of these programs. Many of them have extraordinary kinds of records. This would be unwise. The repayment programs under the Stafford loans have been demonstrated to be as good as, if not better than, any of the returns that come from other students as well.

The Nation as a whole reaps the benefits of a better educated work force. The Bureau of Labor Statistics estimates that about 20 percent of income growth during the last 20 years can be attributed to students going further in school. That has been true. In the House of Representatives they understood this. So this also exempts Head Start from sponsor deeming requirements.

Everyone knows investments in children pay off. Nowhere is it more true than in Head Start. Head Start is the premier social program, a long-term experiment that works. Study after study has documented the effectiveness of Head Start.

Legal immigrants should not be subject to more restrictions than illegal immigrants. We are punishing the wrong group. These people played by the rules, came here legally. Over 76 percent of them are relatives, members of families that are here. In instances of citizens or permanent resident aliens, they should not have a harsher standard than those who are illegal. In addition, there are certain services which are vital to the continued health and well-being of this country. My amendment ensures that legal immigrants will still have access to these programs.

I want to point out that our whole intention in dealing with illegals is to focus on the principal magnet, what the problem is, and that is the jobs magnet. That is why we have focused on that with the various verification provisions, which I support, which have been included in the Simpson program; by dealing with other proposals to ensure greater integrity of the birth certificates, an issue which I will support with Senator SIMPSON; the increase of the border guards and Border Patrol—again, to halt the illegals from coming in here. That is where the focus ought to be. We should not say in our assault, in trying to deal with that issue, that we are going to be harsh on the children. That does not make any sense.

The PRESIDING OFFICER. The Senator wished to be yielded 8 minutes.

Mr. KENNEDY. I yield myself 2 more minutes.

Mr. President, a final point I will make is; I know a quick answer and easy answer to this is, "If the deemers do not provide it, the taxpayers will." That is a simple answer. With regard to this program, it is wrong. The reason it is wrong is because in the SSI, the AFDC, the other programs, in order to get eligibility, there has to be preparedness for financial information in order for eligibility. That has been out there, and it exists at the present time. The deeming programs in those areas have had an important effect.

We are going to have to set up a whole new process of deeming, as the Senator from Florida has pointed out, because there is no experience in these States for dealing with Head Start or community health centers or an emergency kind of health assistance or the school lunch programs or teachers dealing with the Head Start.

That is going to be a massive new kind of a program that is going to have to be developed in the schools, local communities and in the counties. It is not out there. The cost of that is going to be considerable and is going to be paid for by the taxpayers. So this is a very targeted program.

For those reasons, I am in strong support of the Graham amendment. I hope it will be adopted. If not, we will have an opportunity to address this amendment at an appropriate time after the disposition of the Graham amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Is this the second Graham amendment or the first Graham amendment?

Mr. KENNEDY. We are debating both.

Mr. SIMPSON. Either one.

Mr. DOLE. Mr. President, I would like to speak to the amendment that the Senator from Florida offered last night on behalf of himself and others.

First, I listened to the distinguished manager of the bill, Senator SIMPSON. I think he correctly stated we would like to stack those votes and have the votes occur after the policy luncheons, because apparently there is a problem with planes getting in and out of New York.

Cloture was filed last night on the bill. We would like to have that cloture vote later today. If not, then very early in the morning, 8 a.m. tomorrow morning. So we can either do it late tonight or early tomorrow morning. We could wait until midnight to have it 1 minute after midnight. I prefer not to do that. It is our hope we can complete action on this bill and move on to other legislation. We have made progress. I think we can probably make a little more.

S4380

Mr. GRAHAM. Mr. President, if I could comment briefly on the remarks that have just been made by the majority leader and then the remarks that were made earlier by our colleague from Massachusetts. I think they both have gone to the essence of the two amendments that we will be voting on later today.

The first amendment relates to the Cuban Adjustment Act. As Senator DOLE has eloquently stated, the conditions in Cuba have not changed in the past 35 years. Therefore, the reason why the Congress in 1966, 30 years ago, adopted the Cuban Adjustment Act continue in place.

Those reasons are fundamentally a recognition of the authoritarian regime at our water's edge. The fact that, because of that regime, hundreds of thousands of people have fled tyranny, it was in the interest of the United States to have an expeditious procedure by which those persons who are here legally in the United States, have resided for 1 year, and have asked for a discretionary act of grace by the Attorney General, be given the opportunity to adjust their status to that of a permanent resident. That was a valid public policy when it was adopted in November 1966. It is a valid public policy in April 1996.

I cited yesterday and included in yesterday's CONGRESSIONAL RECORD, Mr.

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

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

AMENDMENT NO. 3871 TO AMENDMENT NO. 3743

(Purpose: To make a technical correction to sec. 204 of the bill to provide that deeming is required only for Federal programs and federally funded programs)

Mr. SIMPSON. Mr. President, I send an amendment to the desk to correct a drafting error in section 204(A) relating to an issue within our consideration, so it will, as intended, apply only to Federal and federally funded programs.

I have cleared this with my ranking member, and it is a technical amendment returning the language to what it was before the final change and to be consistent with the intent of the section and with the version that was used during the Judiciary Committee markup.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. I ask unanimous consent that it be in order.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3871 to amendment No. 3743.

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

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

The amendment is as follows:

Section 204(a) is amended to read as follows:

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any Federal program of assistance, or any program of assistance funded in whole or in part by the Federal Government, for which eligibility for benefits is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

Mr. SIMPSON. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is agreed to.

So the amendment (No. 3871) was agreed to.

Mr. SIMPSON. I thank the Chair.

Mr. President, I make the eternal lament—if our colleagues could come forward with the same vigor in which they produced their amendments at the last call, as they draped some 100 or so up front at the desk. And, of course, we are limited procedurally. We are limited by hours, each of us having an hour. Yielding can take place or allocation of that hour.

We are ready to proceed. I believe that we need not have too much further debate. I know Senator DOLE would like to speak on the Cuban Adjustment Act. I think at the conclusion of that we will close the debate, and then we will stack the votes on the two Graham amendments. Then I will go forward with my amendment on phasing in, the issue of the birth certificate and driver's license, which I think is in form now where it does not have budget difficulty with what we have done. Of course, the birth certificate is the central breeder document of most all fraud within the system. That amendment will come up then after that. Then we will go back to an amendment of Senator KENNEDY. I believe Senator ABRAHAM had a criminal alien measure. Then I will go to a verification amendment.

Once those issues, including deeming and welfare, verification and birth certificate discussion, are disposed of—those are central issues to the debate—I think that other amendments will fall into appropriate alignment with the planets.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 8 minutes.

Mr. President, at the time the Graham amendment is disposed of—I will offer the amendment and I will speak to it at the present time because the subject matter is very closely related to what the Graham amendment is all about. If his amendment is successful, it will not be necessary. But I want to illustrate why I think the Graham amendment should be supported by outlining a particular area of need that would be included in the Graham amendment but to give, perhaps, greater focus to the public policy questions which would be included in my amendment.

My amendment would remove the sponsor-deeming requirement for legal immigrants under the bill for those programs for which illegal immigrants are automatically eligible. These programs include emergency Medicaid, school lunches, disaster relief, child nutrition, immunizations, and communicable disease treatment. Under my amendment, illegals and legals would be eligible for these programs on the same basis, without a deeming requirement.

In addition, my amendment exempts a few additional programs from the deeming requirements. These programs were all exempted from deeming in the managers' amendment in the House immigration bill. Let me underline that. What this amendment basically does is put our legislation in conformity with what has actually passed the House of Representatives on these important programs, and for the reasons I will outline briefly. The language of the amendment is identical to the language passed by the House. For these programs, it is especially unconscionable or impractical to deem the sponsors' income. These additional programs include community and migrant health services, student aid for higher education, a means-tested program under the Elementary-Secondary Education Act, and Head Start.

This amendment does not exempt any new items. Except for prenatal care, every single program in my amendment is exempted in the House immigration bill. The House saw the importance of these programs. There is no reason why the Senate should not do the same. Legal immigrants should not be deemed for programs for which illegals qualify automatically. Let me just underline that. Legal immigrants should not be deemed for that which illegal immigrants qualify automatically.

The reason the illegal, primarily children, qualify is because we have made the judgment that it is in the public health interest of the United States, of its children, that there be immunization programs so there will not be an increase in the communicable diseases and other examples like that. We have made that judgment, and it is a wise one, and I commend the House for doing so because it is extremely important.

We have effectively eliminated the deeming program for expectant mothers for prenatal care. Why? Because the child will be an American citizen when that child is born and we want that child, who will be an American citizen, to be as healthy and as well as that child possibly can be. So we work with certain States on that. There are a few States that provide that kind of program—we are willing to support those States—after the mother has actually been in the United States for 3 years. So, this is not the magnet for that mother. The mother has to demonstrate residency, to be here for a 3-year period. It makes sense to make sure that child gets an early start. We have that in this legislation. But the other programs I have referenced here are closely related in merit to those programs.

Legal immigrants should not be deemed for programs which the illegals qualify. For example, legal immigrant children are subject to sponsor deeming before they can receive immunization. Illegals are automatically eligible for immunization. Both legal and illegal children need immunization to go to school. But if parents cannot afford immunization, the legal immigrant child cannot go to school, the illegal immigrant can. This is just one of the examples of the inequities in this bill.

Community and migrant health services, under the Public Health Services Act, go to community clinics and other small community programs. These grants are intended to ensure the health of entire communities, so legal immigrants should continue to be included in the program to keep the health of the whole community from being jeopardized.

Community and migrant health clinics are the first line of defense against communicable diseases. These programs get people into the primary health care system. There is no way,

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1664, the Immigration Control and Financial Responsibility Act, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship and work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole (for Simpson) amendment No. 3743, of a perfecting nature.

Graham amendment No. 3760 (to amendment No. 3743), to condition the repeal of the Cuban Adjustment Act on a democratically elected government in Cuba being in power.

Graham-Specter amendment No. 3803 (to amendment No. 3743), to clarify and enumerate specific public assistance programs with respect to which the deeming provisions apply.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON], is recognized.

Mr. SIMPSON. Mr. President, now may we review the activity. Am I correct that we have two amendments at the desk of Senator BOB GRAHAM of Florida, to which there has been a degree of debate and time has run on that, and that we are near readiness to vote—not at this time? I will wait until my ranking member, Senator KENNEDY, is here to be sure we concur. What is the status of matters?

The PRESIDING OFFICER. Amendment No. 3803 is pending, offered by the Senator from Florida [Mr. GRAHAM].

Mr. SIMPSON. And then, Mr. President, is there another amendment also pending?

The PRESIDING OFFICER. The Chair is informed No. 3760 has been set aside.

Mr. SIMPSON. That being the first amendment sent to the desk yesterday evening.

The PRESIDING OFFICER. That amendment was set aside.

Mr. SIMPSON. I thank the Chair. Let me just say now, we are embarking on the issue of illegal immigration. I hope my colleagues will pay very clear attention to this debate. This is the critical one. This is where we begin to get something done.

I must admit, and I thank my colleagues for their patience in my obstreperous behavior to propose to go forward with one or two items that had to do with legal immigration, thinking that I might get the attention of my colleagues to do something with regard to chain migration and other phenomenon. That certainly was a message clearly conveyed that that will have to come at another time.

So I will not be trying to link anything. I have no sinister plan to proceed to reconstruct or deconstruct. But the theme of this debate must be very clear to all of our colleagues, and it is very simply said: If we are going to have legal immigrants come to our country, then those who bring them, who sponsor them will have to agree that they will never become a public charge for 5 years, and then when they naturalize, of course, that will end. That has come through very clear.

But every single amendment that you will hear which says that the assets of the sponsor should not be deemed to be the assets of the immigrant, then remember that leaves only one person, or millions to pick up the slack, and those are called taxpayers.

So every time in this debate when there is an amendment to say, "Oh, my, we can't put that on the immigrant, that that asset should be listed as the immigrant's asset," every time that will happen, it means that the obligation of the sponsor becomes less and the obligation of the taxpayer becomes greater. You cannot have it both ways. The sponsor is either obligated, and should be, by a tough affidavit of support—and there is a tough one in there—or if they come off the hook, the taxpayers go back on the hook. That is the essence of observing this debate.

The second part is very attentive to the issues of verification, because it does not matter how much you want to do something with regard to illegal immigration—and let me tell you, this bill does big things to illegal immigration because apparently that is what is sought—but you cannot get any of it done unless you have good verification procedures, counterfeit-resistant documents, things of that nature, which are not intrusive, which are not leading us down the slippery slope, which are not the first steps to an Orwellian society, which are not equated with tattoos, which are not equated with Adolf Hitler. That is not what we are about. But you cannot get there, you cannot do what people want to do some with vigor intensified, you cannot do that unless you have some kind of more counterfeit-resistant documentation, or the call-in system, or something.

You must have, I think, pilot projects to review to see which ones might be the best that we would eventually approve, and we would have to have a vote on that at some future year as to which one we would approve. That is very important.

You cannot help the employer by leaving the law to them. The employer right now has to look through 29 different documents of identification or work authorization. Then, if the employer asks for a document that is not on there, that employer is charged, or can be charged, with discrimination. We have done something about that. We must continue to do that.

What we are trying to do is eventually even get rid of the I-9 form. But when somebody in the debate says that employers are going to be burdened, remember, they are already burdened in the sense that they do the withholding for us on our Tax Code. That is a pretty big load. They do that. God bless them. On the employment situation, all they do is have a one-page form called an I-9, and they have had that since 1986. We are going to reduce the number of documents that they have to go through. We are going to reduce it from 29 to 6. We are hopefully going to do something with the proper identifiers which eventually will get rid of the form I-9. But the whole purpose of this is to aid employers in what they are trying to do with regard to employment of others in the work force.

Of course, any kind of eventual procedure or verification system that we use will apply to all of us. It will not be just asked of people who pull for them. That would be truly discrimination. It will be asked of those of us who are bald Anglos, too. Only twice in the lifetime can one be asked to present or to assist in this verification, and that is at the time of seeking a job and at the time of seeking public support—that is, public assistance or welfare. That is where we are.

A quick review of the issues of illegal immigration reform: As I say, this is a plenty tough package. Everyone should be able to appropriately thump their chest when they get back to the old home district and say, "Boy, did we do a number on illegals in this country." The answer is, yes, but you will not have done a thing if we do not have strong, appropriate verification procedures. Nothing will be accomplished—simply a glut of the same old stuff showing one more time fake ID's like this, fake Social Security like this. You can pick them up anywhere in the United States. Within 300 yards of this building you can pick up any document you want, if you want to pay for it. You get a beautiful passport from a little shop not far from here for about 750 bucks. That will fake out most of the folks. That is where we are.

You cannot get this done unless we do something with these types of gimmick documents which then drain away the Treasury, which then create the anguish with the citizens, which give rise to the proposition 187's of the world. If we do not deal with it responsibly, we will have 187's in every State in the Union.

So those are some of the things that I just wanted to review with my colleagues.

To proceed, I will await the appearance of my good colleague, the ranking Member from Massachusetts. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I know there is an obligation for many of us at 6:45. I am going to be very brief, and I will cover this issue in more complete detail tomorrow so that we might meet those obligations.

This is a very fascinating amendment. It is, I gather, a list of only the issues or the programs that would be deemed to be income. I hope people can hear what we are trying to do here. There are two choices: Either the sponsor pays for a legal immigrant or the taxpayers do. That is about the simplest kind of discussion I can come to.

This issue of deeming is very simple. Deeming is this, and I hope we can try to keep toward this in the debate: The purpose of deeming is to make the sponsor of the immigrant responsible for the needs of the immigrant relative, that immigrant relative that the sponsor brought to this country.

Everything we have done here with regard to this immigration issue, including the new affidavit support requirements, says if you bring your relative to the United States, you are going to be sure that they do not become a public charge. That has been the law since 1884 in the United States of America.

The question is very simple. Either you deem the income of the sponsor, and every other thing that this person is going to get, or the taxpayer will pave to pick up the slack. That is where it is. Any other assistance will be required to be picked up by the citizens of the United States.

If you are going to be specific, as in this amendment—and remember that we are told that this is for clarity—these are the issues, these are the programs that are deemed to be judged as support. We have not even talked about Medicaid, PELL grants, State general assistance, legal services, low-income heating, as if they were not there.

This is one that needs the clear light of morning, the brilliant sun coming over the eastern hills so we can pierce this veil, because this is a concept that will assure that someone who sponsors a legal immigrant will be off the hook and that an agency will provide services and not be able to go back against the sponsor.

Ladies and gentlemen, the whole purpose of this exercise is to say, "If you bring in a legal immigrant, you give an affidavit of support, you pledge that your assets are considered to be the assets of that person. And that will be so for 5 years or until naturalization. And if you do not choose to do that, then know that the sponsor is off the hook and the taxpayers are on the hook." I do not think that is what the public charge provision of the law ever would have provided.

With that, Mr. President, unless the Senator from Florida has something further, I will go to wrap up, if I may. I thank the Senator from Florida for his courtesy.

grants, foster care, title IV–A child care, title IV–D child support, and Medicaid qualified Medicare beneficiaries.

The administrative costs alone of deeming these programs, of determining who is and who is not eligible, would exceed $700 million, according to the National Conference of State Legislators study. As a result, the National Conference of State Legislators, the National Association of Counties, and the National League of Cities have endorsed the amendment which is before the Senate this evening, to substitute a clear and concrete list of programs to be deemed. As they write, "This amendment assures that Congress and not the courts will decide which programs are deemed."

Let me repeat. This amendment assures that Congress, and not the courts, will decide which programs are deemed.

If the Senate chooses to impose new administrative requirements on State and local governments, we should do so, as the majority leader said, and "be willing to make the tough choices needed to pay for it."

For these reasons, we take a different approach by eliminating the vague language which is in S. 1664 and replacing that vague language with a list of 16 specific programs that would be required to be implemented under the new deeming provisions.

These programs are: Aid to Families with Dependent Children, Supplemental Security Income, food stamps, section 8 low-income housing assistance, low rent public housing, section 236 interest reduction payments, homeowner assisted payments under the National Housing Act, HUD low-income rent supplements, rural housing loans, rural rental housing loans, rural rental assistance, rural housing repair loans and grants, farm labor housing loans and grants, rural housing preservation grants, rural self-help technical assistance grants, and site loans.

Those would be the 16 programs that would be subjected to deeming.

Mr. President, I do not submit that these 16 programs came from a mountain and were inscribed on tablets. These are 16 programs which we and responsible organizations have identified as what they think would be appropriate to apply the deeming standard. If someone wishes to subtract or add to or modify this list, that would be the subject of a reasonable debate. But we would be in a position to be telling States and local communities and their citizens exactly what we mean. We would be deciding to which programs we would apply this requirement that the income of the sponsor be added to the income of the alien in determining eligibility. We would not be leaving that judgment up to bureaucrats through regulation or to the courts through laborious litigation.

I will be happy to work with the sponsors of this bill to work out an agreement with the State and local units impacted by deeming so what programs should be included will be understood and, hopefully, will be the result of a consensus judgment. However, I firmly agree with the majority leader that we should at least have a little "legislative truth-in-advertising."

In addition to the strong support of the National Conference of State Legislators, the National Association of Counties, and the National League of Cities, this amendment is also supported by the National Association of Public Hospitals, the American Association of Community Colleges, Catholic Charities, United States Catholic Conference, and the Council of Jewish Federation among others.

Mr. President, this is the first of what I anticipate will be a series of amendments that relate to the issue of the eligibility of legal aliens to receive a variety of benefits and the circumstances under which the Federal Government should restrict its, as well as other governments's ability to provide those need-based services for legal immigrants.

This is not a matter which should pass quietly and without considered judgment, particularly in a bill which advertises itself as dealing with illegal aliens. We are here talking, Mr. President, about the financial rights of access to public programs of people who are in the country legally, who have played by the rules that we have established, who are paying taxes, who are subject to virtually all the requirements that apply to citizens, except the right to vote and the right to serve on juries. Yet, we are about to say in a retroactive way, including to those persons already in the country today under the standards that were applicable when they entered, that they are going to have their rights severely restricted and without clarity as to what those restricted rights will be.

I think that is bad policy. I think it violates the principles of the unfunded mandate legislation, the first legislation to be passed by this Congress. I think it undercuts the essential thrust of the legislation that is intended to be dealing with the impact of illegal immigrants.

AMENDMENT NO. 3803 TO AMENDMENT NO. 3743

(Purpose: To clarify and enumerate specific public assistance programs with respect to which the deeming provisions apply)

Mr. GRAHAM. So. Mr. President, I call up amendment No. 3803.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. SPECTER, proposes an amendment numbered 3803 to amendment No. 3743.

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

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

The amendment is as follows:

On page 198, beginning on line 11, strike all through page 201, line 4, and insert the following: for benefits, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien for purposes of the following programs:

(1) Supplementary security income under title XVI of the Social Security Act;

(2) Aid to Families with Dependent Children under title IV of the Social Security Act;

(3) Food stamps under the Food Stamp Act of 1977;

(4) Section 8 low-income housing assistance under the United States Housing Act of 1937;

(5) Low-rent public housing under the United States Housing Act of 1937;

(6) Section 236 interest reduction payments under the National Housing Act;

(7) Home-owner assistance payments under the National Housing Act;

(8) Low income rent supplements under the Housing and Urban Development Act of 1965;

(9) Rural housing loans under the Housing Act of 1949;

(10) Rural rental housing loans under the Housing Act of 1949;

(11) Rural rental assistance under the Housing Act of 1949;

(12) Rural housing repair loans and grants under the Housing Act of 1949;

(13) Farm labor housing loans and grants under the Housing act of 1949;

(14) Rural housing preservation grants under the Housing Act of 1949;

(15) Rural self-help technical assistance grants under the Housing Act of 1949;

(16) Site loans under the Housing Act of 1949; and

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOR.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTION FOR INDIGENCE.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(A) beginning on the date of such determination and ending 12 months after such date, or

(B) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

Mr. GRAHAM. Thank you, Mr. President.

Mr. GRAHAM. Mr. President, I appreciate the cordiality of our colleague from Wyoming. I would move on to the second amendment, which is really one of what I anticipate will be a cluster of amendments. Again, it goes to an issue raised in the previous amendment, which is that while we are dealing with the bill S. 1664 that has as its title: "To Increase Control Over Immigration in the United States by Increasing Border Patrol and Investigative Personnel," et cetera, a bill designed to restrain illegal immigration, in fact there are provisions which apply substantially or totally to persons who are in the country legally.

Many of those provisions also go to a second major concern for the structure of this legislation, and that is the degree to which it represents a significant unfunded mandate, a transfer of financial obligations from the Federal Government to State and local communities.

Mr. President, for many years, as you well know, I have been seriously concerned with the fact that while the Federal Government has the total responsibility for determining what our immigration policy will be and has the total responsibility for enforcing that immigration policy, where the policy is either misguided or where the policy is breached, it is the local communities and the States in which the aliens reside that most of the impact is felt. That impact is particularly felt in the area of the delivery of critical public services, from health care to education to financial assistance in time of need. It has been my feeling that fundamentally the Federal Government ought to be responsible for all dimensions of the immigration issue. It sets the rules. It enforces the rules. It should be responsible when the rules are not adequately enforced and there are impacts, especially financial impacts on individual communities.

Thus, I am concerned with this legislation, which instead of moving in the direction I think represents fair and balanced policy, goes in the opposite direction and is now going to have the Federal Government withdrawing from its level of financial responsibility for legal as well as illegal aliens, and will be, by its default, imposing that responsibility on the communities and States in which the aliens live.

Compounding that is the uncertainty of just which of these programs that are intended to provide some assistance to the alien will be affected by this shift of responsibility. As currently written, S. 1664 would require that the income of the sponsor, that is the person who is sponsoring the legal alien to come into the United States, would require that the sponsor's income be deemed to be the income of the alien for "any program of assistance provided or funded in whole or in part by the Federal Government, by any State or local government entity for which eligibility for benefits is based on need." That is the standard by which there will be this transfer of responsibility, assumedly, from the Federal Government to the sponsor of the legal alien. But in reality, if that sponsor is not able to meet his obligations, it is going to be a transfer to the local community, private philanthropy, or government services, when the legal alien becomes old, unemployed, injured, or otherwise in need of services that he or she is unable to pay for.

The amendment which I am offering, which has been filed as No. 3803, and in which I am joined by Senator SPECTER, says if we are going to do this, if we are going to require this deeming, that at least we ought to know precisely what it is we are talking about because no one can say, reading the language that I just quoted from the legislation, what programs, Federal, State or local, would be impacted by these very broad and sweeping words.

What are some of the programs? I would like to ask the sponsors and supporters of the bill whether or not the following programs are intended to be impacted by S. 1664.

Minnesota has a program called "MinnesotaCare," would that be affected? Rhode Island's "Rite Care," would that be affected? Hawaii has a program called "Healthy Start," would that be affected? My own State of Florida has a program called "Healthy Kids," would that be affected? Texas's "Crippled Children's" program, Chapter I programs in the public schools, Maryland's "Minds Across Maryland," Florida's "Children's Emergency Services," Texas's "Indigent Health Care," local government public defenders, immunization programs in public health clinics, services in our Nation's public hospitals, State and local public health services, programs to take children out of abusive environments, gang prevention programs, children's lunches and nutrition programs, special education programs—which of these are intended to be covered?

Whatever you think about the underlying policy, there can certainly be no virtue in ambiguity. At least the people at the State and community level, citizens and those charged with the responsibility for providing services alike, we owe to them the obligation of clarity of what it is we intend, in terms of those programs that will be affected by the sweeping language, "any program of assistance provided or funded in whole or in part, for which eligibility for benefits is based on need", shall require deeming.

For example, Virginia uses Community Development Block Grant money to fund community centers and extension services that provide lunch programs, after-school tutoring, English classes, and recreational sports programs to residents of the community. Will Virginia have to deem participants in everything from children's soccer leagues to mobile meals to English classes? Do we intend that? If we do, let us say so.

Program providers, State and local governments and others, including the public, need to know the answers to these questions and more. They deserve nothing less. Moreover, Members of Congress should know the impact of the legislation before we are asked to decide as to whether it is appropriate public policy, policy to be enacted into laws of the United States of America. The majority leader said on the Senate floor during the debate of the unfunded mandates legislation on January 4 of 1995:

> Mr. President, the time has come for a little legislative truth in advertising. Before Members of Congress vote for a piece of legislation they need to know how it would impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for it.

The underlying bill, S. 1664, fails to meet these tests as established by the majority leader. Members of Congress have no idea what programs will be impacted by this legislation. Are 60 programs impacted? Are 88 programs? Are 417 programs? Are 3,812 programs? We have no idea and we will not, until regulations are implemented or the courts have decided what the meaning is of the phrase, programs by which "eligibility for benefits is based on need." Why should we turn over such a decision to regulators and the courts? We should decide. We should partake in a little "legislative truth-in-advertisin" ourselves.

Moreover, Members of Congress have not made the tough choices needed to pay for it. In fact, the National Conference of State Legislators has prepared a study to determine the imposed impact these deeming requirements will have, that is the requirement that the sponsor be financially responsible for the sponsored alien who is applying for a needs-based program. The National Conference of State Legislators has prepared a study on just 10 of those programs which they believe will probably be impacted. The programs that the NCSL studied were school lunch, school breakfast, child and adult care food programs, vocational rehabilitation, title 20 social service block

an agency in Washington, DC, my legislation now allows States to go directly to the USIA to request a waiver. It also is relieving some of the burden that participating Federal agencies have incurred in processing waiver applications.

The Conrad State 20 Program is still very new, and not every State has yet elected to use it. But the program is beginning to work exactly as I had hoped. At least 21 States have reported using it to obtain waivers. More States are expected to participate in the coming months. Unfortunately, the Conrad State 20 Program is scheduled to sunset on June 1, 1996, unless Congress approves an extension. The amendment I am offering would extend the program for 6 more years. This is not a permanent extension. The amendment would sunset the program on June 1, 2002.

My amendment also puts new restrictions and conditions on FMGs who use the Federal program. As a condition of using the Conrad State 20 Program to acquire a waiver, FMGs must contract to work for their original employer for at least 3 years. Otherwise, their waiver will be revoked and they will be subject to deportation. My amendment would apply the same 3-year contractual obligation for those who obtain a waiver through the Federal program.

We all know that State empowerment has been a major issue of the 104th Congress. The Conrad State 20 Program is one way of giving States more control over their health care needs. States that are using the program want to keep it operating for a few more years. They understand that this program does not take away jobs from American doctors, but instead is one more valuable tool to help serve the health care needs of rural and inner city citizens. The Senate passed my original legislation with strong bipartisan support. I am hopeful the Senate will agree that creating the Conrad State 20 Program was very worthwhile, and will agree to accept this modest, 6-year extension.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3866) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

State. These can be either new agents or existing agents shifted from other States.

In America today, immigration is not simply a California issue or a New York issue or a Texas or Florida issue. I can tell you that it is a real issue—and a real challenge—in my own State.

But today there are three States—including Iowa—that have no permanent INS presence to combat illegal immigration or to assist legal immigrants. In fact, in Iowa every other Federal law enforcement agency is represented except the Immigration and Naturalization Service.

This is a commonsense amendment. Ten agents is a modest level compared to agents in other States. According to INS current staffing levels, Missouri has 92 agents, Minnesota has 281 agents and the State of Washington has 440. And Iowa, West Virginia, and South Dakota have zero. This just does not make any sense.

Clearly every State needs a minimum INS presence to meet basic needs. My amendment would ensure that need is met. It would affect 10 States and only require 61 agents which is less than 0.3 percent of the current 19,780 INS agents nationwide.

Let me speak briefly about the situation in my own State. Currently, Iowa shares an INS office located in Omaha, NE. In its February report, the Omaha INS office reported that they apprehend a total of 704 illegal aliens last year for the two State area. This number is up by 52 percent from 1994.

The irony here is that in 1995, the INS office in Omaha was operating at a 33 percent reduction in manpower from 1994 staff levels. Yet the number of illegal aliens apprehended increased by 52 percent that year.

This same report states that there are about 550 criminal aliens being detained or serving sentences in Iowa and Nebraska city-county jails. Many of these aliens were arrested for controlled substance violations and drug trafficking crimes.

A little law enforcement relief is on its way to Iowa. The Justice Department announced that it will establish an INS office in Cedar Rapids with four law enforcement agents. That is a good step. And it is four more agents then we had before. But we need additional INS enforcement to assist Iowa's law enforcement in the central and western parts of our State.

In fact, the Omaha district office assesed in their initial report to the Justice Department that at least 8 INS enforcement agents are needed simply to handle the issue of illegal immigration in Iowa.

Mr. President, in the immigration reform legislation before the Senate this week, the Attorney General will be mandated to increase the number of Border Patrol agents by 1,000 every year for the next 4 years. Yet for Iowa, the Justice Department can only spare 4 law enforcement agents and no agents to perform examinations or inspections functions.

By providing each State with its own INS office, the Justice Department will save taxpayer dollars by reducing not only travel time but also jail time per alien, since a permanent INS presence would substantially speedup deportation proceedings.

There is also a growing need to assist legal immigrants and to speed up document processing. The Omaha INS office reported that based on its first quarter totals for this year the examinations process for legal immigrants applying for citizenship or adjusting their status went up 45 percent from last year. Even though, once again, the manpower for the Omaha INS office is down by one-third.

I have recommended that permanent INS office in Des Moines be located in free office space that would be provided by the Des Moines International Airport. Placing the office in the Des Moines International Airport would benefit Iowa in three ways. First, it would cut costs and save taxpayers money. Second, it would generate economic benefits for Iowa because the airport could then process international arrivals and advance Iowa's goal of becoming increasingly more competitive in the global market. Third, the office would be able to process legal immigrants living in Iowa.

I urge my collegues to join in support of my amendment. It is common sense, it is modest, and it sends a clear message to our States that we are committee to enforcing our immigration laws and giving them the tools they need to do it.

Mr. DASCHLE. Mr. President, I fully support Senator HARKIN's amendment to require the INS to have full-time staff in every State. Currently, South Dakota is one of only 3 States that do not have a permanent INS presence. Although South Dakota does not have the problems with immigration faced by States like California, there has been a dramatic growth in immigration, both legal and illegal, into the State and particularly into Sioux Falls. As immigration increases, it has become necessary to step up enforcement of the immigration laws nationwide, including in South Dakota.

In addition, citizens and legal residents who need help from the INS need to have an office in South Dakota to serve them. Now, they must journey to either Minnesota or Colorado. That is a huge burden on the residents of South Dakota.

Senator HARKIN is to be commended for addressing these problems and ensuring that South Dakota will have help from the INS to prevent illegal immigration and to facilitate the needs of legal residents and citizens.

Mr. CONRAD. Mr. President, my amendment is the same amendment that was added last week by unanimous consent to S. 1028, the health insurance reform bill. Although I am hopeful the House of Representatives will agree to retain the amendment during its conference with the Senate, that is not a certainty. The program this amendment extends is very important to my State and several others with large rural populations. But time is running out and this extension must be signed into law into the next few months. So I am offering the amendment today to S. 1664.

This amendment would extend what has become known by some as the Conrad State 20 Program. In 1994, I added a provision to the visa extension bill that allows state health departments or their equivalents to participate in the process of obtaining J-1 visa waivers. This process allows a foreign medical graduate [FMG] who has secured employment in the United States to waive the J-1 visa program's 2-year residency requirement.

As a condition of the J-1 visa, FMGs must return to their home countries for at least 2 years after their visas expire before being eligible to return. However, if the home countries do not object, FMGs can follow a waiver process that allows them to remain and work here in a designated health professional shortage area or medically underserved area. Before my legislation became law, that process exclusively involved finding an "interested Federal agency" to recommend to the United States Information Agency [USIA] that waiving the 2-year requirement was in the public interest. The law now allows each State health department or its equivalent to make this recommendation to the USIA for up to 20 waivers per year.

This law was necessary for several reasons. Despite an abundance of physicians in some areas of the country, other areas, especially rural and inner city areas, have had an exceedingly hard time recruiting American doctors. Many health facilities have had no other choice but turn to FMGs to fill their primary care needs. Unfortunately, obtaining J-1 visa waiver for qualified FMGs through the Federal program is a long and bureaucratic process that not only requires the participation of the interested Federal agency but also requires approval from both the USIA and the Immigration and Naturalization Service.

Finding a Federal agency to cooperate is difficult enough, considering that the Department of Health and Human Services does not participate. States who are not members of the Appalachian Regional Commission, which is eligible to approve its own waivers, have had to enlist any agency that is willing to take on these additional duties. These agencies, such as the Department of Agriculture or the Department of Housing and Urban Development, often have little or no expertise in health care issues. Once an agency does agree to participate, the word spreads quickly and soon that agency can be flooded with thousands of waiver applications from across the country.

Because States can clearly determine their own health needs far better than

I and my cosponsors, along with Senator KENNEDY and Senator SIMPSON, have agreed that it is important for the GAO to look at four issues:

First, that able and willing American workers are efficiently matched up with employers seeking labor.

I have heard criticism of the H-2A Program from both the growers and from farmworker advocates. According to the testimony by John R. Hancock, a former Department of Labor employee, before the House Committee on Agriculture December 14, 1995,

Only about 10-15 percent of the job openings available with H-2A employers have been referred by the Employment Service in recent years, and the number of such workers who stay on the job to complete the total contract period has been minimal.

Similarly, a briefing book sent to me from the Farmworker's Justice Fund cited the Commission on Agricultural Workers' finding that "the supply of workers is not yet coordinated well enough with the demand for workers."

So, it seems that we all can agree that we seriously need to evaluate how we match up workers with employers who are experiencing labor shortages.

Second, if and when there is a shortage of American workers willing to do the necessary temporary, agricultural labor, there will be a straightforward program to address this shortage with temporary foreign workers.

I have been assured that across the country there are hundreds of thousands of migrant farmworkers, ready, willing and able to work. If there is no such shortage, then clearly there is no need for growers to use the H-2A Program.

However, growers in Oregon and across the country are afraid that if this legislation is effective in cracking down on false documents and cracking down on people who come across the border, then they will see their work force decline sharply.

Now as far as I can tell, no one can say for certain how many illegal immigrants there are in this country and how many are part of the migrant labor work force. But I know from visiting with folks in Oregon, that there is nothing that makes a farmer lose more sleep at night than worrying about his or her fruit, or berries, or vegetables, rotting in the field because there is no one there to pick it.

I know that many say that a farmer could get as much labor as he wanted if the wage was high enough. I want to make clear that I strongly support making sure that seasonal, agricultural workers get a good, living wage. I strongly support ensuring that they have good housing, and workers compensation, and safe working conditions.

But I do think we have to be realistic that if we want to keep a competitive agricultural industry, these temporary, seasonal jobs are never going to make a person a millionaire; these jobs are always going to involve tough, physical labor, and they most likely aren't going to be filled by out-of-work engineers.

So it seems to make sense to me that because we want our agricultural industry to be the most competitive in the world, that if and when there is a labor shortage of people who are willing and able to do temporary, seasonal work, there should be an effective way for the farmer to get help to harvest the crop.

I don't want to have to scramble while the food rots in the field to fix the H-2A Program. Let's straighten it out now. Hopefully, we'll never have to use it—but if we do, let's have something that is usable.

Third, if and when a farmer uses the H-2A Program, the program should not directly or indirectly be misused to displace U.S. agricultural workers, or to make U.S. workers worse off.

There are a lot of stories about misuse of the H-2A Program —I find these appalling. I do not think that the H-2A Program should be used as a conduit for cheap foreign labor, as a substitute for already available American workers.

It seems to me that everyone admits that there are some abusive employers. There are employers who have manipulated the piece rates to pay people lower wages. There are employers who, once they get into the H-2A Program, never again look for American labor. I think that this program needs careful scrutiny to ensure that workers are treated fairly—that they get a fair wage for a fair day's work, that they have places to live and reasonable benefits, and that we don't bring in foreign workers to the detriment of American workers here.

Many of the problems I hear about with the H-2A Program from farmworker advocates seem to stem from a lack of enforcement in the program. Perhaps this is something that we also need to look at—what mechanism can make sure that this program is enforceable.

Fourth, finally, I believe that it is important that we do not undermine the intent of this bill to ensure that we stop the flood of illegal immigrants coming across the border. We would ask GAO to look at the extent to which this program might cause an increase in illegal immigrants in this country.

I know that a number of concerns have been expressed about overstays among temporary workers. Obviously, our primary concern with this entire legislation is that we get some control over the illegal immigrants coming into this country, and it is important that we don't close the door in one place, only to open a backdoor elsewhere.

I know that the tensions over the guest worker issue run deep. I hope that with this GAO report we can start to take an objective, balanced look at what this guest worker program will mean both for farm workers and for employers, and how it can operate so it is fair to both.

Mr. LEAHY. Mr. President, I commend Senator RON WYDEN for offering an amendment to require the General Accounting Office [GAO] to review and report on the effectiveness of the H-2A Nonimmigrant Worker Program after passage of immigration reform legislation.

I have heard from many agriculture and labor groups about the importance of H-2A Nonimmigrant Worker Program. In my home State of Vermont, for example, apple growers depend on this program for some of their labor needs during the peak harvest season. Many of these farmers have concerns with the current operation and responsiveness of the H-2A program. Both farmers and laborers are concerned that passage of legislation to reform the Nation's immigration laws may further hamper the effectiveness of the H-2A Nonimmigrant Worker Program. I believe this amendment goes a long way in addressing their concerns.

I am proud to cosponsor this amendment because I believe it will result in the collection of public, nonpartisan information on the effectiveness of this essential program. It directs the GAO to review the existing H-2A Nonimmigrant Worker Program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers. And it requires the GAO to issue a timely report to the public on its findings. I am hopeful that the GAO study will provide a foundation for improving the program for the sake of agricultural employers and workers.

I also believe that this amendment crafts a careful balance between the needs of agricultural growers and the protection of domestic and foreign farm workers. The amendment calls on the GAO to review the H-2A Program to determine if it provides an adequate supply of qualified U.S. workers, timely approval for the applications for temporary foreign workers, protection against the displacement or diminishing of the terms and conditions of the employment of U.S. agricultural workers.

I am hopeful that this GAO report will help the H-2A admissions process meet the needs of agricultural employers while protecting the jobs, wages, and working conditions of domestic workers and the rights and dignity of those admitted to work on a temporary and seasonal basis.

I urge my colleagues to support the Wyden amendment.

INS AMENDMENT

Mr. HARKIN. Mr. President, much of the debate on this floor is focused on how to strengthen our immigration laws. But whatever we pass will not mean much if we do not make sure that our States have the tools and support they need to enforce those laws in the first place.

My amendment, which is cosponsored by Senator BYRD and Senator DASCHLE that would require the Attorney General to provide at least 10 full-time active duty agents of the Immigration and Naturalization Service in each

AMENDMENT NO. 3866 TO AMENDMENT NO. 3743

(Purpose: To make manager's amendments to the bill)

Mr. HATCH. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. SIMPSON, proposes an amendment numbered 3866 to amendment numbered 3743.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WYDEN. Mr. President, I would like to thank Senator SIMPSON and Senator KENNEDY for working with me and my cosponsors to craft a bipartisan amendment to commission a GAO study on the effectiveness of the H-2A Guest Worker Program.

It seems to me that the H-2A Program works for no one. From what I have heard from growers and from farmworker advocates on this program: First, it does not effectively match up American workers with employers who need labor; second, it is administratively unwieldy for growers, potentially leaving them at the date of harvest without sufficient labor; and third, there are cases where the labor protections under the program have been poorly enforced and some growers have driven out domestic laborers in favor of foreign labor through unfair employment practices.

It seems to me that this program can use a good, hard look on a number of fronts, and this is why I am proposing a GAO report so that an outside agency can take a balanced look at the effectiveness of this program.

I am concerned about this issue because agriculture is one of Oregon's largest industries. It generates more than $5 billion in direct economic output and another $3 to 5 billion in related industries.

According to the Oregon Department of Agriculture, roughly 53,000 jobs in Oregon are tied to the agricultural industry. Let me clarify: these are not seasonal or temporary jobs, these are good, permanent, American jobs. If we add on seasonal workers, we are talking about 76,000 to 98,000 jobs in Oregon.

When we are talking about this many jobs in my State of Oregon, I don't want to be flip or careless about any changes to any statute that might adversely affect these jobs or this industry. At the same time, I certainly don't want to see the creation of a new Bracero Program.

In my mind I set some simple goals for looking at the H-2A Program: First, we have to make sure that the U.S. agriculture industry is internationally competitive, and second, we have to make sure that American farmworkers are not displaced by foreign workers and that they have access to good jobs, where they can earn a fair day's wage for a fair day's work.

With these goals in mind, I think that we can design a reasonable system to meet labor shortages, if and when they occur.

It is an understatement to say that the issue of the H-2A Program for bringing in temporary guest workers is polarized. Labor unions and advocates for farmworkers feel that the H-2A Program is barely a notch above the old, abusive Bracero Program. Growers feel that far from giving them access to cheap labor, the H-2A Program is extraordinarily costly and almost totally unusable and that the Department of Labor is openly hostile to their interests.

Given the passions surrounding this issue, I think that it's important that we begin any process of redesigning this program by bringing in an independent, outside agency to take a look at H-2A to try to sift out what is actually happening, and what can be done to make this program an effective safety valve, if indeed, after immigration reform legislation passes, there ends up being a shortage of American workers who are able and willing to take temporary, agricultural jobs.

The comments I made in the earlier part of my statement about our parliamentary situation have nothing to do with his willingness to get a strong bill through and his desire to engage in full debate and discussion on these issues and I believe any other issue that Members of the Senate would want to address as well.

that their health care needs are going to be satisfactorily addressed.

Mr. President, there are many misconceptions about immigrants' use of public assistance. Here are just a few facts.

The Urban Institute says that legal immigrants contribute $25 to $30 billion more in taxes each year than they receive in services. That is almost $2,500 per immigrant, and this figure is confirmed by almost every other study. The majority of legal immigrants—over 93 percent—do not use welfare as it is conventionally defined; that is, AFDC, SSI, and food stamps. The poor immigrants are less likely to use welfare than poor native Americans. Only 16 percent of immigrants use welfare compared to 25 percent of native born Americans. Working age legal immigrants use welfare at about the same rate as citizens—about 5 percent. The only immigrant populations where welfare use is higher than by citizens is by elderly immigrants and refugees on SSI. We all understand why indigent refugees need help, so the only real issue is elderly immigrants on SSI. We ought to address those issues.

We have seen deeming go into effect and that has a positive impact. That ought to be the focus, that ought be the area where we are looking at various alternatives that are going to be responsive to protecting the interests of the taxpayers and are humanitarian, to make sure that people who are parents are going to be treated decently in our society.

Instead of addressing the specific problem of elderly immigrants, this bill broadly restricts the eligibility of all legal immigrants for any governmental help.

When it comes to public assistance, the consequences of this bill are threefold. First, it provides an inadequate safety net for legal immigrants. We ask legal immigrants to work and pay taxes just like American citizens. Immigrants must also serve in the military if they are called. We have more than 20,000 of them in the Armed Forces today, a number of them in Bosnia. In fact, we expect legal immigrants to put their lives on the line for the safety of our country, but the safety net we provide for them and their families in return is all but gone under this bill. We expect immigrants to make the ultimate sacrifice on the battlefield but under this bill America will not be there for them if they need medical care, school lunches for their children, or even their veterans' pensions.

Second, this bill passes the buck to the State and the local governments.

Mr. President, I have gone through that in some detail.

Third, this bill will be an administrative and bureaucratic nightmare for Federal, State, local and private service providers. They will be burdened with determining which immigrants have sponsors, what the sponsor's income is, what the immigrant's income is, and who is entitled to benefits. These providers will have to do this for every needs-based program from school lunches to Medicaid. That makes no sense.

Let me give you an example or two. On school lunches, teachers and school officials have their hands full as they work for the education of children but under this bill, when school starts next September, every school in America must document—listen to this—every school in America must document whether their pupils are American citizens or immigrants. Teachers must figure out whether the immigrant has a sponsor. The income of the sponsor must be determined before legal immigrant children can get school lunches, but illegal immigrant children do not have sponsors so they get the school lunches on the same basis as American citizen children.

Under medical care, suppose an immigrant child has a chronic medical condition. The parents are legal and working but have been unable to get insurance. Their sponsor's income is just high enough that it disqualifies the child for Medicaid under the bill so the child goes without care until her condition becomes an emergency. She runs up an expensive medical bill under the emergency Medicaid for a condition that could have been treated at a low cost earlier, and this result does not make any sense.

Child care. Like many American families, some immigrant families struggle to make ends meet. They rely on child care in order to stay on their jobs. These children receiving child care are American citizens. But by deeming child care programs as this bill does, it removes American citizen children from child care programs and jeopardizes the employment of their immigrant parents. That is true with regard to Head Start as well.

Finally, the United States must continue to provide the safe haven for refugees fleeing persecution, yet so-called expedited exclusion procedures in the legislation will cause us to turn away many true refugees. Under this procedure, persons arriving in the United States with false documents but who request political asylum would be turned away at our airports with little consideration of their claims, no access to counsel, and no right to an interpreter. It is often impossible for them to obtain valid passports or travel documents before they flee their homelands. Many times, even trying to get a passport from their governments, the very governments that are persecuting them, could bring them further harm. They have no choice but to obtain false documents to escape.

This reality has long been recognized under international law. In fact, the U.N. Refugee Convention, to which the United States is a party, says governments should not penalize refugees fleeing persecution who present fraudulent documents or have no documents. If it were not for the courageous efforts of Raoul Wallenberg providing false documents to Jews fleeing Nazi Germany during World War II, many thousands of fleeing refugees would have had no means of escape.

Mr. President, we spent time on this issue. We reviewed those organizations, church-based, human rights-based organizations. Most of them pointed out the trauma that is affecting individuals who have been persecuted, the distrust they have for governments even coming to the United States, their estimate that it takes anywhere from 19 to 22 months generally to get those individuals who have been persecuted, who have been tortured, who have been subject to the greatest kinds of abuses to be willing to try and follow a process of moving toward asylum here in this country.

The idea that this is going to be able to be decided at an airport makes no sense, particularly with the extraordinary progress that has been made on the issue of asylum over the period of the last 18 months—just an extraordinary reduction in the total number of cases and the percentage of cases because of the new initiatives that have been provided by the Justice Department and Doris Meissner.

Finally, there are provisions in here that can work toward discrimination against Americans whose skin is of different color and who speak with different accents and languages. We have seen too often in the past in the great immigration debates where we have enshrined discrimination. We had the national origins quota system that discriminated against persons being born in various regions of the country, the Asian-Pacific triangle provisions that said only 125 individuals from the Asian-Pacific region would come to the United States prior to the 1965 act. We eliminated some of those provisions. But we have always seen that if it is possible to discriminate and use these laws to discriminate against American citizens as well as others, that has been the case.

I am hopeful we can work some of those provisions out during the final hours of consideration.

In conclusion, I commend my colleague, Senator SIMPSON, for his continuing leadership on this issue. He has approached this difficult issue with extraordinary diligence and patience. As I have mentioned, during the markup, even though we have areas of strong difference, he has been willing to consider the views of each member of the committee, the differing viewpoints that have been advanced in committee. He has given ample time for the committee to work its will. We had good debate and discussions during the markup, and in the great tradition of the Senate legislative process. We have areas, as I mentioned, of difference but every Member of this body knows, as I certainly do, as the ranking minority member, that he has addressed this with a seriousness and a knowledge and a belief that the positions that he has proposed represent his best judgment at the time.

Job applicants can produce any of the 289 different documents to prove their identification and eligibility to work in the United States. Most of these documents are easily counterfeited, such as Social Security, or school records. Even though this bill would reduce the number of documents from 29 to 6—6 that are the most secure—there is no assurance that this will be sufficient.

So the choice is clear. We will either keep the current system with its flaws and limit deterrence to illegal immigration, or require the President to find a new and better way of controlling illegal immigration and also avoid discrimination.

Second, we must retain a safety net for legal immigrant families. This bill is supposed to be about illegal immigration. Title I provides many needed reforms, employment verification, pilot projects, increased money for border patrols, all of which aim to control the flow of illegal immigrants into the country. But the welfare provisions in title II do just the opposite. They provide illegal immigrants with benefits that legal immigrants cannot get.

Let me repeat that. Under this legislation, title II provides illegal immigrants with benefits that legal immigrants cannot get, and they erode the safety net for legal immigrant families.

In the current law, as well as under this bill, illegal immigrants are ineligible for public assistance except where it is in the national interest to provide the assistance to everyone such as preventable communicable diseases. This bill says that illegal immigrants are ineligible for all public assistance programs except emergency Medicaid, school lunches, disaster relief, immunization, communicable disease treatment, and child nutrition. This is the way that it should be.

We want to make sure that, if the children are going to be here, they are going to at least get immunization so that they can effectively protect other children that might be exposed when these children have social contact with each other. That makes a good deal of sense. That is in the public health interest. I think we ought to be doing it with children, and I support the fact we will be doing it with these children in any event. But you have to get down to the hard line of dollars and cents of it, which is so often the final criteria here, what makes sense from a dollars and cents point of view. But this bill makes it much harder for legal immigrants to participate in these same programs. The same ones that illegal immigrants qualify for automatically, no questions asked, and this result is preposterous.

Legal immigrants play by the rules and come in under the law. They work, raise their families, pay taxes, and serve in the Armed Forces. They are here legally. Legal immigrants do not seek to cross the border, or overstay their visas. They come here the right way. They waited in line until a visa in the United States was available. And, by and large, they are here as the result of reunifying families—families.

Legal immigrants should not have to jump through a series of hoops which do not apply to illegal immigrants. This bill discriminates against those who play by the rules. Under the current law, legal immigrants have restricted access to the need-based programs—the AFDC, Social Security, SSI, and food stamps.

Their sponsor's income is deemed under these programs. Deeming means that the welfare offices consider both the sponsor's and the immigrant's income in determining whether the immigrant meets the income guidelines for the particular assistance for which the immigrant may apply. For example, if an immigrant sponsor earns $30,000 per year and the immigrant earns $10,000 per year, the immigrant is deemed to make $40,000 per year which pushes the immigrant above the income guidelines to qualify for particular assistance programs.

For legal immigrants, the deeming provisions in this bill affect not only the AFDC, SSI, and food stamps, but every other need-based program—everything from lead paint screening for immigrant children to migrant health centers, veterans' pensions, and nutrition programs for the elderly. The effect of these provisions is to bar legal immigrants from receiving virtually any means-tested Government assistance. This bar lasts at least 5 years. The practical effect of these deeming rules is almost the same as banning the benefit.

We have seen what happens in deeming. The deeming effectively causes crashing reductions in all of these programs for those that might have otherwise been eligible.

For future immigrants, deeming applies for the last 40 quarters of work. For immigrants who are already here, deeming applies until they have been here for 5 years. This means that every program must now set up a bureaucracy to carry out immigration checks on every citizen and noncitizen to see who is entitled to assistance. They have to find out if there is a sponsor.

Listen to this. I know that Senator GRAHAM will speak eloquently about this. But this means effectively that every city and town—whether in Texas, in Florida, or in Massachusetts—is going to have to find out who the sponsor is. If someone comes into a local hospital and needs emergency assistance, and they say that this person is legal, they are going to have to find out who that sponsor is and be able to get the resources from that sponsor. You and I know what is going to happen. Those hospitals are going to be left holding the bag. They are going to be the major inner city hospitals. They are going to be the Public Health Service clinics. They are going to be the health delivery systems that deliver the health services to the neediest and the poor in this country. And to expect that they are going to set up a whole system to find out who is deemed and who is not deemed, and then to expect that they are going to be able to collect the funds from those families on it is absolutely beyond thinking.

Not only are the local communities and the local hospitals going to do it, but the counties are going to have to do it and the States are going to have to do it. That is going to cost hundreds of millions of dollars. It will not be participated in by the Federal government. We are not sharing in that responsibility. We are not matching that 40 or 50 or 60 percent as we do for welfare problems. Oh, no. That is going to be the States and the local communities. They are the ones that are going to have to set up that process to be able to judge about deeming; not the Federal Government. The local communities and the schools are going to have to do it. The hospitals are going to have to do it. The counties and the States are going to have to do it. They will have to find out if there is a sponsor. They will have to get copies of the tax returns. They will have to determine the sponsors' income, and this is an immense burden.

For example, the National Conference of State Legislatures, which strongly opposes the welfare provisions, estimates that the States will have to hire at least 24,000 new staff just to implement four of the vast number of programs that this bill would cover—24,000. Those four programs are school lunch, child and adult care, social service block grants under SSI, and vocational rehabilitation.

Simply hiring the additional staff needed to run these programs will result in unfunded mandates to the States of $722 million. This is not the only cost for the poor programs. Imagine the cost of States hiring staff to run all of the means-tested programs.

We were asked earlier during the whole debate about where the Congressional Budget Office was. They said, "We do not have the figures on it." You have them now. You have the figures now. Just in these four programs you are going to find it is going to be costly—hundreds and hundreds of millions of dollars.

This bill also upsets the basic values of our social service system after years of community assistance. Outreach clinics, day care centers, schools, and other institutions will now become the menacing presence because they will be seen as a branch of the INS to determine who is here illegally. This is going to have a chilling effect on those immigrants again that are legally here. They are going to be members of families. They are not going to want to go out and risk getting involved in terms of the INS and put their principal sponsors at any kind of disadvantage.

We are talking primarily about the public—in this instance public health kinds of issues that have a common interest with all of us in making sure

again, they filled up that tree so it was not making anything retroactive. moving the procedures of the Senate, jamming. the various procedural parts of Senate rules, so that we were going to be denied an opportunity to address those measures.

So, Mr. President, it is important that even though we will come back at 5 o'clock to address the questions of illegal immigration, let us understand what this filibuster is about. It is a filibuster against the increase in the minimum wage. That is what the issue is. That is what is wrong. That is what the Republican leadership insisted on in order to deprive working families that are out there working. Instead of respecting their work and giving them a livable wage so they can move out of poverty, we are running through these gymnastics here in the U.S. Senate, and we are going to continue in the next couple of days dealing with legislation that should have been long since addressed, finalized, and on its way to conference.

So that is the point we have to keep repeating. There are those who do not like us to keep repeating it. They wish we would not keep repeating it. Those are the facts, and that is what the American people ought to understand, because those families that are hard pressed out there today and hardly able to make ends meet, we are their best hope, we are their last hope. We are still being denied the opportunity to help them.

I look forward to the debate on a number of these issues, about whether this dislocates workers. We will have a good opportunity to review what happened. We spent a few moments of the Senate's time going back, historically, where we provided an increase in the minimum wage and what happened in terms of the work force.

One of the best illustrations is in my own State of Massachusetts, which saw an increase in the minimum wage in January opposed by our Republican Governor up in Massachusetts. Unemployment is still going down, and the debate will show that a number of other States out there are affected by it. We will have an opportunity to talk about the impact on jobs. We will talk about what effect, if any, it has on inflation. Hopefully, we will have a chance to work out some process for those Americans, because I find that every day that goes by that we deny this institution the opportunity to express itself up or down, people wonder what we are all about.

Why are we not addressing the real concerns of working families, which is income security, job security, pension security, education for their kids, and take an opportunity to do something about the incentives that exist in the Internal Revenue Code that drive good American jobs out? That is what they want. They want us to do something about our borders as well. But to take it up when we could have used several days and made progress on all those other issues, certainly we should be about those measures.

Mr. President, I want to go into, for just a moment this afternoon, the principal areas that are germane and that I think we will have to address. I know Senator GRAHAM identified some of these measures, and I think they are very important, and we are going to have an opportunity to vote on them. We have not yet had the opportunity. We were not able to get these measures that were even germane and where we wanted to get a serious vote on these measures previously because of the way that the floor action proceeded. Now under the measure, when we get eventually toward cloture, we will address them.

Let me just mention a few of these measures here this afternoon.

Mr. President, the first of these measures will be on looking at the overall legislation, what we are doing about the illegal immigration. First, if we are to make headway in the controlling of illegal immigration, we need to find new and better ways to help employers determine who is authorized to work in the United States and who is not. We must shut off the job magnet by denying jobs to illegal immigrants.

As the late Barbara Jordan reminded us, we are a country of laws, and for immigration policy to make sense, it is necessary to make distinctions between those who obey the law and those who violate it. Illegal immigration takes away the jobs and lowers the wages of working American families on the lowest rung of the economic ladder.

Make no mistake about it: That is happening today in many of our communities, our major cities, in a number of different geographical areas around the country today. The illegal immigrants that come in, unskilled and untrained, are exploited on the one hand and are used by unethical employers in so many different instances. This has the effect of driving wages down for real working Americans and also displacing the jobs for real Americans who want to work and provide for their families.

These are the working families in America that survive from paycheck to paycheck and can least afford to lose their jobs to illegal aliens. Senator SIMPSON and I agree on this issue. We urge our colleagues to support provisions in the bill to require pilot programs to improve verification of employment eligibility. These are contained in sections 111, 112 and 113, and require the President to conduct several pilot programs over the next 3 years. After that, the President must submit a plan to Congress for improving the current system based on the results of the pilot programs. This plan cannot go into effect until Congress approves it by a separate vote in the future.

The current confusing system of employment verification is not working. It is too easy for people to come in legally as tourists and students and stay on and work illegally after their visas expire. It is too easy for illegal immigrants who impersonate local or even American citizens by using counterfeit documents.

Far too often employers seek to avoid this confusion by turning away job applicants who look or sound foreign. This employment discrimination especially hurts American workers of Hispanic and Asian origin. But it harms many other Americans in the job market as well. Some in the Senate will seek to eliminate the provisions that Senator SIMPSON and I have placed in the bill to authorize the pilot programs to find new and better ways of verifying job status. Our ability to deal with illegal immigration should not be derailed by misinformed and misguided notions that this bill would result in Big Brother abuses, or a national ID card. Nothing could be further from the truth.

The pilot programs are the core reforms in this bill. Without them this bill will accomplish very little in controlling illegal immigration.

We have to deal with the job magnet. That is the key. Every study—the Hesburgh studies of over 10 years ago, the Barbara Jordan studies—every comprehensive review of the problems with illegal immigrants; you have to deal with the job magnet. You deal with the job magnet and you are going to have a dramatic impact on illegal immigrants coming to this country. And, if you do not, then you can put up the fence all the way across the southern border and fences around this country. You are still not going to be able to adequately deal with this issue.

I support the increase in the Nation's border patrols contained in the bill. I support stepped-up efforts to combat smugglers and modern-day slave traders who risk the lives of desperate illegal immigrants, and who place them in sweatshop conditions. I support increased penalties against those who use counterfeit documents to enable illegal immigrants to pose as legal workers and take away American jobs by fraud. But without the pilot programs our ability to stem the tide of illegal immigration would be hamstrung.

The Immigration and Naturalization Service has limited authority to conduct pilot programs under current law. Under the few pilots that can be conducted there will be no assurances that they would have significant impact on business. There would be no privacy protection. In fact, there would be no standards at all other than those the Immigration Service would impose on itself.

This debate seems to have forgotten that since 1986 employers are required to check the documents of everyone they hire to make sure they are eligible to work in the United States. That means everyone—whether they are citizens or not. Those who think we do not need change should look at the ineffectiveness of the current system.

But what did we find out last week? We found that we went through this incredible kind of a trapeze act. As a result of going through these parliamentary procedures, we have delayed the illegal immigration bill.

Last week we were dealing with the spectacle of a rarely used motion to recommit, but only to recommit to the committee of jurisdiction for an instant, a nanosecond, an instant, and then to report back to the floor. In other words, it was a sham motion to recommit.

This was to avoid some Member of the Senate rising and saying, "Let's have 30 minutes on the increase in the minimum wage, divide the time up between those who are for it and those who are opposed to it, and let the Senate go." This is the procedure that was used effectively by the leadership.

On top of the motion to recommit, there had to be two separate amendments to fill what they call the "amendment tree" on one side of the bill. Then back on the bill itself, Senator DOLE had to maintain two amendments, a first-degree amendment and a second-degree amendment. Therefore, we were in the absurd position last week where Senator SIMPSON had to offer a Simpson second-degree amendment to the Simpson first-degree amendment to the Simpson motion to recommit to the underlying illegal immigration bill.

Look at what they had to go through from a parliamentary point of view. So you are not going to get a chance. These are the uses and abuses, I would say, of Senate rules to deny what is a clear majority position on an issue that has been understood, debated, discussed, and which over 80 percent of the American people support.

We also ended up with a Dole second-degree on illegal immigration, a Dole second-degree to the first degree, a Dole first-degree amendment to the illegal immigration bill. Then after each of these amendments had been adopted, we had to go through a half dozen unnecessary votes to adopt amendments to fill each of these slots.

Senator DOLE had to then undo each of the amendments that had been adopted. So we were then in the position of Senator SIMPSON moving to table the Simpson second-degree amendment. This is effectively the person who offered the amendment trying to table or effectively remove his second-degree amendment to the Simpson first-degree amendment to the Simpson motion to recommit the underlying bill. After that was tabled, Senator SIMPSON was in the position of offering the Simpson motion to table the Simpson first degree to the Simpson motion to recommit the underlying illegal immigration bill.

Then when that charade had been completed, we had to readopt all of the underlying first- and second-degree amendments, and then Senator DOLE had to go back and fill the tree again by adding five new amendments.

Then Senator DOLE has to get cloture, which some Democrats will support, some will oppose. Then, finally, there may be the chance, after the cloture vote, to offer amendments on the immigration bill. However, only germane amendments will be allowed after the cloture vote when the amendment is adopted sometime tomorrow perhaps.

Senator DOLE will then have to go through this whole process all over again on the underlying bill. We will then have a Dole motion to recommit, again a sham because it is only a motion to recommit for a nanosecond and then report back to the floor. We will have the Dole or Simpson first-degree amendment to the motion to the Dole motion to recommit. Then we will have the Simpson or Dole second-degree amendment to the Simpson or Dole first-degree amendment. This is truly an extraordinary parliamentary procedure. Its only purpose is to avoid a vote on the minimum wage. The result is to delay the passage of the illegal immigration bill.

This is a matter of great importance to many of those who have spoken eloquently and passionately about trying to deal with the problems of illegal immigration.

I have supported the essential aspects of the bill, the enhancements of our Border Patrol and putting in place the tamper-free cards that have been the subject of so much abuse. I worked with Senator SIMPSON on that issue. I know we will have a chance to revisit that because there will be those who will try to strike those provisions later on.

But all of Senator DOLE's parliamentary machinations on this bill, as I stated, are for the express purpose of denying Democrats their right to offer an amendment to increase the minimum wage.

So, Mr. President, we will be shut out on this particular vote prior to this afternoon. At 5 o'clock, we will be shut out from the opportunity of any debate. We are being denied an opportunity to say, "All right, we will not offer that measure on this particular legislation, but at least give us a time in these next couple of weeks where we can get a clear vote up or down on a clean bill on the increase in the minimum wage."

We are denied that opportunity. There cannot be an agreement on that, although 80 percent of the American people are for that. We are left in this situation where, when these other measures come up in the U.S. Senate, we have to, as we have for the better part of the previous year, tried to offer this measure on those measures so at least we have the chance of giving the Senate an opportunity to vote up or down and get some accountability, get some accountability in here about who is going to stand for those working families and who is against them.

I can understand why you would not want to be for that position against working families, even though Senator DOLE and Congressman GINGRICH supported the last increase that we had on the minimum wage.

I can understand why they do not want to face the music on this, but at some time in a democracy and some time in this body, and at some place here, this measure cries out for action. We are committed to try to get that action. That is why we, under the leadership of Senator DASCHLE, my friend and colleague, Senator KERRY, Senator WELLSTONE, and others, have stated that we will be forced into a situation where, at each and every legislative opportunity, we are going to offer this measure. We do not do it, in a sense, to try and obstruct the current legislative process. As we mentioned, we are at day 5 and counting on a measure, following Senate procedures. But we do not have all that amount of time to deal with the country's business, Mr. President.

We have important measures. We have the budget coming up. We still have important measures in the budget about determining where we are going on education. We have important measures on health care, and to try and get conferees, to go to conference, to get a decent health care bill, which passed 100 to 0. That is important. Senator KASSEBAUM and myself ought to be over there this afternoon trying to work out a good, clean measure that can go to the President's desk and be enacted, like the one we passed here by 100 to 0—Republicans and Democrats. We should get that passed and get it down to the President so he can sign it, and do something for 25 million Americans this afternoon.

Instead, we are over here on an amendment to an amendment to the motion to recommit to proceed, denying the opportunity to do that. That is not the way to do the Nation's business. We ought to be about health care, about increasing the minimum wage. We ought to be out here trying to give consideration to what we are going to do about pension reform, trying get stability and protection for pension funds for working families so they are not going to be plundered by the corporate raiders. We had a vote, 94–5, I think, to provide that protection. That legislation had not even gotten into the doors over there in conference, and it was dropped so quickly, exposing those pension funds for working families.

We ought to deal with those measures and provide additional opportunities for education, which is the backbone to everything this country is about, and demonstrate our priorities. We ought to be about those measures and trying to close down some of the tax loopholes that give preferences to moving jobs overseas, and bring good jobs back to the United States. Those are the things people are talking about. Instead, we had a pause even in the immigration bill to go on to the question of term limits. Then, once

from Florida, the Senator from Illinois, myself with regard to the fact, in many instances, under this legislation we are treating illegal immigrants better than legal immigrants. There will be some other amendments with regard to how we are going to treat expectant mothers of American citizens and how we are going to treat veterans, because you can be a permanent resident alien and serve in the Armed Forces. We have 20,000 of them, but under this bill, they will be shortchanged because of the hammer-like punitive provisions which have been included in the legislation.

So those we can debate. On those we should enter into a time agreement. I am certainly glad to enter into a time agreement so we can dispose of this measure. This legislation could have been disposed of in 2 days. We are in the fifth day now. We are going to conclude this phase of the debate on it at 5 o'clock, in the late afternoon on the fifth day. There is probably every probability it will go for 2 more days. That will be 7 days on a bill that should have lasted no longer than 2 days with relevant, germane amendments considered and those that I consider to be germane, perhaps not the Parliamentarian, but measures like Senator KYL's amendment should have been debated and discussed. It is worthwhile. We talked about those measures in the Judiciary Committee during that period of time. That is virtually foreclosed.

So we are voting this afternoon on a cloture motion to end debate on the immigration issue. Right? Wrong. Wrong. There is no filibuster on that. What there is a filibuster on is bringing up the minimum wage. That is what the filibuster is on. That is what the issue is. It is not about closing debate on illegal immigration, even though the measure that will be called up at that particular time and the proposal will be let us cut off the debate on the illegal immigration. No one is filibustering that.

What they are filibustering, by using the illegal immigration bill, is consideration of increasing the minimum wage for working families in this country. That is what the issue is. It is not illegal immigration. It is the issue about whether the Senate of the United States is going to be given an opportunity to vote on increasing the minimum wage 90 cents—45 cents a year over a period of the next 2 years—to give working families a livable wage so that they can move out of poverty.

Respect work. We hear a great deal about how important it is we are going to honor work. We are attempting to honor work by saying men and women in our country who work 40 hours a week 52 weeks out of the year ought to be able to have a livable wage. That has not been a partisan issue. We have had Republican Presidents who voted for it. George Bush voted for an increase in the minimum wage. Richard Nixon voted for an increase in the minimum wage. Dwight Eisenhower voted for an increase in the minimum wage. President Clinton will vote for it, but we are denied an opportunity to even vote on it. We are denied, even when we have demonstrated on other occasions that a majority of the Members, Republicans and Democrats alike, want it.

The American people are overwhelmingly for it. They cannot understand why the Congress of the United States cannot allocate 30 hours of its time. Here we are at 3:15 on a Monday afternoon. We could take 30 minutes on a side and debate this and vote at 5 o'clock on the minimum wage issue. It is not complicated. Everyone understands what this provides. It is 45 cents an hour for this year and 45 cents an hour for the next year. More important, it is 8 or 9 months of groceries for a working family that depends upon it. It is the utilities for 8 months for a family that is working at a minimum wage level. It is the premiums on a health care program for a family. That is what it is. That is what 45 cents an hour is. And it is the tuition for a son or daughter who wants to go to a fine State university for 1 year. That is what an increase in the minimum wage is.

Why are we not prepared to call the roll on that issue? Why are we not prepared to do it? We are not prepared to do it because we hear those on the other side say, "Well, it's going to mean a loss of a number of jobs out there." The interesting fact is, of those individuals who are on the bottom rung of the economic ladder, 90 percent of them are for it. Why? Because they see a 20-percent increase in their wages and possibly a 5-percent reduction in the total number of hours they might have to work. It is a good deal for them. But our Republican friends will not let us have the opportunity to make a judgment and a decision on that.

That is why, Mr. President, many of us are frustrated. We know we are caught in the gymnastics of the parliamentary workings of the U.S. Senate. We know we are caught in that. We have a difficulty trying to explain to people back home, in my State or in other States, even though my State has raised the minimum wage now and has seen a reduction in unemployment—a reduction in unemployment.

It is difficult to say to the 7 million recipients of the minimum wage who are women, that we are not going to give the opportunity to debate that or to make a judgment on that. Of the 7 million who are women, 5 million of them are adult women, 2 million of them are the heads of households trying to make it on the minimum wage.

We cannot say to the 100,000 children who would be lifted out of poverty with an increase in the minimum wage, "We cannot schedule it in the U.S. Senate. We have just been in a quorum call for 45 minutes, but we haven't got time to schedule that question about whether you get an increase in the minimum wage. We haven't got time. We haven't got time all this afternoon."

Of course we have time this afternoon. We have time tonight to do it. We have time tomorrow to do it. It would not take very long because we understand the issue. It is difficult to tell those 100,000 children that would move out of poverty with an increase in the minimum wage or the 300,000 families that would move out of poverty, "We haven't the time to schedule this, we haven't the time. We have to spend 7 or 8 days on the issues of illegal immigration in order to deny you the opportunity. We have to go to that extent to ensure you don't get a vote. Why? Because a majority of the Members of the U.S. Senate feel that you should get an increase."

So we take advantage of the Senate rules, their use. I do think it is taking advantage of them. You are advancing interests of the companies and industries and corporations that refuse to pay the minimum wage. That is who you are advancing and helping. People just do not understand it. They see the 30-percent increase in the salaries of CEO's in this country last year. They see the Senate salary increasing by $30,000 over the period of the last 6 years—$30,000—and yet we have not had an increase in the minimum wage.

None of our people in here would deny themselves that kind of increase. Maybe we have some Members who are not accepting the full increase. We heard a great deal about that previously. Maybe they are not. I apologize to them if I am mistaken. But we have not seen much evidence of it, of anyone not willing to take those five increases that Congress has had. But we are not just going to say to hard-working Americans that work is that important. So we are denying it.

We are denying that to working people. We are denying it to children. We are denying it to women. It is a women's issue. It is a children's issue. It is a family issue. Yet look at what we have had to go through here in the U.S. Senate.

Let me just take a moment of time to tell you about what we had to go through here in the U.S. Senate in order to avoid—avoid—any kind of consideration. Effectively, the unique situation where, unless you had your amendment cleared, so to speak, by the majority and effectively the majority leader, you never had a chance to get recognized around here, even during the previous debate. That was an extraordinary situation where the U.S. Senate, allegedly—and it is—the most important, deliberative body for public policy issues and questions, there is no mistake about it, effectively it has been handcuffed, been handcuffed from considering measures that these Members felt were important to have debate and discussion on and to be disposed of, as we have for 200 years on the floor of the U.S. Senate.

Mr. KENNEDY. Mr. President, we have found ourselves on Monday in the early afternoon anticipating a vote on cloture at approximately 5 o'clock. Generally, the motion for cloture is a way to terminate debate on a measure that is put before the body which is apparently being filibustered. That means a group generally does not want the measure to pass and, therefore, is using the rules of the Senate to frustrate, in this case, 60 Members of the Senate—more than a majority—so that they cannot work their will.

Under the time-honored process, in terms of the cloture motions, we have to have a 60-vote margin that says after a period of time, which is 30 hours, and after due notification, that the roll will be called and Senators will be make a judgment about whether there should be a termination of the debate. Then there is a reasonable period of time for amendments which have to be germane, and then there is the final outcome of an up-or-down vote on the matter before the Senate.

That was used in the early history of our country rarely but it has become more frequent in recent times. Certainly, there have been some, depending on how individuals look at the matter that is before the Senate, justifiable reasons for that procedure to be followed.

Today, we are in rather an extraordinary situation because there is no real desire to hold up the measure that is before the U.S. Senate. We are going to have a cloture vote at 5 o'clock, and then have a certain number of hours to debate. There has to be a germaneness issue for each of the amendments, and then there will be a certain amount of time to debate those measures. And depending on the outcome of the rollcall, they will either be attached to the measure or not attached to the measure, and they will have to follow some additional rules of the Senate. They will have to be germane.

The amendment of the Senator from Arizona, for example, that is related to the whole issue of immigration, which I find has some merit, is not going to be able to be considered on the floor of the U.S. Senate because it does not meet the strict requirements of germaneness.

But now we are back, Mr. President, in a situation where we have to ask ourselves, why are we here? Why are we here? I think there are some very important measures that ought to be debated and voted on. We will hear more about those from the Senator

Mr. KYL. Mr. President, while we are waiting for some other Members to come to the floor and discuss their proposed amendments, let me talk about an amendment which I had planned to offer but which I understand may not be considered germane—it is relevant but not germane, and therefore, presumably, I would not be able to offer it—but which is included in the House-passed bill and therefore will be a subject of the conference committee, and, therefore, I hope our Senate colleagues will be able to study and, hopefully, concur in it.

This is an amendment to restrict section 245(i) of the Immigration and Nationality Act. By way of explanation, prior to 1994, if an illegal alien residing in the United States became eligible for an immigrant visa through a family relationship or other means, then the alien could adjust to lawful, permanent resident status without any financial or other penalty.

In order to obtain the visa, the alien was required to depart from the United States, obtain a visa at the foreign consulate, and then, of course, return and acquire the legal status here. Section 245(i) of the Immigration and Nationality Act was added by section 505 of the fiscal year 1995 State appropriations measure. Under this new section, an illegal alien who becomes eligible for an immigrant visa may adjust to lawful permanent status without departing the United States, but only if the individual pays a penalty of five times the normal application fee. The penalty fee is approximately $750. Some have referred to this as, "buying your way in." Those who are wealthy enough simply pay this fee, this five times the normal penalty fee, and thereby are able to convert an illegal status to legal status and never have to return home to obtain a visa to arrive here legally.

Under the proposed amendment, which I will not be able to offer but, as I said, which is included in the House-passed version of the bill and which I hope our Senate conferees will look kindly upon, under this amendment, the aliens present in the United States illegally will no longer be able to stay here and buy their way into permanent resident status. They would have to return to their home country, obtain a legal visa, and return just as they did prior to 1995.

The amendment would take effect on October 1, 1996. There are a couple of exceptions that are worth noting, because we do not want to penalize anyone who is already here and who would be acting under appropriate color of law.

First, all aliens currently eligible for lawful permanent resident status under section 245(i) of the act may, under our proposal, upon payment of the full penalty fee, apply for legal status until October 1, 1996.

After October 1, 1996, those aliens, and only those aliens in the so-called "family fairness" category, would be eligible to change their status under section 245(i). The people protected under that section are those under section 301 of the Immigration Act of 1990. They are exempt from this change.

Those in the family fairness category would be able to stay in the United States and would not be faced with this penalty fee. It includes those children and spouses of aliens granted asylum on May 5, 1988. In order to be eligible, the spouse or the child must have been present in the United States on that date. Those are the people who, in some way, were grandfathered in, and, as a result, they would not be required to go back and obtain a visa in order to obtain legal status here.

But, except for those two categories, people would no longer be able to buy their way into the United States. The amendment takes effect at the end of the fiscal year, in order to give INS and the State Department an opportunity to adjust their resources. After September 30, 1997, this whole section 245(i) would expire.

Just a word. The Immigration and Naturalization Service and the Department of State oppose the amendment, primarily on fiscal grounds because of their costs inherent in processing the visa applications. We are in the process of working out the possibility where a fee would be paid which would cover their expenses and alleviate that particular concern.

They also pose the argument that, regardless where an illegal alien applies for legal status, either in the United States or a consulate in their home country, the waiting period to achieve the visa is the same. The point I make, however, is that the illegal alien is already in the United States illegally and that is not something we should reward, at least for those who are able to pay for it, by simply having them pay a special fine.

I also think what the agencies fail to appreciate is that once an illegal alien applies for legal status in the United States, he may be considered to be permanently residing in the United States under color of law, the so-called PRUCOL status. The PRUCOL standard is frequently used as a transitional status for aliens who are becoming permanent residents of the United States. If an alien is considered under PRUCOL, then that alien is eligible for numerous Federal assistance programs, including AFDC, SSI, Medicaid, unemployment insurance, housing assistance and other unrestricted programs. So, in this manner, aliens who enter the United States illegally would be rewarded if they are allowed to reside in the United States while they are waiting for a decision on their application.

The amendment I have offered but will not reask for a vote on eliminates this reward and the accompanying drain on federally funded programs by requiring illegal aliens desiring to apply for permanent status to return to their home country.

Just to summarize it, again, if you were here illegally, you would need to go back home and get a visa to apply for permanent legal status. You would not be able to pay a five-times-the-usual-amount fee and thereby buy your way into the country, as they say.

Again, the House has adopted this. Hopefully, on the conference committee we will agree with the House proposal and we can make that change in our immigration law.

IMMIGRATION CONTROL FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1664, and under a previous order, at the hour of 5 p.m., the clerk will report a motion to invoke cloture.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole (for Simpson) amendment No. 3743, of a perfecting nature.

Dole (for Simpson) amendment No. 3744 (to amendment No. 3743), of a perfecting nature.

Dole motion to recommit the bill to the Committee on the Judiciary with instructions to report back forthwith.

Lott amendment No. 3745 (to the instructions of the motion to recommit), to require the report to Congress on detention space to state the amount of detention space available in each of the preceding 10 years.

Dole modified Amendment No. 3746 (to amendment No. 3745), to authorize the use of volunteers to assist in the administration of naturalization programs, port of entry adjudications, and criminal alien removal.

Mr. KENNEDY. Mr. President, I was wondering if we could ask my friend from Arizona if we could divide the time between now and then between the two parties. I do not know how many other speakers we are going to have, but there may be some at the end. Just as a way of proceeding, maybe we can do that. If there is a reservation about it, I will continue to inquire of the Senator about some evenness in time. We might not approach that as an issue, but, more often than not, just before we get to the debate, a number of Senators would like to speak. I would like to see if we can reach some kind of way of allocating the time fairly and perhaps permitting Senators on both sides to make increasingly brief comments as we get closer to the time.

Mr. KYL. I do not have any objection to that. I know the Senator from Nevada wants to speak on unrelated matters now. Perhaps as we get further into that, the precise nature in which we can proceed may be more apparent to us later than it is now. I have no objection.

Mr. DASCHLE. Mr. President, I appreciate the comments of the distinguished majority leader.

The leader is absolutely right. This is all necessary because we are not in a position to agree tonight apparently on when that time certain may be for the minimum wage. I am optimistic, given our conversations in the last few hours, that we might be able to find a way in which to schedule the vote on the minimum wage in the not too distant future.

I am very hopeful that that can be done, that we can preclude in the future this kind of unnecessary filling of the tree and the parliamentary procedures involved with it. It is unfortunate, but under the circumstances there may not be an alternative.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. DOLE. I think now we can complete action on the other and turn it over to the chairman of the Appropriations Committee and anybody else who wishes to speak.

I will start where we left off.

For the information of all Senators, pending before the Senate is 1664, as reported by the Judiciary Committee.

I now ask unanimous consent that all remaining amendments to the immigration bill be relevant.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 3743

Mr. DOLE. Therefore, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. SIMPSON, proposes an amendment numbered 3743.

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

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

The amendment is as follows:

[Amendment No. 3743 is located in todays RECORD under "Amendments Submitted."]

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3744 TO AMENDMENT NO. 3743

Mr. DOLE. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. SIMPSON, proposes an amendment numbered 3744 to amendment No. 3743.

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

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

The amendment is as follows:

[Amendment No. 3744 is located in today's RECORD under "Amendments Submitted".]

MOTION TO RECOMMIT

Mr. DOLE. I move to recommit the bill, and I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Motion to recommit S. 1664 to the Judiciary Committee with instructions to report back forthwith.

AMENDMENT NO. 3745 TO INSTRUCTIONS OF MOTION TO RECOMMIT

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3745 to instructions of motion to recommit.

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

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

The amendment is as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith".

Add the following new subsection to section 182 of the bill:

(c) STATEMENT OF AMOUNT OF DETENTION SPACE IN PRIOR YEARS.—Such report shall also state the amount of detention space available in each of the 10 years prior to the enactment of this Act.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3746 TO AMENDMENT NO. 3745

Mr. DOLE. Now I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3746 to amendment No. 3745.

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

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

The amendment is as follows:

At the end of the amendment add the following:

SEC. 178 of the bill is amended by adding the following new subsection:

(c) EFFECTIVE DATE.—This section shall take effect 30 days after the effective date of this Act.

CLOTURE MOTION

Mr. DOLE. Mr. President. I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dole (for Simpson) amendment No. 3743 to the bill, S. 1664, the immigration bill.

Bob Dole, Alan Simpson, Dirk Kempthorne, Strom Thurmond, Dan Coats, James Inhofe, Jesse Helms, Richard Shelby, Trent Lott, Conrad Burns, Connie Mack, Hank Brown, Kay Bailey Hutchison, Paul Coverdell, Fred Thompson, and Rick Santorum.

CLOTURE MOTION

Mr. DOLE. I now send a second motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dole (for Simpson) amendment No 3743 to the bill, S. 1664, the immigration bill.

Bob Dole, Alan Simpson, Jesse Helms, Fred Thompson, Richard Shelby, Judd Gregg, Jon Kyl, Dirk Kempthorne, Trent Lott, Orrin Hatch, Larry Craig, Rick Santorum, John McCain, Kay Bailey Hutchison, Slade Gorton, and Don Nickles.

Mr. DOLE. Mr. President, for the information of all Senators, I just sent two cloture motions to the desk which would limit debate on the new Simpson amendment which encompasses all the Senate has adopted on the immigration bill to date.

The first cloture vote will occur on Monday, April 29, and I will consult with the Democratic leader before setting the cloture vote. I have been thinking about 5 o'clock, or something near that, so that all Members can be prepared for the cloture vote on Monday.

The second cloture vote will occur on Tuesday. And, again, I will speak with the distinguished Democratic leader.

I also indicate that I regret that I had to file cloture motions to fill up the amendment tree. But we would like to finish the immigration bill.

We still have ongoing discussions of when we can agree, if we can agree, on a procedure to handle a minimum wage. If we can work that out, a lot of this would end, and we could finally end the immigration bill very quickly.

So I do not really have much alternative unless I submit to the request of the Senator from Massachusetts.

It seems to me that we can work out some agreeable time for all Senators and some agreeable procedure. We will try to do that between now and Monday. Maybe we can vitiate many of these things.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

political life I said, "Ma'am, 'cause this is America."

If we ever get to the point where we do not have a few citizens who talk funny, if we ever get to the point where we do not have a new infusion of energy and a new spark to the American dream, then the American dream is going to start to fade and it is going the start to die. It is not going to fade and it is not going to die on my watch in the U.S. Senate.

I yield the floor.

Mr. DEWINE. Will the Senator yield for a moment?

Mr. GRAMM. I am glad to.

Mr. DEWINE. I just want to compliment my colleague from Texas for one of the most eloquent statements I have heard since I have been in the U.S. Senate, a little over a year. His story of his family, but frankly most particularly his story of Wendy Gramm's family, his lovely wife, is America's story. I have heard him, because he and I have been out campaigning before together, I have heard him tell that story I think eight or nine times. Each time I hear it, I am still touched by it because it is truly America's story.

I will also compliment him on his comments about chain migration. When you look at the chart of chain migration, that is America's story, too. Those are people who are trying to bring their families here. You see it—and, again, it is anecdotal—but you see it when you go into restaurants in Ohio or you go into dry cleaning stores or you go into any kind of establishments in Ohio, Washington, or Texas.

You see people in there who, you just assume they are all family. You do not know whether they are brothers or cousins or who. They are all working. They are working. That is what is the American dream. That is what has made this country great. I just want to compliment him on really, after kind of a long, difficult debate, coming over to the floor and really cutting through some of our rhetoric and just getting right down to it. I compliment him for that.

Mr. GRAMM. I thank the Senator very much.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I think we have had a good debate. I listened attentively to the remarks of my friend from Texas. I heard him speak of a woman who is remarkable, Wendy Gramm. I can only tell him that people have told me many times in the past years that anyone who knows Senator PHIL GRAMM and Senator AL SIMPSON and knows Wendy Gramm and Ann Simpson, knows that the two of us severely overmarried—severely. In fact, a lot of people do not vote for us; they vote for them. But that is just an experience that I share.

As we close the debate, I hope we can keep this in perspective. We will continue to have the most open door of any country in the world, regardless of what we do here. The numbers in my amendment are higher than they have been for most of the last 50 years. We will continue to have the most generous immigration policy in the world. We take more immigrants than all the rest of the world combined. We take more refugees than all the rest of the countries in the world combined. That is our heritage. We have never turned back.

An interesting country, started by land gentries, highly educated people, sophisticates who came here for one reason—to have religious freedom. The only country on Earth founded in a belief in God. That is corny nowadays, but that is what we have in America. And it will always be so. People who came here were not exactly ragamuffins. They read Locke and Montesquieu and Shakespeare and the classics. Interesting country. No other country will ever have a jump-start like that in the history of the world, period. So it is unique, it is extraordinary.

AMENDMENT NO. 3737

Mr. SIMPSON. Let me have a call for the regular order. I alert my friend, Senator KENNEDY, that I call for the regular order with respect to the Coverdell amendment of last night. That was 3737. It was laid down. There was debate. It was held back, the Coverdell amendment.

Mr. President, I call for the regular order.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The amendment is now before the Senate.

(The text of amendment No. 3737 was printed in the RECORD of April 24, 1996.)

Mr. SIMPSON. Mr. President, I know of no other speakers on that amendment. I believe the managers are prepared to accept that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3737) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3739

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 3739.

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

The PRESIDING OFFICER. Is there a sufficient second. There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment N0. 3739. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 20, nays 80, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—20

Baucus	Faircloth	Lott
Brown	Grassley	Reid
Bryan	Hollings	Roth
Burns	Jeffords	Shelby
Byrd	Johnston	Simpson
Cohen	Kassebaum	Thomas
Exon	Kyl	

NAYS—80

Abraham	Ford	McCain
Akaka	Frist	McConnell
Ashcroft	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Gregg	Nickles
Bradley	Harkin	Nunn
Breaux	Hatch	Pell
Bumpers	Hatfield	Pressler
Campbell	Heflin	Pryor
Chafee	Helms	Robb
Coats	Hutchison	Rockefeller
Cochran	Inhofe	Santorum
Conrad	Inouye	Sarbanes
Coverdell	Kempthorne	Simon
Craig	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Lautenberg	Thompson
Dole	Leahy	Thurmond
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Feingold	Lugar	Wyden
Feinstein	Mack	

The amendment (No. 3739) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

the years between 1901 and 1910, we had, on average, 10.4 immigrants come to America each year for every 1,000 Americans. From 1911 to 1920, we had 5.7 immigrants per year per 1,000 Americans; from 1921 to 1930, we had 3.5. Today, even though the number of immigrants in 1995 was just 2.8 per 1,000 Americans, some would have us believe we are just being flooded, we are being overrun by these people who become doctors and engineers and pay all these taxes, and I could mention win Nobel Prizes.

I could read the list of foreign-born Americans who have won the Nobel Prize, except the list is too long. I could read down the list of people who have become historic names in the scientific history of our country, names that we now think about and the world thinks about as American names, including Ronald Coase, who won the Nobel Prize in 1991 in economics, and Franco Modigliani, who won the Nobel Prize for economics in 1985. As a graduate student, I had no idea that they were foreign born.

The point is, the list goes on and on, full of people who have come here, who have caught fire, who have unleashed creative genius that has made America the greatest country in the world, and they may have brought their mothers. Great. May it never end. Could America be America without immigrants?

I know there are people who say, "Well, they're taking our jobs." I want to make just one point about that. Go out in Washington today, go to a shoe store where they are repairing shoes, go to a laundry, go into a restaurant, in the kitchen of a restaurant, go any place in America where people are getting their hands dirty, and do you know what they are going to discover? They talk funny.

People who work for a living in America often talk with distinct foreign accents. Do you know why? Because we have a welfare system that rewards our own citizens for not working. A lady in Washington, DC, with one child on welfare, if she qualifies for the four big programs, earns what $21,000 of income would be required to buy. I do not think it is fair to say because people come to America and they are willing to work, when some Americans are not, that they are taking jobs away. I think that is our problem; that is not their problem. I know how to fix that. The way to fix it is to reform welfare and, at least on my side of the aisle, there is unanimity we ought to do that.

Let me also say that there is a provision in the bill—and I am a strong supporter of the underlying bill—that changes law, a change that is needed, and I congratulate our distinguished colleague, Senator SIMPSON, for his leadership in this. He and I worked on this together on the welfare bill. It is part of this bill, and it is vitally important.

We change the law to say that you cannot come to America as an immigrant and go on welfare. We have room in America for people who come with their sleeves rolled up, ready to go to work. But we do not have room for people who come with their hand out.

Let us remember that when people come to America legally and go to work, and with their energy and with the sweat of their brow they build their life, they build the future of our country.

A final point that I want to address is this whole question about the changing nature of immigration. There is something in each of us that leads us to believe that we are the unique Americans, that somehow we made the country what it is, that somehow it was because American immigration in the early days was basically drawn first from northern Europe and then from southern Europe that it made us somehow unique.

I think it was the system that made America, and we might have had this debate in the year of 1900 when the immigration patterns of the country had shifted to southern Europe and eastern Europe. I am sure at the turn of the century there were those in corporate boardrooms who were wondering what was going to happen in America with the changing makeup of the country when they, as people from British stock who had come to the country on the Mayflower or in some historic voyage, had to share their America with Americans who had come from Germany or from Italy or with Americans who had come from all over the world who were of the Jewish faith. I do not doubt somebody in 1900, and maybe a lot of people, worried about it.

But look what happened. Did those of us who came from other places prove less worthy of being Americans than the colonists? Did we find ourselves less worthy successors of the original revolution? I do not think so.

I believe we have room for people who want to come and work because America could not be America without immigrants. The story that is uniquely American is the story of people coming to America to build their dream and to build the American dream. I have absolutely no fear that by people coming to America legally and to work—no one should come to America to go on welfare—that America's future is going to be diminished by that process. I believe their new vision, their new energy will transform our country, as it has always transformed it, and we will all be richer for it.

The bill before us tries to stop illegal immigration. We have an obligation to control the borders of our country.

I am proud of the fact that in my year as chairman of Commerce, State, Justice Appropriations Subcommittee, we began the process to double the size of the Border Patrol and we enhanced the strength of that action in this bill. We deny people who come to America illegally welfare benefits, and we deny those benefits to people who come here legally. We do not want people coming to America to go on welfare.

But I do not believe we have a problem today in America with people who have come to this country and succeeded and who want to bring their brother or their cousin or their mother here. When you look at the people who are doing that, you find that they are the ones who are enriching our country.

A final point, and I will yield the floor. It has struck me as I have come to know ethnic Americans that many ethnic groups fight an unending and losing battle to try to preserve their identity in America. It is a losing battle because what happens is that young people who grow up in this country become Americans. There is no way that can ever be changed. Any differences that concern us very quickly vanish in this country with great opportunity, where people are judged on their individual merit.

What we are talking about today is trying to stop illegal immigration, which is what we should do, but we should not back away from our commitment to letting people come to America to build their dream and ours. We should not close the door on people who want to bring their relatives to America as long as their relatives come to work, as long as they continue to achieve the amazing success that immigrants have achieved in America.

There are a lot of things we ought to worry about before we go to bed every night. We ought to worry about the deficit. We ought to worry about the tax burden. We ought to worry about the regulatory burden. We ought to even worry about the weather. But as long as we preserve a system which lets ordinary people achieve extraordinary things, we do not have to worry that our country is somehow going to be diminished when an immigrant has gotten here, succeeded, and put down roots and then wants to bring a sister or mother to America. If that is all you have to worry about, you do not have a problem in the world. Let me assure you, I do not worry about it. I do not want to tear down the Statue of Liberty. There is room in America for people who want to work.

I remember, as a closing thought, 3 years ago I was chairman of the National Republican Senatorial Committee, and we had a big event where we invited our supporters from all over the country. I do not know whether it just happened to be the letter I sent out that time or what, but for some remarkable reason, about 80 percent of the people who came to this particular event were first-generation Americans. As a result, they all talked funny.

So we were about a day into the meeting and this sweet little lady from Florida stood up in the midst of this meeting and with all sincerity said to me, "Senator GRAMM, why do all the people here talk funny?" Boy, there was a collective gulp that you could have heard 100 miles away. So I thought for a minute, and in one of the better answers that I have given in my

of deportation. Under the language that is now in the bill, without this amendment, any kind of Federal assistance may be a basis for deportation if you receive it for 1 year.

For example, a student who would get a student loan, where the sponsor either had to have gone bankrupt or did not have the income, together with the income of the family that came in, that would be a basis for deportation. If in rural Kentucky or Illinois someone got rural transportation for elderly and the disabled, that would be a basis for deportation. That just does not make sense. We keep the AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance. If you get any of those for 1 year, you can be deported, but not any general Federal program.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, one of the improvements made by the bill is in the definition of "public charge" and "affidavits of support." The bill defines "public charge" with reference to taxpayer-funded assistance for which eligibility is based on need.

Mr. President, I believe that this definition is quite consistent with the general policy requiring self-sufficiency of immigrants. Programs should not be limited to cash programs. The noncash programs are also a serious burden on the taxpayers. If the immigrant uses such taxpayer-funded assistance, he or she is a public charge. How else should the term "public charge" be defined than someone who has received needs-based taxpayer-funded assistance? That person has not been self-sufficient, as the American people had a right to expect.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment No. 3809. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. I announced that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—36

Akaka	Hatfield	Mikulski
Bingaman	Hollings	Moseley-Braun
Bradley	Inouye	Moynihan
Breaux	Jeffords	Murray
Chafee	Kennedy	Nunn
Daschle	Kerrey	Pell
Dodd	Kerry	Robb
Dorgan	Kohl	Rockefeller
Feingold	Lautenberg	Sarbanes
Glenn	Leahy	Simon
Graham	Levin	Wellstone
Harkin	Lieberman	Wyden

NAYS—63

Abraham	Bennett	Boxer
Ashcroft	Biden	Brown
Baucus	Bond	Bryan
Bumpers	Gorton	McConnell
Burns	Gramm	Murkowski
Byrd	Grams	Nickles
Campbell	Grassley	Pressler
Coats	Gregg	Pryor
Cochran	Hatch	Reid
Conrad	Heflin	Roth
Coverdell	Helms	Santorum
Craig	Hutchison	Shelby
D'Amato	Inhofe	Simpson
DeWine	Johnston	Smith
Dole	Kassebaum	Snowe
Domenici	Kempthorne	Specter
Exon	Kyl	Stevens
Faircloth	Lott	Thomas
Feinstein	Lugar	Thompson
Ford	Mack	Thurmond
Frist	McCain	Warner

NOT VOTING—1

Cohen

The amendment (No. 3809) was rejected.

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

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, there will not be a necessity for two more rollcall votes. Only one will be required.

AMENDMENT NO 3829

Mr. SIMPSON. Mr. President, it is my understanding that under the revised language the Department of Labor cannot initiate a compliance review, random or otherwise, on its own initiative.

If the Department of Labor receives credible, material information giving it reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the INA, or had failed to comply with the terms and conditions of such an application, then the Department of Labor may investigate that complaint, but only that complaint.

The credible, material information may come from any source outside the Department of Labor.

Mr. KENNEDY. That is correct.

Mr. SIMPSON. I urge the amendment be adopted.

Mr. KENNEDY. Mr. President, I hope we could have a voice vote on this amendment. We have adjusted the amendment to respond to some of the concerns.

Mr. SIMPSON. On behalf of our majority leader, I announce this will be the last vote this evening.

Mr. KENNEDY. Mr. President, all this amendment does is provide equal treatment for the temporary workers and the permanent workers in terms of the enforcement procedures. There has been a recent IG report outlining the difficulties and complexity. We have modified the amendment, and I would hope that it would be adopted.

The PRESIDING OFFICER. Without objection, the Senator's amendment is agreed to.

So the amendment (No. 3829) was agreed to.

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

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3776

The PRESIDING OFFICER. The pending question is amendment No. 3776 offered by the Senator FEINSTEIN. The yeas and nays have been ordered, and there will be 2 minutes of debate equally divided.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, the present law states that deportation notices will be sent out in Spanish and English. The bill coming out of committee deletes this. So deportation notices would be sent out in English, essentially. There is no requirement in the law.

What we would do in this amendment is strike what is recommended and go back to present law, so that deportation notices are required to be sent out in Spanish and English. The reason is because the great majority of illegal immigrants penetrating across the Southwest border speak Spanish, and the overwhelming bulk of them do not speak English. Therefore, when they receive a deportation notice, they should be able to read it. So we would retain the language of present law.

Mr. SIMPSON. Mr. President, to require that all deportation notices be in Spanish, as well as in English, when many deportees do not speak Spanish but rather one of other scores of languages, and many Spanish speakers do understand English, I think makes little sense.

I think you have to remember that it is in the INS's interest to guarantee that the subject of a deportation order understands what it is. Therefore, today, all the INS does is provide translations, or translators, whenever necessary in any language, not just Spanish, but into whatever language is most appropriate. That is the essence. So that we remove the word "shall." It is difficult to have someone delivered a deportation notice in English or Spanish when they are Chinese. There is no requirement for it. They will be taken care of by the INS through all types of deportation procedures, including translators.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3776 offered by Senator FEINSTEIN.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—42

Abraham	Breaux	D'Amato
Akaka	Bumpers	Daschle
Bingaman	Byrd	DeWine
Boxer	Conrad	Dodd

Domenici	Johnston	Murray
Feingold	Kennedy	Pell
Feinstein	Kerrey	Robb
Ford	Kerry	Rockefeller
Graham	Kohl	Sarbanes
Harkin	Lautenberg	Simon
Hatch	Lieberman	Snowe
Hollings	Mikulski	Thompson
Hutchison	Moseley-Braun	Wellstone
Inouye	Moynihan	Wyden

NAYS—57

Ashcroft	Frist	Mack
Baucus	Glenn	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Bradley	Grassley	Nunn
Brown	Gregg	Pressler
Bryan	Hatfield	Pryor
Burns	Heflin	Reid
Campbell	Helms	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kyl	Specter
Dole	Leahy	Stevens
Dorgan	Levin	Thomas
Exon	Lott	Thurmond
Faircloth	Lugar	Warner

NOT VOTING—1

Cohen

So the amendment (No. 3776) was rejected.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I thank all of my colleagues, especially Senator KENNEDY, my fellow floor manager on that side of the aisle, for the extraordinary support and assistance today in moving the issue along.

Now I am going to propound a unanimous consent-request. I have shared this with my fellow manager so that we might move tomorrow to what I think will be a conclusion hopefully of this legislation, or at least a portion of it, a large portion of it.

I ask unanimous consent that the following amendments be the only remaining amendments in order prior to the vote on the Simpson amendment, as amended, provided that all provisions of rule XXII remain in order notwithstanding this agreement. And I hereby state the amendments: Abraham, Abraham, DeWine, Bradley, Graham, Graham, Graham, Graham—four Graham amendments—Leahy, Bryan, Harkin, three Simpson amendments, Chafee, Hutchison, DeWine again, Graham, Gramm of Texas, Senator Simon two, Senator Wellstone two, Senator Kennedy two, Reid, Robb, Feinstein No. 3777, Simpson No. 3853, and Simpson No. 3854.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. SIMPSON. Mr. President, I would ask approval of that agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank Senator SIMPSON and our other colleagues for their attention and for their cooperation during the day. We had several interruptions which were unavoidable. We had an opportunity to debate several matters.

It does look like a sizable group remain. As of yesterday, there were 156 amendments, so we have disposed probably of 6 or 8 and we are down to 28. So we are moving at least in the right direction. From my own knowledge from some of our colleagues, they have indicated a number of these are place holders.

We will have some very important measures to take up for debate tomorrow, and we will look forward to that and to a continuing effort to reach accommodation on the areas where we can and to let the Senate speak to the areas we cannot.

Mr. President, I thank my colleague and friend from Wyoming and all of our staffs. We will look forward to addressing these issues on tomorrow.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1664, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole (for Simpson) amendment No. 3743, of a perfecting nature.

Simpson amendment No. 3853 (to amendment No. 3743), relating to pilot projects on systems to verify eligibility for employment in the United States and to verify immigration status for purposes of eligibility for public assistance or certain other government benefits.

Simpson amendment No. 3854 (to amendment No. 3743), to define "regional project" to mean a project conducted in an area which includes more than a single locality but which is smaller than an entire State.

Simon amendment No. 3810 (to amendment No. 3743), to exempt from deeming requirements immigrants who are disabled after entering the United States.

Feinstein/Boxer amendment No. 3777 (to amendment No. 3743, to provide funds for the construction and expansion of physical barriers and improvements to roads in the border area near San Diego, California.

Reid amendment No. 3865 (to amendment No. 3743), to authorize asylum or refugee status, or the withholding of deportation, for individuals who have been threatened with an act of female genital mutilation.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleagues. I thank the ranking member, Senator KENNEDY. I think we are in a position, now, to perhaps conclude this measure, at least on the so-called Simpson amendment, today.

We had some 156 amendments proposed a day ago. We are down to about 30 today. Some are known in the trade as place holders—pot holders or whatever might be appropriate, some of them. Nevertheless we will proceed today. The debate will take its most important turn, and that is the issue of verification; that is the issue of the birth certificate and the driver's license, changes that were made yesterday and adopted unanimously by voice vote in this Chamber. We will deal with that issue.

But one thing has to be clearly said because I am absolutely startled at some of the misinformation that one hears in the well from the proponents and opponents of various aspects of immigration reform. It was said yesterday, by a colleague unnamed because I have the greatest respect for this person, that tomorrow to be prepared to be sure that we do not put any burden on employers by making employers ask an employee for documents.

That has been on the books since 1986. I could not believe my ears. Someone else was listening to it with great attention. I hope we at least are beyond that point. Today the American employer has to ask their employee, the person seeking a job, new hire, for documentation. There are 29 documents to establish either worker authorization or identification. And then, also, an I-9 form which has been required since that date, too. In other words, yes, you do have to furnish a document to an employer, a one-page form indicating that you are a citizen of the United States of America or authorized to work. That has been on the books, now, for nearly 10 years. If we cannot get any further in the debate than that, then someone is seriously distorting a national issue. Not only that, but someone is feeding them enough to see that it remains distorted.

So when we are going to hear the argument the employer should not be the watchdog of the world, what this bill does is take the heat off of the employer. Instead of digging around through 29 documents they are going to have to look at 6. If the pilot program works, and we find it is doing well, and is authentic and accurate, then the I-9 form is not going to be required. That is part of this.

Then yesterday you took the real burden off of the employer, and I think it was a very apt move. We said, now, that if the employers are in good faith

in asking for documents and so on, and have no intention to discriminate, that they are not going to be heavily fined, or receive other penalties. That was a great advantage to the employer.

So I hope the staffs, if there are any watching this procedure, do not simply load the cannon for their principal, as we are called by our staff—and other things we are called by our staff—principals, that they load the cannon not to come over here and tell us what is going to happen to employers having to ask for identity, having to prove the person in front of them is a citizen or authorized to work, unless you want to get rid of employer sanctions and get rid of the I-9. Those things have been on the books for almost 10 years.

With that, I hope that is a starting point we take judicial notice thereof.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my friend and colleague has stated absolutely accurately what the current state of the law is. For those who have questions about it, all they have to do is look at the Immigration and Nationality Act, section 274, that spells out the requirements of employment in the United States. I will not take the time to go through that at this particular moment, but for those who doubt or question any of the points the Senator has made, it is spelled out very clearly in section 274(a).

That is why we have the I-9 list, which is the list, A, B, and C. This is the part of the problem which we hope will be remedied with the Simpson proposal, and that is there will be just the six cards. You have list A, you can show one of these items, because under the law you have to have identity and employment eligibility. You can have one of the 10 items on A. Or you can have an item listed on B and an item listed on C, in order to conform with the current law. As has been pointed out both in the hearings as well as in the consideration and the presentation of this legislation, and the consideration of the Judiciary Committee, the result is that there is so much mischief that is created with the reproduction and counterfeit of these particular cards that they have become almost meaningless as a standard by which an employer is able to make a judgment as to the legitimacy of the applicant in order to ensure that Americans are going to get the jobs. Also it makes complex the problems of discrimination, which we talked about yesterday.

It is to address this issue that other provisions in the Simpson proposal—the six cards have been developed as have other procedures which have been outlined. But if there is any question in the minds of any of our colleagues, there is the requirement at the present time, specified in law, to show various documents as a condition of employment. That exists, as the Senator said, today. And any representation that we are somehow, or this bill somehow is altering that or changing that or doing anything else but improving that process in the system is really a distortion of what is in the bill and a distortion of what is intended by the proposal before the Senate. So I will welcome the opportunity to join with my colleague on this issue.

It has been mentioned, as we are awaiting our friend and colleague from Vermont, who is going to present an amendment, that what we have now is really the first important and significant effort to try to deal with these breeder documents, moving through the birth certificate, hopefully on tamper-proof paper. Hopefully that will begin a long process of helping and assisting develop a system that will move us as much as we possibly can toward a counterfeit-free system, not only in terms of the cards but also in terms of the information that is going to be put on those cards.

We hear many of our colleagues talk about: Let us just get the cards out there. But unless you are going to be serious about looking at the backup, you are not really going to be serious about developing a system. That is what this legislation does. It goes back to the roots, to try to develop the authoritative and definitive birth certificate and to ensure the paper and other possible opportunities for counterfeiting will be effectively eliminated, or reduced dramatically. Then the development of these tamperproof cards; then the other provisions which are included in here, and that is the pilot programs to try to find out how we can move toward greater truth in verification that the person who is presenting it is really the person it has been issued to, and other matters. But that is really the heart of this program.

Frankly, if we cut away at any of those, then I think we seriously undermine an important opportunity to make meaningful progress on the whole issue of limiting the illegal immigration flow. As we all know, the magnet is jobs. As long as that magnet is out there, there is going to be a very substantial flow, in spite of what I think are the beefed-up efforts of the border patrol and other steps which have been taken.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I understand the distinguished Senator from Wisconsin has asked for time in morning business. I will yield for that purpose.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

Mr. FEINGOLD. Thank you, Mr. President.

AMENDMENT NO. 3752 TO AMENDMENT NO. 3743

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. INHOFE, Mr. MACK, Mr. LOTT, Mr. LIEBERMAN, and Mr. NICKLES, proposes an amendment numbered 3752 to amendment No. 3743.

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

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

The amendment is as follows:

Strike sections 111–115 and 118.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that Senator NICKLES be added as a cosponsor for the amendment.

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

Mr. ABRAHAM. Mr. President, the amendment I proposed is cosponsored, in addition to myself, by Senators FEINGOLD, DEWINE, LOTT, MACK, LIEBERMAN, INHOFE, and NICKLES.

Mr. President, our amendment does basically two things. First, it would strike sections 111 through 115 of the bill, which would currently begin to implement a national identification system.

Second, the amendment would strike a related provision, section 118 of the bill, which would require State driver's licenses and birth certificates to conform to new Federal regulations and standards.

Mr. President, I intend to devote at least my opening statement here today to the first Senate provisions that we seek to strike with this amendment, those which pertain to the national identification system. Senator DEWINE, while in addition to commenting on those sections, will be speaking in more specific terms about the driver's license and birth certificate provisions.

I recognize that we are not under a time agreement and that it will be the option of the Presiding Officer in terms of floor debate. But we hope Senator DEWINE will have an opportunity following my remarks to be recognized soon so that he may comment on that portion of the bill which he has particularly been focused on.

That said, Mr. President, let me just begin by making it clear that those of us proposing this amendment consider the hiring of illegal aliens to be a wrong thing. We think wrongful hirings, no matter how they might be brought about, are not appropriate. We are not bringing this amendment to in any way condone, or encourage, or stimulate wrongful hirings of people who are not in this country under proper documentation.

The question is, how do we best address that problem, and how do we do it in the least intrusive fashion? Already this bill contains a variety of provisions which will have, I think, a marked impact on addressing the problem. In the bill we already increase substantially the number of Border Patrol employees, people patrolling the borders to prevent illegal aliens from entering the country.

Mr. President, in the bill we already addressed a very serious problem alluded to by the Senator from New Jersey, people who overstay their visas, and constitute some 50 percent of the illegal alien population by for the first time imposing sharp, stiff penalties on those who violate the visa rules. In addition, as we dealt with on numerous occasions yesterday, Mr. President, we have attempted to address the issue of access to public assistance for noncitizens, and particularly for illegal aliens, as a way of discouraging some who may have come to this country, or who might consider doing so for purposes of accessing our social service programs.

In addition, under the bill, we have dramatically, I think, moved to try to expedite the deportation of criminal aliens, a very substantial part of our current alien community, and by definition, in the case of those who have committed serious offenses, individuals who are deportable, and thus no longer appropriate to be in the country.

I believe these steps, combined with other provisions in the legislation, move us a long way down the road toward addressing the concerns we have about the wrongful hiring of illegal aliens. I think we need to understand the provisions that pertain to verification, which, at least in this Senator's judgment, are a very obvious example of a highly intrusive approach that will not have much of an effect on the problems that we confront.

Frankly, Mr. President, what we confront in this country is less, in my judgment, of a case of an innocent employer who has been somehow deceived, or baffled by a clever alien. We have largely confronted a situation in which some form of complicity takes place between employers who are looking for ways to hire less expensive labor, and illegal aliens who have no choice in terms of the options available to them. So what we find is intent on the part of the employer, and, obviously, a willingness on the part of the illegal alien to be an employee.

This identification system is not going to do very much to address that problem because no matter what type of identification document is used, whether it is a birth certificate, a driver's license, an ID card, a Social Security card, or anything else, at least in my judgment, it is not going to matter

if the employer's objective is to hire a lower priced employee who happens to be an illegal alien because, whatever the system is, it will be circumvented intentionally to accomplish the objective of trimming down on overhead.

As a consequence, to a large extent, the system, no matter how effectively it is perfected, is not going to really have much impact on the large part of the problem we confront with regard to the hiring of illegal aliens. In my judgment, that makes the cost of this program greatly disproportionate to any potential benefit it might have in terms of reducing the population of illegal aliens who are improperly employed.

I also say in my opening today that we have taken, I think, with the amendment, with the provisions of the bill that were sustained yesterday in the vote with respect to providing employers with a shield against discrimination cases, a further tool that will allow employers who are innocent to take the steps necessary to avoid hiring unintentionally people who are meant to be hired under the current laws.

That is the backdrop, Mr. President. We have big Government, an expansive Government, an intrusive Government solution being brought to bear in a circumstance where I do not think it is going to do much good. For that reason, I think the verification system is headed in the wrong direction.

This approach is flawed, and it is, in my judgment, overextensive in the way it is structured in the bill right now without any definition as to the dimensions that such pilot programs are envisioned in the bill might encompass, it has the potential to be a very, very large program. What is the region? And how advanced are all regions in an entire quarter of the country? The bill does not specify how large the pilot programs might be.

So for those reasons we believe that the verification part of this legislation is unnecessary and should be struck.

Let me talk more specifically about why the costs are going to be greater than the benefits under the program.

First, Mr. President, even though this is a potential pilot program, it seems to me, it is impossible to effectively run a pilot program of this type unless a national database is collected. That national database check is going to be a very extensive step in the direction of a national identification system.

Furthermore, Mr. President, it seems to me, given the enormous downstroke cost of developing that kind of system, that there will be an enormous amount of pressure on us to continue building the system into a national system in the very near future. Indeed, that is the direction that the sponsors of the legislation in both the House and Senate had originally envisioned. But the bottom line in terms of the costs of the program really falls on three categories of U.S. citizens that we need to focus on today.

First, it is extremely unfair and costly to honest employers. Any kind of system that involves verifying new employees prior to hiring them in the fashion that is suggested here will be costly. The employer must phone a 1-800 number in Washington, or someplace else to determine whether an individual's name is in the database, or the person who is the employer must develop some type of, or require some type of, computer interface system, whatever it might be. These are additional business costs that will fall hard—especially hard—on small businesses at a time when I think this Congress at least in its rhetoric has been talking about trying to make the burdensome costs on small business less cumbersome.

In addition, there will be a very disproportionately costly burden on those types of small businesses that have a high turnover of employees. And there are a number of them in virtually every one of our States, whether it is the small fast food restaurant, or whether it is the seasonal type of small business. The list is endless of those kinds of businesses which have huge amounts of turnover in terms of their employee ranks. For each of those under a verification system we are adding additional costs and additional burdens that must be borne regardless of the circumstances.

But really, Mr. President, this is an unfunded mandate on these small businesses, on businesses in general, on employers in general, whoever they might be. And, in my judgment, it sets a very bad precedent because it would be for the first time the case that we would require people to affirmatively seek permission to hire an employee.

To me, Mr. President, that is a gigantic step in the direction of big government that we should not take. I do not think we want to subject employers, no matter how, or how many employees they have, to this new-found responsibility to affirmatively seek permission to hire employees.

Again, though, the people who will pay these costs and suffer these burdens are going to be the honest employers.

Those who are dishonest, those who would hire illegal aliens knowingly will not engage in any of these expenses, will not undertake any of these steps because, obviously, their intent is to circumvent the law, whatever it might be. They are doing it today. They will do it whatever the system is that we come up with.

So what we are talking about in short is a very costly, very cumbersome, very burdensome new responsibility on employers in this country that will disproportionately fall on the shoulders of those employers who are playing by the rules instead of those who are breaking them. As I say, Mr. President, it will, for the first time, require employers to affirmatively seek permission to hire employees, seek that permission from Washington.

However, it is not just the employers who will suffer through a system of verification as set forth in the legislation; it is also the workers, the employees, U.S. citizens who will now be subjected to a verification system that, in my judgment, cannot be perfected accurately enough to avoid massive problems, dislocations and unhappy results for countless American citizens.

As I have said, there is no way such a system can really be effective unless there is, first, a national database. Such a national database, no matter how accurately constructed, is bound to be riddled with errors. Indeed, some of the very small projects the INS has already launched have been discovered to have error rates, in terms of names in the database, as high as 28 percent.

Now, I hope that we could do better than 28 percent, but let us just consider if the database had an error margin of 1 percent and let us also consider that that was a national program. That would be 600,000 hirings per year that would be basically derailed due to error rates in the database.

The project, of course, is not a national program to begin with, but 1 percent of any sizable regional project is going to mean that U.S. citizens who are entitled to be hired will not be hired and be placed in limbo because of this experimental program.

Again, though, Mr. President, this is not going to be a problem in the case of illegal aliens hired by employers who knowingly choose to do so because they will not be subjected to this verification process.

If we were to have this margin of error, if we were to even have a small handful of American citizens denied employment under these provisions, we would set in motion what I think would be an extraordinarily costly process for those employers and employees so affected.

Is it right to impose a system that would in fact mean that U.S. citizens or legal permanent residents who are entitled to work would be potentially put on hold for weeks to months while the system's database is corrected? I think that is wrong. I think it is the wrong direction to go. Anybody who has dealt with computer databases knows the potential for error in these types of systems. In my judgment, to invite that kind of high cost on the employees and employers of this country would be a huge mistake.

So those are the first two issues to consider, the first two. The victims are the honest, play-by-the-rules employers and employees or potential employees who want to play by the rules. They are going to be the victims. They are going to pay a high cost.

So, too, Mr. President, will the taxpayers pay a high cost for this, in effect, unfunded mandate, because just building the database capable of handling any kind of sizable regional project will cost hundreds of millions of dollars. The question is, is it going to produce the results that are being suggested? I would say no.

As I have indicated already, those who want to circumvent a system will circumvent this system, and they will do so intentionally. Meanwhile, the taxpayers will be footing a very substantial bill for a system that can be easily avoided by those employers and illegal alien employees who wish to do so.

I intend to speak further on this amendment this morning, but let me just summarize my initial comments. I believe we should strike these verification procedures. I believe that the cost of imposing these programs even on a trial basis is going to be excessive. I feel as if it leads us in the direction of big Government, big Government expansion and the imposition of costly Federal regulations and burdens, especially on small businesses that they do not need at this time.

I believe that the tough standards we have placed in the bill to deal with illegal aliens, combined with some of the other relief that has been granted to employers to try to ferret out those who should not be employed, are the sorts of safeguards that will have the least intrusive effect on those who play by the rules. The costs of this verification system, in my judgment, far outweigh any potential benefits. For those reasons, I urge my colleagues to support our effort to strike these provisions.

At this point, as I said, Mr. President, I realize we are not on a time agreement to yield time, but I know the Senator from Ohio would like to speak to another part of this, so I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Ohio.

Mr. DEWINE. I thank the Chair. I rise today to support this amendment.

The Senator from Michigan has discussed very eloquently the problems that we see with the employer verification section of the bill. I am going to talk in a moment about a related problem, a problem that we see in the part of the bill that will require for the first time, in essence, a national birth certificate, a national driver's license.

Before we discuss these parts of the bill, however, let me start by congratulating my colleague from Wyoming. He said something about an hour ago on this floor that is absolutely correct. We are going to pass an illegal immigration bill, and after we have had our way with the amendments, one way or the other, we are going to pass a bill. It is going to be a good bill, and it is going to be a real tribute to his work over the years and his work on this particular bill.

Make no mistake about it: This bill has very, very strong provisions, strong provisions that are targeted directly at the problem of illegal immigration. The bill that the Senator reported from the subcommittee, because of his great work and the other members of the subcommittee, is a strong bill targeted at illegal immigration, targeted at those who break the law. The bill that the committee reported out is a good bill as well. There are, however, several provisions in this bill—and this amendment deals with these provisions—we believe, frankly, are misguided and that are targeted and will have the undue burden not on the lawbreakers but we believe will have an undue burden, unfair burden on the other law-abiding citizens in this country. Let me discuss these at this point.

My colleague from Michigan has talked about the employer verification system. What is now in the bill is a pilot project. I am going to discuss this at greater length later on in this debate, but let me state at this point my experience in this area comes from a different but related field, and that is the area of criminal record systems. I started my career as a county prosecutor, and I became involved in the problem with the criminal record system. In fact, I discussed this at length with the current occupant of the chair.

I have seen, as other Members have, how difficult it is to bring our criminal record system up to date, to make sure that it is accurate. We have spent hundreds of millions of dollars in this country to try to bring our criminal record system up to snuff so that when a police officer or parole officer or the judge setting bond makes a life and death decision—that is what it is many times—about whether to turn someone out or not turn them out, they have good, reliable information. We have improved our system and we are getting it better, but we still have a long, long way to go.

If, when the stakes are so high in the criminal system, and that is a finite system—we are dealing with a relatively small number of people—if we have such a difficult time getting it right in that system, can you imagine how difficult it is going to be for us to create an entirely new database, a much, much larger database? How many millions are we going to have to spend to do that and what are the chances we are going to get it right, and get it right in a short period of time? So I support the comments of my colleague from Michigan in regard to this national database, in regard to this national verification system.

Let me now turn to another part of this bill, a part that is addressed also by this same amendment we are now debating. This section has to do with the creation, for the first time, of a federally prescribed birth certificate and the creation for the first time of a federally prescribed driver's license.

Under the bill as currently written, on the floor now, all birth certificates and all driver's licenses would have to meet Federal standards. For the first time in our history, Washington, this Congress, would tell States how they produce documents to identify their own citizens. Let me read, if I could, directly from the law, or the bill as it has been introduced and as it is in front of us today. Then in a moment I am going to have a chart, but let me read from the bill. My colleagues who are in the Chamber, my colleagues who are in their offices watching on TV, I ask them to listen to the words because I think, frankly, they are going to be very surprised.

> No Federal agency, including but not limited to the Social Security Administration and the Department of State and no State agency that issues driver's licenses or identification documents may accept for any official purpose a copy of a birth certificate as defined in paragraph 5 unless it is issued by a State or local authorized custodian of records and it conforms to standards prescribed in paragraph B.

Paragraph B, then, basically is the Federal prescribed standards. The bureaucracy will issue those regulations. Again, we are saying no Federal agency could issue this, and "No State agency that issues driver's licenses or identification documents may accept for any official purpose." Those are the key words.

Let me turn to what I consider to be the first problem connected with this language. It is a States rights issue. We hear a lot of discussion on this floor about States rights. This seems to be the time and the year when we are trying to return power to the local jurisdictions, return power to the people. It is ironic that the language of this bill as it is currently written goes in just the opposite direction. Although we oftentimes talk about the 10th amendment, I cannot think of a more clear violation of the 10th amendment than the language that we have in front of us today. This is the language that pertains directly to the States.

> . . . no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate . . . unless it is issued by a State or local government registrar and it conforms to standards . . . promulgated by the Federal agency designated by the President. . . .

Listen to the language, "No State agency that issues driver's licenses or identification documents, may accept for any official purpose. * * *" We are telling a State in one of the basic functions of government, one of their oldest functions, the issuance of birth certificates, and other functions we rely on States to do, issuing driver's licenses, we are turning to them and saying you cannot accept documents except as prescribed by the Federal Government. We are telling that agency, we are telling that State what they can and cannot accept. This, I think, is going in the wrong direction.

I am not a constitutional scholar but I think it has clear problems with the 10th amendment if anything has any problems with the 10th amendment. You tell the State what they can accept and what they cannot accept for their own purposes.

Let me move, if I could, to another problem that I see with this provision. The second problem, I will call it sort of a nonmonetary problem, the nonmonetary cost. This bill as currently

written, going to the national driver's license, going to a national birth certificate, is going to cause a tremendous amount of anguish and tremendous amount of inconvenience for the American people. It is the American people who are abiding by the law who are really going to be punished by this. This is, in essence, what the bill says. It says to the approximately 260-some million Americans, each presumably who has a birth certificate somewhere, that your birth certificate is still valid, it is still valid, you just cannot use it for anything, or almost anything. If you want to use that birth certificate, you have to get a new one. You have to get a new one that conforms to what the bureaucracy has said the new birth certificate must conform to.

Your old birth certificate is no good. You can keep it at home, you can keep it stored in your closet or wherever you have it, that is OK, it is still valid, but if you want to use it to get a passport or you want to use it for any purpose, you cannot do that. You have to go back and get a new birth certificate.

What am I talking about in the real world where we all live and our constituents live? Let me give three examples, real world examples of inconvenience and problems that this is going to cause. Every year, millions of Americans get married and many of them change their names. To have a name change legally accepted by Social Security—this is the law today—today, to have a name change legally accepted by Social Security or by the IRS, today you must show a marriage certificate plus birth certificate. That is the law today.

This amendment will not change that. But here is how it will affect it. If this bill becomes law, the birth certificate you currently have is no good and you will not be able to use it for this purpose. You are going to have to go back to your origin, the place of your birth. You are going to have to do as Mary and Joseph did, you are going to have to go back to where you came from, where you were born, or at least you are going to have to do this by mail, or in some way contact that county where you were born, because the birth certificate they gave your parents 20 years ago, 25 years ago, you cannot use that anymore, because that is what this bill says. They are going to have to issue you a new one and you are going to have to go back and get that new birth certificate. I think that is going to be a shock to many people when they decide they want to get married.

June is historically the most popular month, we are told, for weddings. My wife Fran and I were married in June so I guess we are average, with a number of million other Americans. If this bill passes, I do not think it is too much to say that June will not only be known as the month of weddings, people getting married, it will also be the month where people will have to stand in line, because that is really what people are going to have to do. It is one more step back to get a new birth certificate for them. How many people get married each year? I do not know, but each one of these people will be affected.

Let me give a second example. What happens when you turn 16 years of age? You ask any teenager. They will tell you that in most States at least they get the opportunity to try to get a driver's license. How many of us have had that experience, gone down with their child or, if we remember that long ago, ourselves, trying to get a driver's license? How many people had to stand in line? I do not think it is unique to my experience, or the experience of my friends. You go and stand in line and it takes a while. Imagine your constituent or my constituent, our family members going down with our child at the age of 16, standing in line at the DMV. We get to the head of the line. You have a birth certificate. And the clerk looks at you and says, "Sorry." You say, "What's wrong? I have this birth certificate."

They say, "No, we are sorry. This is not one of the new federally prescribed birth certificates. This was issued 16 years ago. This doesn't conform. It doesn't work. The Federal law says we cannot accept that birth certificate."

You then leave and either go back to the place your child was born or write to the place your child was born and you get that birth certificate.

We live in a very mobile society. I always relate things to my own experience. In the case of our children, that means we would have to go back to Hamilton, OH; we would have to go back, for one of them, to Lima, OH; one to Springfield, OH; one to Springfield, VA, a couple to Xenia, OH. You would have to go back in each case to where that child was born and go back to the health department or whatever the issuing agency was of the State to get that birth certificate.

Once you got the birth certificate, you then have to get in line at the DMV. That is how it is going to work in the real world. Let me give one more example.

When people turn 65 in this country, they have an opportunity to receive Social Security and they have the opportunity to get Medicare. One of the things you have to do, obviously, is prove your age. How many people, Mr. President, who turn 65 in 1996, live in the same county they lived in when they were born? I suspect not too many.

How shocked they are going to be when they go in to Social Security and they present a birth certificate and Social Security says, "Sorry. Yeah, you waited in line for half an hour; sorry, we can't take this birth certificate."

"Why not? I have had this certificate for 65 years."

"No, Congress passed a law 2, 3 years ago. You can't use this birth certificate anymore. You have to go get a new one."

Imagine the complaints we are going to get in regard to that.

Getting married, turning 16 and getting a driver's license, wanting to go on Social Security—these are just three examples of how this is going to work in the real world.

I think it is important to remember that this is an attempt to deal with a problem not created by the people who we are, in essence, punishing by this language, not created by the teenager or his or her parents who turned 16, not created by the senior citizen who turned 65 and wants Social Security.

How many times are we going to have people call us saying, "I certainly hope you didn't vote for that bill, Senator." "I certainly hope, Congressman, you didn't vote for that bill."

Let me turn to another cost, because this is a costly thing, and we will talk just for a moment about the costs incurred in the whole reissuing of birth certificates. You can just imagine how many million new birth certificates are going to have to be issued. Somebody has to pay for that.

It is true the CBO has said this does not come under the new law we passed, because under that law, you have to be up to $50 million of unfunded mandates per year before it is labeled an unfunded mandate. But that does not mean it is not an unfunded mandate, nor does it mean it is not a cost to local or State government. Nor does it mean it is not going to be a cost to citizens. Let me go through a little bit on the cost.

If you look at the language in the bill, the idea behind the language is very good, and that is to get birth certificates that are tamper-free. We took the opportunity to contact printers and to talk to them to find out, under the language of this bill, what a State would have to do.

Although there is discretion left to the bureaucracy in how this is going to be implemented and the States are going to have some option about how it is done, the printers we talked to said there is anywhere from 10 to 18 to 20 different safety features that one would expect to be included in this new birth certificate.

Let me just read some of the things that they are talking about. I am not going to bore everyone with the details. We have two pages worth of different types of things:

Thermochromic ink—colored ink which is sensitive to heat created by human touch or frictional abrasion. When activated, the ink will disappear or change to another color.

Abrasion ink—a white transparent ink which is difficult to see, but will fluoresce under ultraviolet light exposure.

Chemical voids—incorporated into the paper must be images that will exhibit a hidden multilingual void message that appears when alterations are attempted with chemical ink eradicators, bleach or hypochlorites.

A fourth example: Copy ban and void pantograph.

A fifth example: Fluorescent ink.

A sixth example: High-resolution latent images.

A seventh example: Secure lock.

And on and on and on. This is not something, as I say, that is brain surgery. It is not something that cannot be done. It is something that clearly can be done. But let no one think this is not going to cost millions and millions of dollars, and someone is going to pay for it.

The American people are going to pay for it one way or the other. They are going to pay for it if the local government eats up the cost or absorbs the cost, and that is going to be what we like to refer to as an unfunded mandate.

If they pass it on to the consumer, to the couple who just got married, or the 16-year-old who gets his driver's license, or they pass it on to the 65-year-old who wants Social Security, that is going to be a tax. It will be a hidden tax. The cost is going to be there, and it is going to be millions and millions of dollars.

As my colleague from Michigan pointed out, all these changes, all this burden, all this inconvenience, all these violations of the States rights is being done, really, to go after the problem of illegal aliens and the people, really, who are hiring them.

We have talked—it is difficult to get accurate statistics on this—we talked to INS, we talked to the people who are experts in the field, and I think it is a common opinion that the majority of illegal aliens who are illegally hired are hired by people who know it. They know it.

This portion of this bill is not going to solve that problem at all. So, again, we narrow it down. We are doing an awful lot. We are doing all these things to correct only a portion of the problem.

Let me conclude by simply stating, again, this is a good bill. No one should think that there are not tough provisions in this bill. If a bill like this had been brought to the Senate floor 2 years ago, 4 years ago, 8 years ago, it probably would not have had any chance. I think I heard my colleague from Wyoming say something very similar to that.

It is a strong bill. It is a very strong bill without this what I consider to be a horrible infringement on people's rights. What we intend to do, or try to do, with this amendment is to take out these sections, these sections that are going to impact 260 million, 270 million Americans and punish them to try to get at this problem. We do not think it is going to work. We think it is going to be very intrusive, and we point out also that the bill, without these provisions, is, in fact, a very, very strong bill, and it is a bill that every Member in this Chamber can go home and be proud of and can say, "We have taken very tough measures to deal with illegal immigration."

I thank the Chair, and I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the Abraham-Feingold amendment. Let me not mince words. This amendment, in my view, is a bill killer, it is a bill gutter, it decimates the foundation of employer sanctions. It will provide, if it passes, a bill that is gutless, toothless, aged, and will not work.

We must make employer sanctions work. And let me tell you why. The reason why is, take my State, California. We have 2 million people in California illegally. How do these people survive? They survive one of two ways—they either get on benefits through fraudulent documents or they work. How do they work? With employer sanctions, an employer is not supposed to give them jobs.

My opponents would have you believe that every employer wants to break the law, that every employer is going to hire people simply because they know them. I can tell you from the State that has the largest number of illegal immigrants in the Nation—40 percent of them—that is not the case.

Employer sanctions can only be effective if there is some method of verification. The Simpson-Kennedy language is a pilot to ask the INS to see how we can verify information that employers receive. Let me show you graphically why it is important that we do so. The birth certificate, which Senator SIMPSON has pointed out correctly, is the most counterfeited document in the United States. Let me show you why. Let me show you a few forms for birth certificates.

This is one from the State of Illinois. It is a fraudulent document that has not been printed upon.

This is a second one from the State of Illinois. There are literally tens of thousands of different kinds of birth certificates in the United States. This is a form from somewhere in Texas.

So the birth certificate is easy. These papers are duplicated in the right color, that of Austin, TX, then they are put out wholesale. They are then laminated, as you see here. And no one can tell the difference.

Same thing goes here. This is a forged copy of a record of marriage, a marriage certificate.

This is another from Cook County, IL, a forged copy of a marriage certificate.

This is another one, a forged copy of a marriage certificate.

This is a forged GED application. I mean, if I am interviewing someone and this application is filled out, and they say this is testimony to the fact that they have gotten an equivalency degree in this country—and, look, there is the official seal and here are my grades on it—who am I to say it is not true? I would have no way of knowing.

Here is a forged divorce certificate. If this were handed to me as an employer I would have no way of knowing.

Here is a trade school diploma that is forged. If this were handed to me, I would have no way of knowing.

Here is an achievement test certificate for high school from the State of Indiana. If this were handed to me as an employer, when I asked the question, "are you qualified to work in this country?" how would I know? I would not.

Here is another forged divorce certificate. If this were handed to me, I would not know. Why would I not? Because the industry is very sophisticated.

Here are some of the preliminary forgeries, the basic paper from which these forgeries are done. How easily it is replicated.

Here is the back of a green card before it is finished. How easy it is replicated.

Let me show you what the final result is. This is a forged green card. The names are blotted out. This is a real green card. Who can tell the difference? No one. These are the backs. Who can tell the difference? No one.

This is a forged green card. Who can tell the difference?

This is forged—and look at them, look at the numbers. These are all perfect forgeries, every single one of these. These exist by the millions. They are made in less than 20 minutes. And they cost anywhere from $25 to $150. Anyone can get them. How is an employer supposed to know? You cannot know without some way of verifying the authenticity of the document which is submitted to you.

What the Simpson-Kennedy test pilot does is ask INS to see what can be done so that the documents can be verified by an employer. The bill narrows the list of documents down to six. So at least some of the confusion can be avoided there.

It is not fair to anybody to have a system that exists in a bogus form more frequently than it exists in a real form. How does a birth certificate mean anything to anybody for any official purpose if it is counterfeited by the tens of millions in this country? How does a green card mean anything? How does a divorce certificate mean anything if it is counterfeited and you cannot verify it?

These are the real problems with which this bill attempts to deal. If this amendment is successful, you might as well junk employer sanctions, you might as well say, "We're going to permit people to continue to submit bogus documents."

Remember, somebody here illegally has only two choices—one, they earn a living, secondly, they go on public support. Unless they have somebody very well to do in this country who can take care of them—and I would submit to you that that is a remote possibility—those are the only two chances. So the only way they can exist or stay—and right now it is very attractive to come to this country illegally because it is so easy to obtain these counterfeit documents.

That is the reality. That is why we have on the Southwest border 5,000 people crossing every single day, Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday, because they can go to Alvarado Street in Los Angeles, and they can purchase these documents on the street within 20 minutes. Our system of verification is nonexistent, and they know that. Therefore, if they submit a counterfeit document to an employer, the employer has little choice other than to accept it or ask for more documents. Then if the employer asks for more documents, the employer very often is sued.

So it is a very, very tenuous, real-life experience out there. This bill makes a very modest attempt—where in committee, it became a test pilot. The language, which I think it was a Kennedy amendment, was already a compromise. Many of us on the committee wanted an absolute verification system, put into affect right away. That did not pass in committee.

So the compromise was a pilot. Then the results of the pilot would be brought back to Congress. Now we see an attempt to get rid of the pilot. If you get rid of a pilot, what is left? What is left is that we make ourselves into hypocrites, in my opinion, because we create a system that cannot function.

What we are seeing today is an employer verification method that does not function. It does not function because you cannot verify fraudulent documents, and because fraudulent documents abound.

I must say that I think it is very possible to verify. We live in an information age. Hundreds of data bases now exist in both public and private sectors, data bases for national credit cards, for health insurance companies, credit rating bureaus. Technology is, in fact, advancing so rapidly that the ability to create these data bases and ensure their accuracy is enhanced dramatically every year.

Why, then, does the Senate of the United States not want the U.S. Government to use a computer data base to try to find a better way to help employers verify worker eligibility? I really believe that many of the issues raised by opponents to this provision—that it is bureaucratic, that it is prone to errors, that it is unworkable, that it is too intrusive—are simply unfounded.

In fact, the provision was specifically written, as I understand, to alleviate such concerns, by defining clear limits on the use of the system, establishing strict penalties for the misuse of information, and requiring congressional approval before any national system goes into effect. What are the authors of this amendment so afraid of? Any national pilot system would come back to this body for approval prior to its being put in place.

The legislation also imposes some limits. It limits the use of documents. Documents must be resistant to counterfeiting and tampering. The system will not require a national identification card for any reason other than the verification of eligibility for employment or receipt of public benefits. There is no one card. Those who use, I think, as a ruse to defeat this pilot project, I hear out there, "Well, Senator FEINSTEIN, you are calling for a national ID. That violates all our civil rights." To that I have to say, "There is no national ID anywhere in the legislation before this body". None. It is a red herring. It is a guise. It is a dupe. It is a ruse, simply to strike a mortal blow at the system.

I have a very hard time because California is so impacted by illegal immigration. For 3 years we have said we must enforce our border, we must improve customs, we must be able to really put a lid on the numbers because the numbers are so large. I have come to the conclusion that within the scope of possible immigration legislation, we are stuck with an existing system. That existing system is employer sanctions. Therefore, why not try to make them work? The already compromised verification system—just a pilot, which allows the INS to work it out, and bring it back to this body and let us say yea or nay to it—is simply a modest attempt to get some meaning into this legislation.

Let me say what I honest to God believe is the truth. If we cannot effect sound, just and moderate controls, the people of America will rise to stop all immigration. I am as sure of that as I am that I am standing here now, because where the grievances exist, they exist in large number. Where the fraud exists, it exists in large numbers. Where it exists, wholesale industries develop around it. It is extraordinarily important, in my opinion, that this amendment be defeated.

Let me talk for a moment about discrimination because I just met with a group of California legislators who wanted to know how this works. One of the big areas they raised was discrimination. As I understand the system, it must have safeguards to prevent discrimination in employment or public assistance. The way it would do that is through a selective use of the system or a refusal of employment opportunities or assistance because of a perceived likelihood that additional verification will be needed. The legislation contains civil and criminal remedies for unlawful disclosure of information. Disclosure of information for any reasons not authorized in the bill will be a misdemeanor with a fine of not more than $5,000. Unauthorized disclosure of information is grounds for civil action. The legislation also contains employer safeguards, that employers shall not be guilty of employing an unauthorized alien if the employer followed the procedures required by the system and the alien was verified by the system as eligible for employment.

In my view, the Simpson-Kennedy test pilot makes sense. I have a very hard time understanding why anyone would oppose it because it is the only way we can make employer sanctions work.

I yield the floor.

Mr. KENNEDY. Mr. President, the case for ensuring that birth certificates are going to be printed on paper to reduce the possibility of counterfeit has been made here. I want to speak to that issue because it has been addressed by some saying this is ultimately the responsibility of the State, and the Federal Government does not really have any role in this area.

Mr. President, sometime we will have to decide whether States will have their own independent immigration policies or whether we will have a national immigration policy. It really gets down to that. I have my differences with some of the provisions in this bill. One that I think the case has been made, and I know it will be made again in just a few moments by the Senator from Wyoming, is that if we do not deal in an important way with ensuring that we will have birth certificates which are going to be, effectively, even printed on paper that cannot be duplicated and other safeguards, really, this whole effort ought to be understood for what it is.

That is, basically, a sham. It will be a sham not only with regard to immigration, but it will be a sham on all of the programs that we talked about yesterday in terms of the public programs because individuals will be going out and getting the birth certificates and getting citizen documents to prove they are American citizens and then drawing down on the public programs.

We spent hours yesterday saying which programs we are going to permit, even for illegals to be able to benefit from, or which ones we will be able to permit legals to be eligible for, and we went through the whole process of deeming. If you go out there and are able to get the birth certificates and falsify those, you will be able to demonstrate you are a senior citizen and you will be able to draw down on all of those programs. This reaches the heart of the whole question of illegal immigrants. It reaches the whole question of protecting American workers. It reaches the whole issue of protecting employers. It reaches the issue about protecting the American taxpayers.

Let me give a few examples of what we are looking at across the country. Some States have open birth record laws. In these States, anyone who can identify a birth record can get a copy of it. The birth certificates are treated as public property. In some States—for example, in the State of Ohio, you can walk into the registry of vital statistics in Ohio, an open record State, and ask for, in this instance, Senator DEWINE's birth certificate. The registry would have to give it to me, no questions asked. I could walk into the registry in Wisconsin and get Senator FEINGOLD's birth certificate just as easily. Some States even let you have a copy through the mail. Once I have a

copy of one of their birth certificates, I could take it, for example, down to the Ohio Department of Motor Vehicles and get an Ohio driver's license with Senator DEWINE's birth date and address, but my picture instead of his. I now have two employer identification documents to establish an eligibility to work in the United States and also to be able to be eligible for public programs.

Mr. President, with all that we are doing in terms of tamperproof programs, and all that we are doing in terms of setting up additional agencies and investigators and protections for American workers, and all of the resources that we are providing down at the border, when you recognize that half of the people that will be coming in and will be illegals came here legally, and they will have an opportunity to take advantage of these kinds of gaping holes in our system, then the rest of the bill—with all due respect, we can put hundreds of thousands of guards down on the border, but if they are able to come in, as half of them do, on various visas and be able to run through that process that anybody can achieve in a day or day and a half and circumvent all of that, then I must say, Mr. President, we are not really being serious about this issue.

We can all say, well, our local—I know the arguments and I have heard the arguments. There is a lot of truth in much of what is said in the arguments. But we have to, at some time—and I hope it is now—recognize that we are going to have to at least set certain kinds of standards and let the States do whatever they want to do within those standards. They have to print it on paper that is as resistantproof to tampering as we can scientifically make it. They can set this up, and they can do it whatever way they want to do it. But there are minimum kinds of standards to try to reach the basic integrity of the birth certificates that are going to be necessary. That has been pointed out. That is the breeder document. That is where all of this really starts. It is easily circumvented. We can build all the other kinds of houses of cards on top of trying to do something about illegal aliens, and unless we are going to reach down and deal with this basic document, we are really not fulfilling, I think, our responsibility to the American people with a bill that is really worthy of its name, because we are leaving these gaping holes.

I could go into other things, but I will not take the time because others want to speak. I will go through other kinds of illustrations that are taking place today. We know what the problem is. You have, as Senator DEWINE said, the fraudulent documents that are all being duplicated fraudulently down at the border when we might be able to do something about tamperproof elements. But unless we are going to deal with the breeder document, which is the birth certificate, we are really not going to be able to get a handle not only on illegal immigration, but also on protecting the taxpayers, because people will be able to use the birth certificate to demonstrate that they are a citizen and then draw down on the various programs. That, I think, really makes a sham of a great deal of what is being attempted at this time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise today to urge my colleagues to support the Abraham-Feingold amendment to strike the worker verification proposal from this bill.

It has been said many times already in the past, and today on the floor, that we cannot effectively combat illegal immigration without having a national worker verification proposal. It has been said that the employer sanction laws implemented in the 1986 act have been largely ineffective due to the absence of such a verification system.

As we all know, Mr. President, there are two major channels of illegal immigration. The first is composed of those who cross our borders illegally, without visas and without inspection. Roughly 300,000 such individuals enter and remain in our country unlawfully each year.

This, as we all know and agree, is unquestionably a serious problem along our southwestern border. This Congress does have a responsibility to provide additional resources to the U.S. Border Patrol and other enforcement agencies to prevent such individuals from crossing the border in the first place. So I strongly support the provisions in S. 1664 that provide additional border guards and enforcement personnel.

Mr. President, the second part of the equation, though, which represents up to one-half of the illegal immigration problem, is the problem known as visa overstayers. These are people who enter our country legally, usually on a tourist or student visa, and then remain in the United States unlawfully only after the visa has expired.

But despite this phenomenon, representing up to 50 percent—50 percent—of our illegal immigration problem, there was not a single provision in the original committee legislation to address this problem—not a single word about half of the whole illegal immigration problem.

Instead, the bill supporters proposed a massive, new national worker verification system, complete with uniform Federal identification documents. So, rather than targeting the individuals who break our laws and are here illegally, the premise of that proposal was to ensure that the identity of every worker in America—U.S. citizens, legal permanent residents, and so on—had to be verified by a Government agency in Washington, DC.

Mr. President, we are going to hear extensive debate about whether or not what is in this bill is actually going to work, and I will comment on that in a few minutes. But I think we first need to ask the question of whether this, in any way, is an appropriate response to the illegal immigration problem.

According to INS figures, less than 2 percent of the U.S. population is here illegally. Mr. President, do we really want to require 98 percent of Americans to have their identities verified by the Federal Government every time they apply for a job or public assistance?

Think about what this means to every employer in this country, Mr. President. Every employer would have to live under such a system if it was fully implemented. Suppose a dairy farmer in rural Wisconsin, or perhaps rural New Hampshire, wants to hire a part-time employee. Should that farmer have to get permission from a Washington bureaucrat before he hires the worker? How is the verification check to be completed? If it ends up being an electronic system, does that mean the farmer is going to have to spend $2,000 or $3,000 on a new computer and another $1,000 on the required software to be able to interface with a computer somewhere in Washington, DC—all so he can hire just one part-time employee on his farm in Wisconsin or New Hampshire?

Mr. President, if fully implemented, this, obviously, is not a measured response to the illegal immigration problem. It suggests that the way to find a needle in a haystack is to set the haystack on fire.

It is not as if we are moving to a national verification system as a last resort. Just in the past few years has the administration begun to take seriously the task of patrolling our Nation's borders. Experiments such as Operation Hold the Line in El Paso, and Operation Gatekeeper in San Diego, have demonstrated that there is a way to prevent undocumented persons from entering the United States.

Moreover, we have never tried to attack the visa overstayer problem. Again, that is the problem that constitutes nearly one-half of the illegal problem. No one has ever proposed such targeted reforms—until now.

Our amendment contains provisions that impose tough new penalties on persons who overstay their visas by withholding future visas from persons who violate the terms of their agreements.

In addition, anybody who applies for a legal visa must submit certain information to the INS that will allow the INS to track such persons and determine who is here lawfully and who is here unlawfully.

These bold reforms should be given an opportunity to work. Let us give them a try before we commit ourselves to experimenting with a costly and burdensome national verification system.

Moreover, Mr. President—and, of course, I acknowledge that during the committee's work, this was turned into

more of a pilot program approach. Nonetheless, the so-called pilot programs contained in this legislation are riddled with problems. Let us be honest. We would not be having these so-called pilot programs if the eventual goal was not to have a national verification system up and running in the near future. Why would we do them if that was not the ultimate objective? Indeed, in addition to the pilot programs, this bill, as reported out of the Judiciary Committee, requires the President to develop just such a plan for a national system and submit it to Congress.

We also know there are going to be numerous errors in the system. As the Senator from Michigan has pointed out, one Federal data base that is to be used with this system currently has an error rate of over 20 percent.

So we know that millions and millions of Americans will be wrongfully denied employment and Government assistance due to bureaucratic errors.

Now the sponsors of the provision will tell you that the system is only supposed to have an error rate of 1 percent. But read the bill. The bill clearly states that the system should have an objective of an error rate of less than 1 percent. It could have an error rate of 5, 10, or 20 percent and it would be perfectly OK under this bill.

But perhaps nothing is as troubling to me about this proposal as the fact that it puts us squarely on the road to having some sort of national ID card.

Now I know that the very words "ID card" ruffles the feathers of the sponsors of this provision. And I know that they have crafted this language very carefully so there is not an actual identification document created by this language.

But even many of the congressional supporters of a national verification system have pointed out that this proposal will not work without some sort of national identification document. Why? Because any job applicant can hand an employer a legitimate ID card that has, for example, been stolen or doctored.

The employer will run the card through the system and it will check out. But the card does not belong to the individual, so that individual has just fraudulently obtained a job or received welfare assistance.

That is exactly what is likely to happen if this bill becomes law.

Well, Mr. President, is there any way to prevent this sort of fraud from happening? One solution has been suggested. Let me quote Frank Ricchiazzi who is the assistant director of the California department of motor vehicles.

In testimony before the Judiciary Committee last May, Mr. Ricchiazzi said the following:

> All the databases and communication systems in the world fill not prevent the clever and resourceful individual from assuming multiple identities with quality fraudulent documents. What is needed is the ability to tie the documents back to a unique physiological identifier commonly referred to as biometric technology (retinal scan, fingerprint, hand print, voice print, etc).

So fingerprinting every person in America is one suggested solution to this problem.

Now this approach may sound a little farfetched, but my colleagues on both sides of the aisle may be surprised that the original committee bill required every birth certificate and driver's license in America to be adorned with a fingerprint.

This is not totally far-fetched. It is what we had to consider in the first place in committee.

And it is my understanding that even with the last-minute changes made yesterday to the birth certificate requirements, the bill continues to allow Federal agencies to preempt the authority of the States by requiring State agencies to follow federally mandated regulations with respect to the composition and issuance of their birth certificates and drivers license.

The bill's supporters claim that the fingerprint requirements have been removed from the legislation. But again, read the bill. The legislation before us allows the administration to determine what sort of safety and tamper-proof features every State's driver's licenses must have.

We are going to put something in this Congress to say you cannot use it for something else.

So if the Department of Transportation decides to require the State of Wisconsin to begin collecting and processing fingerprints of all driver's license applicants, the State of Wisconsin would be forced to comply under this legislation with the national fingerprint mandate.

That is why this provision, even with the recent modifications, continues to be opposed by the National Association of Counties and the National Conference of State Legislatures.

The bill's supporters will also say that the legislation clearly prohibits any identification documents required for the verification system to also be required for other purposes.

Mr. President, that is not much of a guarantee. In fact, it is no guarantee and on the contrary, by establishing such federally mandated identification documents we open the door for these documents and the verification system to be used in the future for a variety of purposes that could be completely different from what we intended, and something that none of us would support.

At first, Mr. President, Members of Congress may propose that people present these documents and go through the verification process for very legitimate purposes. Maybe they will say, "Well, we have to use these ID's or documents to board an airplane; maybe we will be required to use them to adopt a child; maybe it will be required if you want to enlist in the Armed Forces."

And pretty soon, the verification process and identification documents will be required for so many purposes that it just might be a good idea to carry the I.D. document around in your wallet.

Does that sound farfetched Mr. President? It should not, because I just described the Social Security card—a card that was originally intended for one purpose and is now required for so many purposes that most people carry it around in their wallets or pocketbooks. And Social Security numbers are used for numerous identification purposes from the number on your driver's license to assessing computer networks.

I know, Mr. President, that the Senator from Wyoming will claim that the bill specifically prohibits the verification system from being used for other purposes.

But nothing in this legislation, including the so-called privacy protections, can prevent a future Congress from passing a law to require these identification documents and the verification system to serve different purposes than originally intended.

That is precisely why Senators should not be misled into believing that the pilot projects contained in this legislation are harmless and will have no effect on their constituents.

The pilot programs are not intended to merely provide a testing ground. If the pilot programs are just meant to provide us with test results, why does the bill specifically require the President to develop and submit to Congress a plan for expanding the pilot projects into a nationwide worker verification system?

That is the goal of the verification proposal contained in the legislation and Senators should not be misled into believing that these are harmless pilot programs that are not going to affect their constituents and are going to somehow magically disappear in a few years.

Mr. President, the number and range of groups and organizations supporting the Abraham-Feingold amendment is quite astounding. It is a coalition of the left, represented by the ACLU, the National Council of La Raza and the American Jewish Committee, and the right, represented by the NFIB, the National Restaurant Association and the U.S. Chamber of Commerce, as well as some 30 other national organizations representing business, labor, ethnic and religious organizations which all support the Abraham-Feingold amendment.

Why do they do this? Because they know it is critical that we abandon this rather heavyhanded, costly approach to combating illegal immigration and instead focus on true reform that focuses on the individuals who break the law, and not those who abide by them.

So I very much commend my friends from Michigan and Ohio, and others, in their efforts in fighting this intrusive proposal.

I ask unanimous consent that a listing of the organizations supporting the Abraham-Feingold amendment be printed in the RECORD.

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

ORGANIZATIONS SUPPORTING ABRAHAM-FEINGOLD

National Federation of Independent Business.
National Council of La Raza.
National Restaurant Association.
American Civil Liberties Union.
U.S. Chamber of Commerce.
American Bar Association.
Americans For Tax Reform.
United States Catholic Conference.
Mexican-American Legal Defense and Education Fund.
National Retail Federation.
American Jewish Committee.
Associated Builders and Contractors.
Associated General Contractors.
National Asian-Pacific American Legal Consortium.
Asian-American Legal Defense and Education Fund.
International Mass Retail Association.
Cato Institute.
Service Employees International Union.
Asian-Pacific American Labor Alliance.
National Association of Beverage Retailers.
UNITE (Union of Needletrades, Industrial and Textile Employees).
National Association of Convenience Stores.
League of United Latin-American Citizens.
Food Marketing Institute.
Hispanic National Bar Association.
Food Distributors International.
The College and University Personnel Association.
American Hotel and Motel Association.
International Association of Amusement Parks and Attractions.

Mr. FEINGOLD. I thank the Chair. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong opposition to the amendment.

Let me differ with my friend from Wisconsin who is one of the finest Members of this body. It was a great day for the Senate when RUSS FEINGOLD was elected to serve here.

When he says this amendment increases penalties for those who come in legally and overstay, this amendment does nothing of the sort. This amendment does one thing and one thing only, and that is to weaken enforcement of illegal immigration.

What the bill does—not this amendment—on those who overstay legally, anyone who overstays more than 60 days cannot apply for coming back in again legally for 3 or 5 years. We hire more investigators. You have to apply for a visa to the original consular office where you made the original application.

Three things I do not think anyone can question. No. 1 is the thing that Senator SIMPSON has stressed over and over again, and that is the attraction for illegal immigration is the magnet of a job. I do not think anyone seriously questions that. No. 2 is that we have massive fraud that assists people who are here illegally. I do not think anyone questions that. No. 3 is the GAO report shows that we have a serious problem with discrimination particularly against Hispanics and Asian-Americans or people who speak with an accent, maybe a Polish accent or whatever the accent might be because there is a reluctance on the part of employers to hire them.

Unless we have some method of a voluntary identification, that discrimination is going to continue. So, in line with the recommendations of the Jordan Commission, pilot programs have been suggested. No pilot program can be followed through by a Clinton administration or a Dole administration or anyone else without congressional action. So there is that safeguard here.

I think this is essential. If this amendment is adopted, frankly, you just defang the whole bill. It is a toothless venture. You are trying to eat steak without teeth. I hope to never try that. I hope the Presiding Officer never has to try that. You have to have teeth in this if we are going to do anything about illegal immigration.

There are provisions in this bill that I do not like. I was defeated last night on an amendment, and I am probably going to be defeated today on a couple of amendments that I think make a great deal of sense. I think in some ways the bill is too harsh. But it is essential that we take a look at this.

Let me just add—and I know you should not make appeals on the basis of personalities—this whole issue of immigration is one of these cyclical things. Right now there is a lot of interest, but for a while there was very little interest. There were just three of us who served on that subcommittee, the smallest subcommittee in the Senate, because there was not that much interest—ALAN SIMPSON, TED KENNEDY, and PAUL SIMON. I was the very junior member both in terms of service and in terms of knowledge.

I say to my colleagues who may be listening or their staffs who may be listening, whenever ALAN SIMPSON and TED KENNEDY say this is a bad amendment in the field of immigration, I think you ought to listen very, very carefully. They know this area. Complicated as it is, they know this area well. We have a problem with illegal immigration, and you cannot deal with this problem unless you deal with the magnet that employers have, the area of fraud, and I also think the area of discrimination. There is no way of solving this without having some pilot programs.

We could launch something without having a pilot program. I think that would be unwise. It seems to me this is a prudent approach that really makes sense, and with all due respect to my friend from Michigan, I think this amendment should be defeated.

I yield the floor, Mr. President.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Wyoming.

Mr. SIMPSON. I think we have had an interesting debate. We probably will have a little bit more. There is no time agreement here. But there are some serious distortions presented to us, and that is always vexing because obviously persons are listening to those distortions and taking them to heart.

I have been in this business for 17 years, and that is not to say it has been a joyful experience, but it was much more a pleasure when Senator PAUL SIMON joined this ragged subcommittee consisting of Senator TED KENNEDY and myself because no one else would take on the issue. So for several years it was just a little three-member subcommittee—Senator KENNEDY, myself, and Senator SIMON—because others would come up to us in the course of the entire year of work saying, "When you get busy on doing something about illegal immigration, you let me know and I will help you."

Unfortunately, nobody does help because there are so many cross-currents. I have never seen more—I am not talking about the Senate. I am talking about outside the Senate. I have seen groups hop into the sack with other groups they would not even talk to 10 years ago. I have seen some of the most egregious pandering and prostituting of ideals outside this beltway that I have ever seen, people who are cynical, cynical in the extreme with what they are doing on this issue, some of the think tanks cynical to the extreme. I am not, please hear me, talking about a single person in this arena. I have the deepest respect for Senator SPENCER ABRAHAM. I helped campaign for him in Michigan and would do it again in an instant. I have high regard for Senator MICHAEL DEWINE. I helped campaign for him in Ohio, and I would do it instantly. Senator FEINGOLD I have come to know, a spirited legislator of the old school—doing your homework. So that is not the issue.

But you are missing everything we are trying to do. Somebody is missing the entire thing, and Senator SIMON has expressed it beautifully: You cannot do the things that are in this bill unless you have at least an attempt to find out what verification systems we will use in the United States.

The present stature of the bill simply says that we will have verification projects or processes of these following options. If I had my way, I would make them requirements, and I would say it is required that these following pilot projects take place in the next years. That is what we should be doing. Then none of them go into effect, or not one of them goes into effect, until we have another vote.

That is what is in this bill. There is nothing in here that has to do with national ID or all the sinister activity that you can ever discuss—Americans on the slippery slope, a tragedy of employers having to seek permission to hire people. They already do. It is almost as if one were speaking into a vacuum.

I know what it is. It comes from the fact when you are in it this long, you understand the nuances. That is not a cocky statement, I can assure you. But, boy, I tell you, when I first started the business, I would say, "You can't do that." Then 2 years later I said, "You have to do that."

That is where this one is. When I am up at Harvard teaching, I shall think of you all, and I will reflect. In a year or two—and I hope you are all here for many years—you are going to say, "I didn't know that's what we did," because if this amendment passes, you will have taken away everything from this bill. The rest of it, as Senator PAUL SIMON says, is like eating steak without teeth. You cannot do it with what you have put in this bill. If you think you have solved the problems of illegal immigration by the Border Patrol—put 20,000 of them down there—if you think you are going to solve it by this or that and all the things that are in this bill, forget it, because over half the people come here legally. You will not even touch them unless, ah, with the new Border Patrol we will give them the power to now go up and ask visa overstayers if they are visa overstayers. How is that one for discrimination in America? You are going to go up to people who look foreign under this provision, when we have nothing else that gives us any power or authority to do anything, and find out whether people are visa overstayers. I assume they will most likely be people who look foreign. So, remember, that one will take place.

It is a curious thing that the people and the institutions who want to do the most to hammer illegal, undocumented persons will give us the least hammer. I do not understand that and I would like to have that explained to me in the course of the debate. How you can come to subcommittee and full committee and the floor and add layer upon layer of things which have to do with tightening the screws on illegal, undocumented people—and that is what you have done, and that may assuage all guilt, it may take care of all pain—but, then to take every bit, every tiny crumb left of how to do something about illegal undocumented persons in the United States, and that is to allow some kind, some kind of more counterfeit-resistant, more verifiable, identifiable—whether it is through the phone system with a slide-through or some kind of revised Social Security card or something—and then to go home and tell our people that, here in the United States of America, we finally did something about illegal immigration? And a year from now or 2 years from now you find out you could not get it done because you did not take the final step, which was minuscule, and that was to do something about the breeder document that Senator FEINSTEIN described so powerfully—you did not do anything with that document, did not do a thing with it.

You did not do a thing with the most stupefying thing that happens in America, where you look at the obituary list, and if you are between 20 and 40 years old you really look at that. You find out who died and then you go get their birth certificate—and between the years of 20 and 30 and 40, that is when most of this happens—and then off they go with the new birth certificate and into the stream they go, into the stream they go with a Social Security card, and into the stream with a driver's license, and into the stream of the public support system.

We are talking about the cost of a system to set that up? The cost to America, by what is happening to the welfare systems, the cost of what is happening to America with the hemorrhaging of California and Illinois and Florida, hemorrhaging—absolutely hemorrhaging, and we are not going to do anything about it? We are going to talk about the cost of a system? If this system costs $10 billion, it would be worth it, because we are losing $20, $30, $40 billion, with people who gimmick the housing programs, gimmick the welfare program, gimmick the employers. That is where we are. It is absolutely startling to me that those who want to do the most will allow us to do the least.

Let me just address a couple of old canards that just have to be addressed. In this league you are supposed to be as patient as you can. But I am always reminded of that great phrase in Rudyard Kipling's "If." Read it. You want to read "If." Read it every 5 years of your life because it will change.

If you can keep your head when all about you
Are losing theirs and blaming it on you,
If you can trust yourself when all men doubt you,
But make allowance for their doubting too;
If you can wait and not be tired by waiting,
Or being lied about, don't deal in lies,
Or being hated, don't give way to hating,
And yet don't look too good, nor talk too wise:

* * * * *

If you can fill the unforgiving minute
With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in it,
And—which is more—you'll be a Man, my son.

But there is one part in it that is marvelous. It says:

If you can bear to hear the truth you've spoken
Twisted by knaves to make a trap for fools,

And that is what I have seen outside, in this beltway, "twisted by knaves to make a trap for fools." I am not referring to a single person in this Chamber. I am referring to people who I know out there. I know the groups. I know them well. I have seen them in action.

So, let us look at the stuff that has floated through here with regard to the national ID card. In an April 11 "Dear Colleague" letter you were all told that:

Americans should not have to receive permission from the Federal Government to work and support their families, nor should U.S. employers need permission from the Federal Government to hire their fellow citizens. But ill-conceived measures in the illegal immigration bill to be taken up on the Senate floor during the week of April 15 will do just that.

And we have heard similar claims here on the floor today. I do not know whether this outrageous statement reflects willful distortion or something more bizarre, because, first, it is already unlawful under section 274(a) of the Immigration and Nationality Act, 8 U.S.C, 1324(a) for any person or entity to knowingly employ illegal aliens, or to hire without complying with the requirements of an "employment verification system." That is the law. And that is described in that section.

Most important, neither current law nor the proposals in S. 1664 require citizens or lawful permanent residents to obtain any form of permission from the Federal Government to work: None. Nor is there any requirement that U.S. employers obtain "permission" to employ such persons. In the present context, the word permission connotes a form of consent that can be withheld, at least partly on the basis of discretion.

In fact, there is not, under current law, and there would not be under any pilot project authorized under the bill or any system actually implemented in accordance with the provisions of this bill, after the required implementing legislation, that would give any legal authority to withhold verification except on the basis that an individual is not a citizen, lawful, permanent resident, or alien authorized to work.

Indeed, the bill includes as an explicit prohibition, a requirement that verification may not be withheld except on that basis. That was to protect the employer. We did not do that for any other reason but to protect the employer.

In that same letter you were informed that the verification provisions of the bill are "more than merely a pilot program. It is a new system that can cover the entire United States and last for up to 7 years at the discretion of the President."

In fact—fact, section 112 of the bill authorized the President to conduct "several local or regional demonstration projects." Are you going to let California just sink? Are you going to let California just sink and float off into the ocean? That is what you are doing if you do not allow them at least to do something; a pilot program. What about Texas? Are you just going to let it sink? What about Illinois? What about Florida? You cannot get there.

So we provided several local or regional demonstration projects. That this does not authorize at all what the authors of this letter assert, it will be made ever clearer as we finish up our work on this bill.

I had an amendment. We will see what happens with that. The word "regional" will be defined as an area more than an entire State, or various configurations. That would make it clear that the system covering nearly the United States of America, the entire Nation, would not be authorized. No one ever intended that. But the letter also asserts that the bill "does not replace the I-9 form but is added on top of the existing system."

The bill does not say that. The bill provides that if the Attorney General determines that a pilot project satisfies accuracy and other criteria, then requirements of the pilot project will take the place of the requirements of current law, including the I-9 form.

Furthermore, those are things that seem to escape us. We are trying to assure that employers will not have to comply with the requirements of both current law and pilot projects, pilot projects where their participation is mandatory. In addition, this same letter states, "Error rates are a serious problem." The letter refers to an estimate by the Social Security Administration that in 20 percent of the cases handled, it will not be able to identify an individual's employment eligibility "on the first attempt."

Hear that, "the first attempt." I am not familiar with the details of the estimate, but there are three responses that come to mind immediately.

First, in the INS' pilot project, if verification is not obtained electronically and the very first time, an additional, nearly instantaneous, electronic attempt is made—instantaneous—using alternative databases or names. In the vast majority of cases, verification of persons actually authorized to work is obtained in a very few seconds.

Obviously, the whole point is to not verify certain individuals. Illegal aliens will not be verified. A handful of cases then require a visit to an INS office. To our knowledge, every one of those cases was resolved without significant delay, and remember that this is a pilot project and not a fully developed system.

Second, if there is something wrong with the data base of the Social Security Administration, it should be fixed, but we will not have to worry about that because we do not deal with that issue either. We cannot do anything with the Social Security card, to make it as secure as the new $100 bill. We cannot seem to do that, and it will not bother us because we are already told that Social Security will be broke in the year 2029 and will begin to go broke in the year 2012. But we do not deal with that one at all. That one will be one for all of you to deal with.

Third, the whole point of the pilot project is to develop a workable system, I say to my colleagues. We are not trying to do a number on our fellow Americans. We do not have a workable system right now, and you helped correct some of that yesterday, and I appreciate that. Well done. You protected the employer from a heavy fine or penalty just by asking for another document. That was good work; I think good work.

We do not have a workable system. We do not know all the problems on the surface as these projects are conducted, but if the development process is not begun, if something as milk soup in consistency as the present part of the bill, which is the Kennedy-Simpson verification process, which is all optional, if we cannot even start that, we will never have a workable system, at least in the years to come.

The letter also states that, "Employers who break the rules will continue breaking the rules while legitimate business owners must confront new levels of bureaucracy."

Most employers try to comply with the current law. They work hard to do that. They work hard not to hire illegal aliens. However, the current verification system, with which they are required to comply, is not reliable because of fraudulent documents.

I am going to show it one more time. There is no such thing in our line of work as repetition. There it is. Anybody can get one and when you get one, you can begin to do things that to the Cato Institute would be repugnant, because when you get one of these, you can go down and get welfare. You can get welfare, you can access other programs, you can do this and you can even vote in some jurisdictions with that kind of a card.

What are you going to do about that? Well, we have something in there about that, about forgery and about this and about that. We handle that. You will not handle it until you go to a pilot program to figure out what you are going to do with this kind of gimmickry, and then every time I read a report or paper from some of these opinion-filled brilliants off campus here, I am always stunned by the fact that they say what are we going to do, what are we going to do about people who abuse the welfare system, what are we going to do about people who come here pregnant and have a child in the United States of America and then give birth to a U.S. citizen? What are we going to do about people who denied a mother or father the opportunity to receive a welfare benefit because the county and the State had expended it all? It is all gone, millions are gone down the rat hole because of fake documents.

So what you have here without reliable documents is you have hundreds of thousands of illegal aliens employed by such employer. Employers can be punished if they fail to employ someone because they suspect a person is illegal if such person has documents that "reasonably appear on their face to be genuine." At least we protected the employer a bit yesterday. Right now employers can be fined by simply asking for another form of document.

Now the letter asserts, finally, "The system will lead to a national ID card. A number of congressional advocates of this system have admitted that the system will not work without a biometrically encoded identification card." I am quoting. "Establishing this far-reaching program sets us on a dangerous path toward identity papers and other objectionable elements incompatible with a free society."

I also saw an article during the days of this issue coming before the American public where it was even suggested that we were looking into the examination of bodily fluids. There is a debate and there is a thing of give and take and there is a thing such as honesty, but bodily fluids was never anything ever mentioned by any "congressional advocate" that I have ever met.

This is an especially blatant—blatant—example of the misleading nature of so many of the statements in these letters.

First, the assertion that there is a national ID card, but then the statement about congressional advocates does not refer to a national ID card, and I am one of those trained "congressional advocates" who has opposed national ID cards for all of the 17 years I have been involved in this issue, period.

I put it in every bill. Anybody who can read and write has found it in there and ignored it. I am tired of that one. You do not have to take all the guff in this place, and that is not a personal reference. I have heard that one, too. I am talking about lying.

I have put in every bill I ever did that this would not be a national ID card, and that it would be used only at the time of new hire, and it would be only presented at that time or at the time of receiving welfare benefits, that it would not be carried on the person, that it would not be used for law enforcement. That is in every single bill I have ever done, period.

The card that I believe is probably necessary is the one already used for ID purposes by most Americans, and especially in California, the State that takes all the lumps while we give all the advice. That is the driver's license or some kind of a State-issued identification card. But, ladies and gentlemen, what do you think this is? This is a State-issued identification card. That is what this is. That is why I favor the bill's required improvements in these State documents.

The reference to "biometrically encoded" is pure demagogery. "Biometric" merely refers to information relating to physical characteristics that are unique to an individual making it easier to determine if a card is being used by an impostor. That is what "biometric" is. Look it up. A photograph is a common example. A fingerprint is another.

Use of the ominous term "encoding," I guess, just appears as a totally gratuitous crack or shot. Is a photograph on a card encoded on that card? I guess it is, if you want to be stern about it. You will have to ask the authors what they mean, if they mean anything at all, by the use of that term, except inflammatory language.

With respect to the "dangerous path" statement, it is an indication of something I have noticed about many of the opponents of any improved verification system. I have found, in the 17 years of my work in this area, and especially with the Congressman from California, who is tougher than anybody ever in this Chamber—he is no longer a Member, but I had the highest respect for him; he was tough—but he displayed a fundamental distrust of the Government to do what it would do, fundamental distrust of our people, fundamental distrust of our political system. That has to be the root of this, a fundamental distrust of what we are doing. For, as I said many years ago, "There's no slippery slope toward some loss of liberty, only a long descending stairway. Each step downward has to be allowed by the American people and their leaders." That will never happen.

The claim is also made that the system "imposes costly new burdens on States and localities." CBO estimates the cost of all of the birth certificate and driver's license improvements required by section 118 of the bill, as modified by the floor amendment which was adopted without objection yesterday—how curious, a floor amendment of mine to get all of the snarls and the bumps out of an amendment that had objection in the committee, and I then made these specific corrections to satisfy most of my colleagues, and it passed here by a voice vote without objection. That will be stricken by this amendment.

This motion to strike will take the work product that was done, with all of us in here and their staffs, and junk it, gone. history. You can do that. You may do that. If that happens, life will go on, the Sun will rise in the east, and it will be a joyous day on the morrow.

But let us be real. What I did with the phase-in of the driver's license requirements is going to cost now $10 to $20 million, spread over 6 years. I have seen estimates of the losses to the American people because of the use of fraudulent ID's. That is in the billions and billions and billions of dollars, ladies and gentlemen. That is what is happening. Not to mention voter fraud, terrorism, and other crimes that often involve document fraud.

One other one we have to put to bed, at least pull the covers up, and then go on anywhere you wish to go with this. I have to respond to a wild charge that has been made before. You try not to respond to all this stuff, but finally you just kind of get a belly full of it. The heated rhetoric which has been flying about the Chamber—threatening and stern—is totally untrue. That was about the pilot program in Santa Ana, CA.

My colleagues have heard the bill will create a massive, time-consuming, error-prone, error-riddled bureaucracy. They have heard accusations that we are racing, with no brakes, toward a national ID card that will be "riddled with mistakes" and will be "dangerous to our own workers."

Mr. President, I would like to extinguish this fiery, heated rhetoric with the cold splash of hard fact. Once my colleagues hear the truth, maybe they will be better able to sort out some of the rest of it, and the American people will finally hear the truth. I believe we will no longer have to deal with some of the old canards which are in vogue and have been in vogue for weeks here, because currently under the authority of the 1986 immigration bill, the INS is conducting a pilot project on an employment verification system. I hope no one here will try to stop it, but you never know. It is working. You might want to go scotch it before it goes too far. It is just like the pilot projects authorized by this bill.

Let me tell you what has happened so that you can hear it. Over 230 employers in Santa Ana, CA—230 employers—have volunteered to participate in this INS project, volunteered.

After the hiring of a new worker, the employer fills out an I-9 form and checks the worker's documents. Everybody is doing that in the United States, so if you hear any more argument about what we are putting on the employers to find out if the people in front of them are authorized to work in the United States of America, are citizens, do not think that I put it in this bill. It has been in the law for nearly 10 years.

So this is just like every other employer in the United States. It is a requirement of current law. It is a total distortion of fact and reality to say that we are going to ask something more of an employer to either get "permission to hire," or to "clear it" when he had not had to clear it before.

Ladies and gentlemen, they have been doing it for 10 years, every single day while we go about our work here. The I-9 is asked for, and people do it every single day. Some were offended when it first began. "Why should I do that?" I have a provision, if you are a U.S. citizen, you need do nothing more than a test that you are a U.S. citizen. That would take care of that. But we will not get the opportunity, likely, to get to that.

So let us at least start with what is there. We have a requirement in current law which requires the employer to ask the potential employee in front of him for documents. He is asked to ask for 29 different ones under the previous legislation, the present law—worker authorization ID—and then to make a tragic mistake, with no intent to discriminate, and ask for another one, and get a fine or the clink. So we corrected that. I hope we will keep that.

But remember now, in this pilot program, if the new hire is not a U.S. citizen, the employer then begins the verification process. Using a computer the employer transmits the alien registration number or the "A" number on an employee's green card to the INS. This happens after the employee has been hired. Please remember that. It happens after the employee has been hired. The majority of the time the employer's request is answered in 90 seconds. All of the inquiries are answered within 48 hours by the INS.

Here is where this fake figure comes in. For 17 percent of the newly hired workers—or maybe it is 20; I have heard both, about 1,100 workers; this was newly hired, about 1,100 workers—the INS was unable to confirm that they were legally authorized to work, ladies and gentlemen. So all of those individuals then were given 30 days to set up an appointment with a specific INS officer in a special office set up to correct possible mistakes in the INS data base.

Guess how many—I hope my colleagues will hear this—guess how many of these 1,100 individuals actually came to the INS? Mr. President, 22—22—of them came to the INS. Of these 22 people, only 17 were actually authorized to work in the United States. Their troubles were resolved within the day—within the day. The other five people who showed up were not authorized to work in the United States. I guess you have to assume that the other 1,000 people or so who never showed up to the INS were not authorized to work, either.

What about the 17-percent error rate, or 20 percent, that some opponents have spoken about? Is it the number of illegal aliens who were denied jobs by the INS pilot program? Is that it? Look at the statistics, the real statistics. The current INS pilot project is more than 99 percent accurate. In the few cases where mistakes were made, they were fixed promptly. In no case did any legal permanent resident of the United States lose a job due to this system—not one, nor any U.S. citizen.

Let me repeat myself because this is one of the most important facts my colleagues should remember: No one has ever lost a job due to faulty data in the INS pilot program. The system is used only after a new employee had been hired.

No one will ever be denied a job under this system. The horror stories which opponents have bandied about are completely and utterly without basis and fact. They are fears and illusions summoned up from the vapors to scare the wits out of the American people.

My colleagues should also know that the employers who participate in this verification pilot program think it is great stuff. They do not consider it a burden. They believe it to be a great help. I share with my colleagues' comments of those who use the system and try to look askance at the blather of

the business lobbyists. When I make these remarks, I am not speaking of people in this Chamber, but those groups I know so well. I know them well. So they look askance at this blather of the business lobbies whose sole job is to vigorously oppose all legislation which impacts business.

Here is what these employers say about the INS pilot program. "I love this system," says Virginia Valadez, the human resources officer for GT Bicycles. "Now I don't have to be responsible for whether or not these people are legal. I don't have to be the watchdog."

Comments of the California Restaurant Association: "Some means of verifying Government documents is vital to the integrity of the employment system. We desperately need a reliable, convenient means for employers to verify the authenticity of the documents that the Government itself requires. I can assure you the restaurant industry will participate eagerly." It will be the first time in my memory—the restaurant groups, when I started this business, were the most resistant, and they feel this would be extremely helpful.

Says their publication, describing the fledgling pilot verification program, "Bring offers of ready volunteer to our offices." The testimony of Robert Davis, the president of St. John Knits Co., before the select committee of the California Assembly, after describing the widespread availability of this stuff and the great difficulty that puts on the law-abiding employer says, "To a business that wants to comply and build a stable labor force, this is a major concern. Economic loss from hiring, training and loss of output from the removal of a forged document worker can be severe." He said, now he can "invest with confidence in the training of the individual, and plan for a long-term permanent work force." He believes in it. He has seen it work. "As a businessman * * * it is exciting and reassuring" and has had dramatic success.

There they are. The current program only tests individual or noncitizens in order to get a job. The illegal alien only has to claim to be a U.S. citizen, present a driver's license, Social Security card, and those are the things we will find out. How do they avoid the verification process? What do they do? Find out.

Others say we should try and call in—there has been a toll-free number called 1-800-BIG-BROTHER. They must have forgotten the one called 1-800-END-FRAUD. That is an 800 number, too, that you want to pipe into that next time you are grappling with 1-800-END-FRAUD or BIG-BROTHER and find out whether it will be cost effective, find out what we will do, see what is up in this country, do the testing we need to do. trust a Congress 6 years in the future having to cast another vote to do it right. If you do not get started, you will never get it started.

Obviously, I hope my colleagues will oppose the Abraham amendment and will acknowledge that some of the apocalyptic cries that come from out there, from the beltway, are truly without foundation and reality or fact. Remember, this is a pilot project that you are seeking to strike, with all the inevitable problems that a pilot project to a new system will involve, but if we do not even try to work out the bugs through pilot projects, we will never have a workable system. That will be, then, truly a hazing of the American public. They thought we got the job done, but we failed—and failed totally—in that.

I yield the floor.

Mr. ABRAHAM. Mr. President, I similarly acknowledge the efforts of Senator SIMPSON both with respect to the broad subject of immigration policy over the last 17 years and, more specifically, his hard work on the bill before the Senate on illegal immigration.

The positions which I have advocated on a number of the issues that are part of this bill, in some cases, have been this opposition to his position, and, in some cases, they have been on the same side. They have always been advocated with great respect for his efforts here.

I must say I sympathize with his feelings about some of the rhetoric which those outside of this Chamber have launched during the past couple of months as we have dealt with this issue before both the committee and here on the floor. I, too, have been the target of many rather unusual, strange, and exaggerated charges, as well as complaints. In my State of Michigan, in fact, groups who oppose some of the views I have on this issue have even launched paid media campaigns critiquing my activities here in the U.S. Senate on these issues. I am both an admirer of Senator SIMPSON's efforts and a sympathizer with the role he finds himself thrust into when he chose to become involved in highly important issues that touch a large number of Americans.

I comment now and finish on the comments I made earlier with respect to the implications of this verification system on the American people. We have been told as a starting point that the bill, without this pilot program, would be gutless, it would be toothless and, in various other ways, be a bill unworthy of us here. I cannot help, when we talk about exaggerated rhetoric, be a little shocked and surprised at those allegations, because I consider the bill as it currently stands, even if it did not have these pilot programs, an extraordinary piece of legislation that will combat many of the problems this country has with illegal immigration, and combat them squarely, head on, effectively, whether it is increasing the border patrols, whether it is cracking down on and ensuring the deportation of alien criminals, whether it is in partially penalizing the visa overstayers who make up such a large percentage of the illegal alien population, or whether it is sharply reducing the availability of public assistance programs to illegal aliens. All of these, I think, combined, will play a very effective role in dramatically reducing the illegal immigration problems we confront.

Equally, I think, we will see that the provisions in the legislation which protect employers, particularly small employers, from charges of discrimination, in cases where no intent to discriminate exists, are going to, likewise, allow us to address the problem of individuals who are legal aliens securing employment in this country and do so, I think, with great effectiveness.

(Mr. BROWN assumed the Chair.)

Mr. ABRAHAM. Does that make this pilot program that we are talking about, this identification verification program, the linchpin in this legislation? Is the absence of that going to make this toothless, Mr. President? I do not think so. Quite the contrary. I think, if anything, it will burden the bill and burden American citizens—taxpayers, employers, and employees—with an excessive amount of redtape, bureaucracy, and big Government intrusion that is not going to handsomely pay off in terms of the benefits it produces.

Let me just talk about some of those costs once again. First of all, this approach is the kind of big Government bureaucracy approach that I think most of us in this Congress have been arguing we find too dominant already in the American economy. Do we really want to have another bureaucracy, another effort here to try to create hoops for businesses to jump through as they make employment decisions, or for U.S. citizens, who are entitled to be employed, to jump through in order to secure employment?

Clearly, it is going to be a costly venture and a costly one both in terms of bureaucratic redtape as well as in taxpayer dollars. I was glad to hear the term "$10 billion" used as a possibility of the cost involved here. I do not know what the total costs are going to be. No one, in fact, on the floor knows that. But it is certainly conceivable that it will be great. Just as far as we are aware to this point, the assembling of this database is going to be in the hundreds of millions of dollars. The Social Security Administration has said that a national program would be $3 to $6 billion, and then it would have to be sustained.

Mr. President, that is thousands of dollars per illegal immigrant in the country just to build this system, if that is what we would end up doing. I do not think that is exactly the kind of cost-benefit approach we want to take. Let us not just talk about the burdened taxpayers; let us talk about the burden to business, and particularly to small business.

We can debate the terminology, we can talk about whether it is seeking

permission or some other way to describe what would be called for under this type of an approach. But it certainly would be an additional step in the process, and it certainly would require, in some way, communicating with someone in a bureaucracy run by the Federal Government somewhere in America to determine whether or not verification indeed has occurred.

We have never, in my judgment, Mr. President, ever placed that level of burden on employers in this country. It is a costly burden, potentially a very costly burden, for small businesses, and particularly for those small businesses that have a large turnover of employees.

In addition, it is a burden on the employees themselves. Again, we have one pilot program in Santa Ana, CA, carefully monitored by the INS, who are presumably pulling out all the stops to try to minimize delays on a database. So there are 22 cases out of 1,000—1, 2, 3 percent. Extrapolate that to the entire country or a large region, as is contemplated by the pilot program, and we are talking about thousands of American citizens who will be, in one way or another, denied initial hiring because the verification system database is not able to run at 100 percent.

While it may be the case that when a program is highly localized in a single city, with INS monitoring, the 22 people can get relatively quickly into the correct category, I do not think such a quick turnaround will be possible if the program is indeed larger, whether it is larger in terms of a full State or a region that goes beyond one State, or certainly if it was a national program.

We have had other similar kinds of things happen, Mr. President. Whenever databases are involved, there could be interminable delays. The Social Security Administration encounters this quite often, and it takes days to months to correct errors. I do not think that is the way to deal with the illegal immigration problem in America—by creating problems for people who are citizens who are entitled to work, rather than cracking down on those who are not entitled to work.

Let us not overlook the acquisition costs of the documents that will be required in order to effectuate this type of system if it goes beyond a very small project. The acquisition costs were so, I think, accurately and movingly laid out by the Senator from Ohio earlier. Imagine what we will encounter from our constituents if they determine or learn that we have moved us in a direction where new birth certificates are required, whether it is for passports, weddings, or anything else. Imagine what we will encounter if when young people go to get their driver's license, now living in a wholly different State or part of the country, find out that our law here today, in attempting to crack down on illegal immigration, has thwarted that effort, forcing them to incur additional costs in order to get their first license.

These are significant costs—costs not borne by the people who are breaking the rules, but by the people who are playing by the rules.

I do not believe, Mr. President, that we should attempt to solve the illegal immigration problem by bringing huge burdens on people who are playing it straight. I am sympathetic to the problems raised with respect to people who live in States such as California. I understand that they have different circumstances than we might have in my State, or yours. But to basically impose upon the entire country ultimately or, in the short-term, full States or regions the kinds of burdens that are contemplated by this type of verification system, it just seems to me, Mr. President, that is not a cost-benefit analysis that works out favorably for the American people.

Now, Mr. President, the real issue that we should focus on, in addition to costs, are benefits, because that is the calculus. I think it is important for everyone who is considering how they feel about this issue to think about the degree to which such a program as is being contemplated here can possibly work. Will the forgery stop, Mr. President? Will it really mean that there is not the capability of circumventing the new system that might be developed? Do we really believe that a system can be made perfect? Do we really think that on Alvarado Street in Los Angeles, or in any other city where there might be this type of forgery, in a couple of years, if not sooner, somebody not will come up with a system that breaks the code, that somehow penetrates the new security that is developed as part of these pilot programs? I am very skeptical, Mr. President.

But, also, let us not lose sight of the fact that, even separate from the ability to develop a foolproof system, we have the problem that many, if not an overwhelming percentage, of the employer problems we have are intentional. So let us ask ourselves this: If there is an employer who knowingly or intentionally intends to hire someone who is an illegal alien, are they even going to participate in the verification system? I do not think so. I do not think so, Mr. President.

So while the people who play by the rules are incurring the additional costs of setting up the kinds of systems that will be required to interface with the database in Washington, the ones who would shun the rules today will shun the rules tomorrow. As a consequence, the issue of whether or not there is a job magnet will not be very effectively addressed by this type of an approach, because as long as there are people willing to work around the rules, there will be an audience of people who will think they can come to the country illegally and get jobs with those who basically eschew the responsibilities as employers of following the rules today.

So there we bring ourselves to the final balance. On the one hand, massive costs, taxpayer costs, putting this kind of program together. Whether it is a national database, regional database, State database, it is going to be costly—costs for the small businesses, in particular, but for the employers of America, who have to develop whatever system it is to comply with and interface with the database; and then costs in terms of actually doing such compliance; costs to the employees themselves, who will be required to go through the additional step, and especially to those who, because of a database mistake, do not initially get hired and have to go through the additional bureaucratic red tape to get back into the system; costs to all who will need either birth certificates and driver's licenses and find out that because of what we have done, they now have to get a new one. Those are the costs on one side.

On the other side, as I say, the benefits, in my judgment, are substantially less than that which has been suggested earlier, because I think it will ultimately still be possible to find a way around the system. For those who want to find a way around the system on the employer side, a verification system will only make a very minimal impact. For that reason, I think we do not need this step in the direction of more big Government. I think we should strike the verification system and the driver's license and birth certificate provisions of the legislation.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I again rise in support of the amendment.

I would like to return, if I could, to the issue of the birth certificate because I think it is so revolutionary what we would do if we actually passed this bill as it is written and if we turn this amendment down. As I pointed out earlier, we are saying to 270 million Americans that your birth certificates are still valid. You just cannot use them for anything. If you really want to use them in the traditional way in which we use birth certificates today, you have to go back to the county where you were born or contact that county. You have to get a new birth certificate under the prescription of the Federal Government. For the first time, we have a federally prescribed birth certificate. We have a federally prescribed driver's license. In essence, they are not even "grandfathered in," to use the term we use many times. You will have to get a new one if you want to use it.

A 16-year-old who just wants to get his or her driver's license, we are going to say, "No, you cannot use that birth certificate that your parents have held onto for 16 years. You have to get a new one." We are going to say the same thing to someone who wants to get married. You have to go back to contact that county where you were

born 20, 30, or 40 years ago to get that birth certificate. You have to be reissued a new form. We will have to say to someone 65 years of age who wants to get Social Security, or Medicare, "Sorry." You come into the Social Security Administration and you think you are going to get your check next month. You sign up, doing what you are supposed to be doing. We will say to them, "No, you have to go back and get a new birth certificate," a birth certificate that was issued initially 65 years before that. I think that is an undue burden. I think it is a terrible burden.

I would like to talk now for a moment about another aspect of this, and that is those who argue in favor of requiring this national birth certificate—nationally prescribed birth certificate. To those who argue that it is worth it, we are going to help solve the illegal immigration problem—and I know they are well intentioned when they say this—and it is worth it to require the people we represent to do all of this, I would argue, walk through this with me and see if at the end you still think that a birth certificate—this new tamperproof birth certificate—is really going to solve very many problems, because it is based upon the premise that the person who gets this new tamperproof birth certificate is in fact the person they purport to be. That, I think, is a leap in logic which may not necessarily be true.

My colleague from Wyoming has consistently—and I respectfully say that he has been at this for 17 or 18 years. He refers to the birth certificate as the "breeder document." This is the real problem: We have to get at the birth certificate. The difficulty with that is that under the laws of many States and the way it operates in many States, that breeder document may be a second-generation document or a third-generation document.

Let me take my home State of Ohio. Ohio is what might be referred to as an open State. It is not the only State that follows this procedure. There are many other States that follow this as well. All you need to do in Ohio to get a birth certificate is to stop in at the county health department office. You put down your $7, and you get a copy of your birth certificate. Not only can you get a copy of your birth certificate, Mr. President, but you can get a copy of anybody's birth certificate. It is a public document. It is a public record. So I can go into Ohio and get a birth certificate for anybody if they were born in that county.

What is the protection here? You can issue the finest document in the world, with all the bells and whistles on it in the world; you can spend all of the money you want to make it tamperproof, but if the person who walks in and gets that document is not that person, what good have you done? So in States like Ohio that have this open system, open record system, what good does it do? There is absolutely no good at all.

There are other States that probably are more restrictive, but I would say even in those States that are more restrictive, unless we are willing to impose burdens on American citizens that no one in this Chamber will impose, unless we are willing to say to the 65-year-old who wants to get Social Security who now lives in South Carolina and was born in Ohio that you have to personally go back to Cleveland, OH, or Cincinnati where you were born to get your birth certificate, unless we are willing to say that, how in the world do you protect the integrity of that birth certificate? How in the world do you do it by mail?

Let us take it a step further. Let us assume the State even has some very restrictive ways in which they will issue a birth certificate. What is the use of being able to demonstrate who you are, whether it is a driver's license, if you have a driver's license such as Senator SIMPSON has over there—I heard him tell the story of how cheap it was to get that driver's license. It is a great story. It illustrates a lot of the problems that we have. Then you go to get the breeder document, and you can go circular. Even if you have a restrictive State, not like Ohio and other States where you can get anybody's birth certificate, what in the world good does it do to have all these bells and whistles on these birth certificates?

We will spend a ton of money. We will violate States' rights because we are going to tell the States what they can accept and what they cannot accept for official State business, all in the name of trying to solve this problem. I would submit it is not going to solve it at all. In fact, again, it is not too much of a leap of the imagination to think it may create more problems. Why? Because now you are going to have this routine of millions of people every year having to go back through when they turn 16 and want their driver's license and want their Medicare card, or when they want to get married; millions of people have to go back to the origin county of their birth to get a birth certificate. These will be issued en mass.

It seems to me that you do not have to be too smart if you are a person who wants to violate the system. If you are a person who wants to game the system, as the Senator from Wyoming said very eloquently, there are people who are doing it, and it is a problem. But now you do not have to be too bright to be able to figure out how to start working that system and how to get out of some of these counties, particularly in States that are open for birth certificates, this breeder document. Only now it is going to be a breeder document that is going to be superior. You are going to be in the situation where you, as an imposter, are going to have a better document than the person who is actually that person.

MIKE DEWINE can go in; I could figure out how to game the system. I could get someone's birth certificate if I was close in age to that person. It might be able to pass. It might be able to work. I have a great birth certificate. If I took it to the Chair and he was the employer, he would say, "That's it, a new birth certificate, it has to be right." And if the next day the real person came in and they had their old birth certificate, the old, moldy birth certificate that had been in their closet or in their attic, or had been in the desk for a number years, you would say, "Well, that is not as good. I have to take the other one."

So I think when you work this out—it all sounds great in theory—it just will not work. If you look at how the government really works at the county level, if you look at how health departments issue these certificates that really work, if you take into consideration the fact that an open State can get anybody's birth certificate, this just does not make any sense.

Let me turn to another point. I think my friend from Wyoming has been too modest. This is a good bill. He has made it a good bill. He has had 17 years of experience at looking at things that we need to do. There is a consistent list of things that we have done. I say "we"—"he" has done. This is the legal immigration bill passed by the subcommittee, a portion of it. These are the things each one of us think relates to a specific problem of dealing with illegal aliens.

I reduced it to a chart form because I do not want anyone in this Chamber to think that if this amendment is accepted—which I certainly hope it will be—that there is nothing left in the bill to deal with illegal aliens. This is a tough bill. The Senator has done a great job. He has taken his years of experience in the subcommittee, along with members of the subcommittee, and he did a great job.

Look at what the subcommittee did:

Increased Border Patrol, INS investigators, wiretaps for alien, smuggling, and document fraud;

RICO for alien smuggling and document fraud;

Increased asset forfeiture for alien smuggling and document fraud;

5. Doubled fines for document fraud;

Next, faster deportation of illegal aliens;

And finally, faster deportation of immigrants convicted of crimes.

That was the bill coming out of the subcommittee. It is a bill that I think I have heard my friend say would have been hard to get through on the Senate floor even as recently as a couple of years ago. But it is tough and it is good.

Then the bill went to the full committee, and the full committee even upped the ante. The full committee added additional things. This is what the full committee did.

"Bill Made Tougher in Committee."

Increased penalties for visa overstayers.

Let me stop with that for a minute because that is a problem. My friend

from Wyoming has identified this as a problem. These are people who overstay. They are people who come here legally—they are not legal immigrants, but they are people who come here legally. They are students. For any number of reasons they are here, but then they stay. That is a problem. This provision put in by the full committee deals with that—increased penalties for visa overstayers.

Next: More investigators for visa overstayers;

Next: Eliminate additional judicial review of deportations;

No bail for criminal aliens;

Three-tier fence along the border;

Next: Expand detention facilities by 9,000 beds;

And finally: Increase Border Patrol by 1,000 agents.

All of those provisions are in this bill. So it is a bill that is a strong bill, and no one, no one should be ashamed of voting for this bill. No one should feel they cannot go home and be able to say, "We passed a very, very tough bill."

Let me turn, as I said I would earlier, to the issue of a national verification system.

I understand that this is a pilot project. Again, I only bring to the floor my own experience. Each one of us brings our own experience. I think that is the great thing about the Congress and the Senate. We do have varied backgrounds. My background has been, at least in part, in law enforcement as a county prosecuting attorney.

One of the things that shocked me 20 years ago is when I found what kind of state our criminal records were in. What am I talking about when I am talking about criminal records? I am talking about basically the same type of thing here, only I am talking about a finite group of individuals, criminals.

It is important for the police officer who comes up behind a car to be able to determine who is in that car, if that person has a record, to be able to determine if that person is wanted, or at least if that car is a stolen car. When someone is apprehended, then it is important to be able to determine whether that person is wanted, whether they have had a criminal record in the past. The same way for a judge who looks down at arraignment. He is on his 52d person, or she is on her 52d person, the judge is, and is trying to determine what the bond is. It is important, when they glance at that record, the record be complete; that they know 3 years ago this person committed a rape, or they know that 4 years ago this person fled the jurisdiction. All of that is important, and police officers deal with this every day and have to rely on this information to make life and death decisions.

I was shocked a number of years ago to find that this system is not entirely accurate. That is a kind way of putting it. When I became Lieutenant Governor in Ohio, we had as one of our goals to try to upgrade the criminal records system so police officers would know who they were dealing with. We found that only 5 percent of the criminal records in the State of Ohio were totally accurate—only 5 percent. That is not unusual. That is not unusual.

In all the discussion about the Brady bill, we got into the whole issue of the accuracy of criminal records. We found that there are very, very few States that could put in an instant check system because of the high inaccuracy level.

Now, after having spent hundreds of millions of dollars to try to upgrade a criminal record system that we depend on to make life and death decisions, how in the world do we expect to, overnight, re-create a national data base system for employment, a system that, by definition, is going to have to be a lot bigger?

Now, people could say: "Well, you are talking about a pilot project, Senator. Isn't that what you are talking about?"

"Yes."

Yes, we are talking about a pilot project, but I have been thinking about this, and I cannot come up with any way you can have a pilot project that really works and is really accurate and really protects employees or potential employees unless you have a national system. We cannot build walls around States. We cannot build walls around communities. People go back and forth. You have to create a national system, even if you are only using it in four or five pilot projects, and so we will have to build a national system. We will have to build a national system that is not going to be error prone. Anyone who has had any experience with the criminal system in this country, who really has looked at it, I think is going to be hard pressed to be able to make a good argument that this new system we are going to create is not going to cause serious, serious problems as well as be extremely expensive.

I know there are some of my colleagues who want to talk some more on this bill, but I just believe this amendment makes eminent sense. It is a good bill without it. It is a great bill. It does a lot. The Senator from Wyoming is to be commended for the work he has done. But unless we take out these provisions, unless this amendment passes, I think we are all going to be very sorry, and I think we are going to have a lot of explaining to do to our constituents when that 16-year-old wants to get his or her driver's license and they find out, no, that birth certificate is not any good; the 65-year-old finds out, no, my birth certificate is not any good anymore; I have to go back and get a new one, or when someone wants to get married and they find out their birth certificate is not any good either. I think that is a very serious problem.

Mr. President, I see my friend from Wyoming standing. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator. I wish to review the situation. We have a Leahy amendment, on which, I believe, if anyone wishes to address that, we are ready to close that debate. There is no time agreement here, but I think that is ready to be closed. I think Senator HATCH has a statement and maybe will enter that in the RECORD. Senator BRADLEY has an amendment, and there were several who said they wished to speak on that. I have not had any further word from anyone on that. There is no time agreement on it. Then the Abraham amendment, which now goes to Senator KYL for his time. I have really nothing much further on any of those three.

So, again, if we are going to go on, maybe we could lock in a time agreement to be sure that we let our colleagues know there will at least be three votes on these three amendments.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I shall be quite brief. If the ranking majority and minority members wish to discuss a time agreement, that would be fine, or perhaps while I am speaking they could do it, but I will not speak more than 15 minutes for sure.

Mr. President, I rise in opposition to the amendment. The discussion that my colleague from Ohio has just engaged in primarily relating to the issue of the birth certificate, I will leave to Senator SIMPSON. I should rather respond to arguments primarily made earlier by the Senator from Michigan and, to some extent, the Senator from Ohio relating to the problem of verification of employment status.

I wish to go back in time to set this issue in proper context. In 1990, 6 years ago, the Congress increased the limit on legal immigration to the country by 37 percent because we thought the laws that imposed serious sanctions for hiring illegal immigrants would have the effect of reducing that illegal immigrant population; that making it harder to employ illegal immigrants would in effect remove that magnet—employment—that was drawing many people across the border, particularly from Mexico.

Unfortunately, it has not worked out that way because the system just has not worked very well. Unfortunately, between 300,000 and 400,000 illegal immigrants are now entering the United States every year, many of them people seeking these job opportunities. In fact, in my own State, the INS estimates that about 10 percent of the State's work force is made up of illegal immigrants.

I hope Members of the Senate believe that it should not be acceptable to have so many illegal immigrants taking jobs here in the United States. The question, then, is what we do about it. We have a system that is not working, and we need to do something about it.

That is what the bill attempts to deal with. We started out with a bill that dealt with it in a much more effective way. But in order to compromise and get more support over the weeks and months, many changes were made, to the point, now, that it is really a very modest approach. This is a very modest change we are seeking, to try to find out how to strengthen this verification process so not so many illegal immigrants are working in the United States. This is clearly the focus of the effort, to reduce the effect of the magnet of employment.

It has been illegal to hire illegal aliens for 10 years now. So I think the first thing you have to do is ask what is not working and what can we do about it? The Jordan commission, which has been referred to many times in this debate, studied this problem as much as any, and it came up with several recommendations. What the Jordan commission and many other immigration experts have concluded is that the best way to reduce the number of illegal aliens working in our country today is to implement some kind of an easy-to-use, reliable employment verification system. In fact, the Jordan commission reported that current employer sanction laws cannot be effective without a system for verifying the work eligibility of employees.

So, if the current system is not effective in weeding out those individuals who are here illegally and, as the Jordan commission and others have said, we have to find a way to develop a workable system, what is the next step? You do some research. You try to do some pilot projects, some experiments, some demonstration projects, as they are sometimes called, to find out what will work the best. That is what the committee did. It adopted a verification provision which authorizes a series of pilot projects. We are not changing the law. We are not imposing a system. We are certainly not imposing a national system. We are simply authorizing the Attorney General to experiment with some pilot projects over a short period of time, 4 years, to determine what will work, what is the most effective way for employers to verify that the person they have hired is legally authorized to work. That is very straightforward.

These projects are intended to assist both the employer and, frankly, the person seeking employment. Because, if an individual seeks employment and, frankly, looks like me, there probably are not going to be too many questions asked. But, in my own State of Arizona, we have a very large Hispanic population. There are a lot of people who seek employment in which the employer is basically in a dilemma, in a catch-22 situation. If he asks too many questions of that individual, perhaps because he or she looks Hispanic, speaks with a Spanish accent, that employer can be charged with discrimination. But if the employer does not ask enough questions to verify the legal status of the employee, he can be charged with violating our immigration laws for hiring somebody who is not legally authorized to work here.

As Senator SIMPSON and others have said, the system we have tried to devise to verify the working status, or legal status, of the individual for work purposes is not working because it relies on a series of documents, all of which are easy to forge. Therefore, you end up with a situation where it is virtually impossible for the employer to really know whether the individual is entitled to work or not.

The employer fills out what is called an I-9 form to verify the eligibility of each person hired. But, as I said, that system is open to great fraud and abuse. So one of the purposes of the verification system is, obviously, to make the law work. Another purpose is to make it easier for the employer to verify the legal status of the individual. Another purpose is to protect the individual seeking employment.

I want to make it very clear that the bill specifically prohibits the establishment of any national ID card. What many of us believe, ideally, is there is no card at all. Let us take the Social Security number. You are frequently asked to give your Social Security number, but you do not necessarily have to have a card with you that identifies you as an individual for other purposes. On those few occasions in your life, hopefully few for most of us, where you are applying for a job, you give the Social Security number. Perhaps one of the pilot projects is a 1-800 number that the employer can dial up and punch in the numbers of the Social Security number and get information back that the individual who he has just hired is, in fact, legal.

In any event, we are not talking about a national ID card here, and the debate should not be confused with that prospect. Moreover, the employee verification would only be used after an individual was hired, so you do not run into problems of discrimination here. Perhaps most important—and I really view this as a deficiency in the bill, not something to brag about, but it certainly answers one of the objections of my opponents—is that these pilot projects would not in and of themselves establish any new verification system for the country. The Congress would have to actually act, would have to pass a law implementing a verification system before it ever took effect. So there would be plenty of opportunity for those who oppose this, once a pilot project had established some good ideas here, to pick those ideas apart if they do not like them. Basically what they are arguing against is something that has not even been created yet. They are saying we cannot imagine a system that would work well and therefore we should not even try to find one.

As one of my colleagues said, it is impossible to have a foolproof system. That is the last argument, except for the ad hominem argument, that is made in a debate when you do not have a good answer. It makes perfection the enemy of the good. There is only one perfect thing in this universe and that is He Who made the universe. None of us is perfect. None of our laws is perfect. No system we can devise is perfect. Nothing is foolproof. Nothing is even tamperproof for people who are not fools but are very clever individuals.

But we can try to do something to enforce a law that, 10 years ago, everyone thought was still a good law and none of the opponents of this verification system is trying to repeal. They are, in effect, willing to allow a law on the books they know cannot be enforced. Nothing detracts more from a society than keeping laws on the books that everyone knows are not being enforced. It breeds an attitude against the law, and, after all, the law is the underpinning of the country. We are a nation of laws.

If we willingly, knowingly, allow a lot of laws to be on the books that everybody ignores because we know they do not work, it makes them unimportant, in effect. It make the purpose behind them unimportant. I submit we are not seriously doing our job if we simply argue against trying to improve a law with nothing to substitute to make it better. There are no concrete, positive suggestions here, no constructive criticism. It is all negative criticism. You cannot make a perfect, foolproof system, they say.

Nobody is saying we can. But we can sure make it a lot better than it is. We cannot make a foolproof system along the border either, but that does not keep us from trying. Almost everyone here is going to support training 1,000 new agents to put on the border and in our cities every year for the next 7 years; to build fences, to build lights, to do all the other things to try to keep the border more secure than it is. It will never be totally secure, but we do not give up. We try to seek new ways of protecting that border. In fact, we have some pilot projects in this bill to experiment with different kinds of fencing and different kinds of lighting and roads, to see what works the best to secure the border.

Why can we not have some pilot projects to experiment, to see what are the best ways of verifying the legal status of people for employment purposes—and welfare benefits, I might add? It is a false argument, to make perfection the enemy of the good.

All this bill does is allow us to try some new things to see if they will work. Now what is wrong with that, Mr. President?

I also heard an argument that it is going to cost the employers. Absolutely false. First of all, we made it very clear that the pilot projects cannot cost the employers anything and, secondly, one of the reasons we are trying to develop a new verification system is to decrease the cost of compliance. It is not easy to comply with the

filling out of these I–9 forms. I know, I talked to a lot of employers who do it. It is a hassle. It will be much easier and less costly for them if we can implement a truly effective verification system.

In the end, Mr. President, as I said, the verification system that is contemplated in this legislation is really a very minimal effort. It is a pilot project only. There is no assurance, as the original bill provided, that a nationwide system will ever be implemented. Such a system would only arise if we concluded that there are some really good ideas that come out of this pilot project, presumably with a majority of the House and Senate agreeing to implement that verification system with legislation.

As I said, this can really only be called a beginning, but it is an important first step, and I think that the verification provisions of this bill, minimal as they are, should not be eliminated as the opponents suggest, but rather should be retained.

Therefore, I urge my colleagues to vote against the motion to strike these important provisions from the bill.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I know we have had a good debate and discussion on this amendment. Let me just summarize very briefly the reasons that I believe that the existing provisions are so important if we are serious about dealing with the problems of illegal immigration.

First of all, there have been comments by those who are supporting striking these various provisions that utilize an old technique that we know of around here and many of us have seen many times, and that is, misstate what is in the bill and then differ with it. Misstate what is in the bill and then differ with it.

That is true with those who have suggested that we are moving toward a national identity card. It is also true of those who say we do not want a new kind of national system that is going to be governing in the rural areas or urban areas of this country; that it somehow is going to be national.

Mr. President, at the present time, we know, as it says in the Immigration and Nationality Act, to hire for employment in the United States an individual, complying with the requirements of the subsection (B), and subsection (B) is spelled out in such a way as to require everyone in the United States of America, whether they are in Maine, Wisconsin, Florida, Massachusetts, Texas or California, to fill out this particular form, the I–9 form. That is a national requirement in existence at the present time.

Do we understand that that is already in existence? And behind that, with the other requirements in terms of the identification of the individual, you have a list of acceptable documents.

The purpose and the thrust of this particular amendment in the first instance, on the question of the birth certificate, is to make sure that documents that are going to have to be required and be supplied are going to be accurate.

Why is that important? It is important, first of all, if we are serious about doing something about illegal immigration. If we are not going to do that, then the magnet attraction of jobs in the United States is going to continue to invite people from all over the world to come to the United States.

We can build fences and fences and fences and hire border guards and border guards and border guards, but we have seen what happened in Vietnam when we had those various fences out and mine fields and every kind of lighting facility. People still were able to bore through to where they wanted to go if they had a sufficient interest in doing so.

No. 1, we have a national program at the present time.

No. 2, everyone who wants to work and every employer in this country is required to fill this out.

The thrust of the Simpson proposal is to get at the question of ensuring that the documents that are going to be provided to that employer are going to be legitimate and that we are going to make substantial improvements with the problems of fraud in the making of those documents, as well illustrated by the Senator from California. That is what this is all about.

One of the provisions says that we are going to have to try and make sure that we are going to have birth certificates put on tamperproof paper. We hear how the world is coming down because we are going to have that requirement.

Let us look at what the legislation says on birth certificates:

The standards described in this paragraph are set forth in the regulations on page 38, and it says on line 13:

(i) certification by the agency issuing the birth certificate—

Whatever agency in the State issues the birth certificate.

Use of safety paper, tamper-free paper, that is true. We have said that they have to move toward tamper-free paper.

The seal of the issuing agency—

Whatever that agency is in any State.

and other features designed to limit tampering—

Left up, again, to the State.

counterfeiting, and use by impostors.

There it is, I say to my friends. Those are the provisions that we are asking in order to stop illegal immigration into this country. How can we say that these are unreasonable? How can we say that these are not necessary? How can we say if we are serious about illegal immigration that just insisting that there is going to be tamperproof paper out there, the seal of the issuing agency, whatever that might be, and other features designed to limit tampering and counterfeiting. We let the States do whatever else they want to do, but we are trying to get a handle on this.

Mr. President, we have heard a lot of questions about how this is going to be costly. It is approximately $10 an issuance of a birth certificate in the State of Georgia. We can give other illustrations of that as well.

So it is important as we go to this issue about the birth certificates to really understand it. As has been pointed out time in and time out during this debate, the birth certificate is that breeder document. If you get that birth certificate from any State that has open files on it—we have 13 States that have open files on it—as I mentioned earlier, and you can go on in there and get a copy of anyone's birth certificate and get your own picture put with that birth certificate, and you can have a driver's license, if you pass the driver's requirement, and that is one of the eligibility cards for employment.

So, Mr. President, if we are serious about trying to deal with this underlying issue, this proposal that Senator SIMPSON has is absolutely essential, necessary and reasonable to try and deal with this issue.

On the second question about the various pilot programs to figure out a better way to help employers verify who can work, because the current approach is not working, our provision simply requires the Attorney General to conduct some pilot programs.

I wish we would spend a moment, and I will just take a moment, referring our colleagues to those provisions on page 13 of the legislation which outlines what will be necessary in terms of these various pilot projects. We pointed out they are not being put into effect. They will be completed and then a report will be made to the Congress, and the Congress will be able to take whatever steps that it will.

It says:

(2) The plan described . . . shall take effect on the date of enactment of a bill or joint resolution . . .

The objectives it must meet: the purpose is to reduce illegal immigration, to increase employer compliance, to protect individuals from unlawful discrimination, to minimize the burden on businesses.

Those are the objectives. They sound pretty good to me. That is basically what we are considering on that.

Within that, Mr. President, as I have seen as a member of the Judiciary Committee, they believe that they may very well be able to issue or develop programs to increase the certification and accuracy that are industry based, perhaps regionally based, but industry or employer based. You have about 80 percent in seven States, 80 percent of the illegals in seven States.

There are some very interesting pilot programs that are in the process at the present time. We have not the time to

go through them, although I think anyone on the Judiciary Committee who took the time to get the briefing from the Justice Department has to be impressed about what they think the possibilities are of really strengthening the whole process to be able to root out illegal immigrants from the employment process in this country.

There are very important privacy protections, Mr. President, and the list goes on. We have drafted to deal with that. The amendment has been drafted to try to take into consideration every possible limitation and sensitivity.

But, Mr. President, we are going to have to ultimately make a judgment. If you are serious about controlling illegal immigration, serious about that, recognizing that half the illegals get here legally and then jimmy the system with these documents that are fraudulent, picked up easily, and get jobs and displace American workers. If you are interested in halting illegal immigration, you are going to have to do more than border guards. You are going to have to get at the breeder documents and get it in an effective system.

If you are interested in protecting the Federal taxpayer, from illegal aliens getting fraudulent documents so that they can qualify for public assistance programs, you better be interested in doing something about these fraudulent documents or otherwise we are just giving lip service to trying to protect the taxpayer.

If you recognize the importance of trying to do something about the illegals, again, displacing jobs, we feel that it is important that we at least try to develop three pilot programs to see what recommendations can be made to try to deal with this problem. These are recommendations that are made by the Jordan commission and by others who have studied it. We ought to be prepared to examine those at the time they are recommended, to evaluate them, to find out if they are going to make a difference. I believe they can make important recommendations and suggestions.

Mr. President, this is a hard and difficult issue. It is a complicated one. For people just to say that we can solve our problems with illegal immigration by bumper-sticker solutions, that with that we are going to halt illegal immigration, that all we have to do is put up fences and more border guards, that we are going to halt that just by adding more penalties—I have been around here. We have added more penalties on the problems of guns since I have been around here than you can possibly imagine. You think it is stopping gun crimes in this country? Absolutely not.

You can just keep on adding these penalties, but unless you are going to get to the root causes of any of these problems, we are not going to have a piece of legislation that is worthy of its name in dealing with a complex, difficult problem.

Let me just say, finally, unless we are going to do that, we are going to do what we have heard stated out here on the floor, the American people are going to get frustrated by the failure to act; and then we are going to have recriminations that are going to come down in a cruel kind of world and divide families and loved ones, and there will be a backlash against legitimate people being reunited and trying to make a difference and contribute to this country.

This, I think, is one of the most important pieces of this whole legislation. I hope the Abraham-Feingold amendment will be defeated.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. This has been a good debate. It appears to be winding down. Let me just add a couple responses to the comments of the Senators from Wyoming and Massachusetts.

One of the words that has been kicked around here is the word "permission." Does this employer identification system, if it is fully implemented, require permission from the Federal Government for an employer to hire somebody? It has been sort of muddying the issue.

I suppose you could call the current system, asking for "permission." It is kind of a loose use of the word, because what is required now with the I-9 is the obtaining of a certain kind of identification card. But what it does not include—and this is the phrase I used when I spoke; I did not just say "permission," I said, "having to ask permission from Washington, DC." That is what this system that could arise from this proposal may create.

What happens now is the employer does not have to get on the phone or through a computer to find out something from a national databank. That is a big difference. Ask anybody who tries to run a small business or a farm how they are going to like the idea that, in addition to everything else they have to do now to try to keep their business going, every time they want to hire somebody under one of these alternatives, they would have to either call Washington or they would have to communicate with Washington through some other system, such as a computer system.

Who is going to pay for all those systems? Who is going to make up for the lost time of the employer who has these additional burdens? It is very important to distinguish here between what is current law and what this bill could do if this amendment is not adopted—getting permission from Washington, DC. I think that is a fair statement of what this adds to this bill.

How can this possibly square with the rhetoric and legislation proposed in the 104th Congress? Whatever happened to the notion that we should not do more unfunded mandates from Washington, especially on small businesses? Whatever happened to the notion of regulatory reform, which almost every Senator at least paid lip service to? This seems to be one of the biggest potential unfunded mandates that has ever been proposed on this floor.

I am confident that almost no employer in the State of Wisconsin would feel comfortable with the notion that suddenly, in addition to everything else they have to do, they have to call up Washington under this. If there is any ambiguity involved about the possibility that this might occur, I refer to page 26 of the bill, and subsection (E), where it explicitly states that one of the things that could be done in these pilot projects is to create the following:

> A system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause.

So it is explicit in the bill. It is not just some objectives, general objectives, as the Senator from Massachusetts was reading earlier.

You go 13 pages later, there are the explicit approaches that are permitted. One of those approaches is to put in place a pilot program that presumably would lead to a national program requiring every employer to essentially call Washington after they have hired someone. I think this is very troubling and certainly something that should be removed from the bill.

Another comment that I found interesting was the comment of the Senator from Wyoming. He said that if this system costs $10 billion, it would be worth it. I think that is debatable, perhaps. But we have no assurance that even after we have gone through this process, either allowed every employer to do this or mandated every employer to do this, after we spend $10 billion, we have no assurance at all that this system will work.

There will still be fraud. There will still be fraudulent documents. No one has been able to assure us this is foolproof. We may have created this giant mandate and spent $10 billion, have this huge system in place, and it may not work. So it is not just a question of spending the money. There is no guarantee it would, in fact, work.

So the question here in the end is, What the adoption of this amendment will do to this whole bill? Some say it will destroy the bill. Others think, as I do, as Senator ABRAHAM does, that it will make it a measured response. Instead of using a meat ax to deal with the problem of illegal immigration, we will focus on the tough items that are in the bill that the Senator from Ohio identified.

There are strong measures in this bill. Frankly, I think a couple of them might go a little too far. This is not a weak-kneed piece of legislation if we get rid of this extreme mandate that

could potentially arise from these pilot programs.

So, Mr. President, for those who support a strong immigration bill, I reject the notion that getting rid of this potential employer verification system would make it a weak bill. I think that is wrong. I think everyone should remember the balance here between keeping the strong provisions that are in the bill versus making the bill so difficult for so many Americans and so many businesses that it would be resented rather than welcomed. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON. Mr. President, let me propose a unanimous-consent request, which will get us to vote on the pending amendments, if I may, and answer any questions, or you may reserve the right to object. I will certainly do that. Here is the consent agreement I would propose.

I ask unanimous consent that the vote occur on or in relation to amendment No. 3790 at the hour of 4 o'clock today to be followed by a vote on or in relation to amendment No. 3780, to be followed by a vote on or in relation to amendment No. 3752; further, that there be 2 minutes of debate equally divided in the usual form prior to each of those votes.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. SIMPSON. Let me say, too, that there are two other amendments. There was an amendment of Senator FEINSTEIN from last night with regard to fencing, which Senator KYL and Senator FEINSTEIN are working toward resolving and may have something on that. We are not ready for a vote there. Of course, that is not part of this.

Then there is an amendment of Senator SIMON with regard to deeming, with regard to the issue of disabled persons. We have not included that here, but that will be coming up as soon as we conclude this.

Senator REID has an amendment with regard to criminal penalties on female genital mutilation.

Mr. ABRAHAM. Mr. President, I do not intend to speak much longer. I just wanted to give a brief summary of a few points, both in response to some of the arguments that have been made by the last few speakers and also just to kind of put in perspective exactly what this all comes down to.

First of all, a statement made earlier that this pilot program approach or the broader approach would not have any cost to employers is simply not the case for a variety of reasons, but the National Retail Federation has suggested that even the pilot program as conceptualized would probably work out to something in the vicinity of $7 per verification. That might not mean a lot to a business that does not have much turnover, but to those that have lots of employees coming and going it is a pretty big impact.

In addition, it has been suggested that somehow because the 1986 legislation has not gone as far as people had hoped for, it is a mistake to resist this approach that is being proposed with the pilot program. I think that is actually counter-intuitive, Mr. President. The fact is, every few years people come along with a new, better mousetrap, it would seem, or they would claim, for addressing the problems of illegal aliens securing employment.

Ten years ago we burdened the American economy and our businesses and employers with a lot of redtape—I–9 forms and other things—and they have not worked. Those who bring this amendment today are saying, "Let's not add yet another level, another tier, another round of redtape to those people who are trying to play by the rules and create opportunities for people in this country."

Third, Mr. President, it has been suggested that somehow this is really something good for employers, it is good for people who might be discriminated against because of their ethnicity or their race. This is a case, though, where frankly the people who are the alleged beneficiaries are saying, "Thanks, but no thanks." That is why this amendment that we are bringing, both the verification amendment as well as the amendment that Senator DEWINE has separately offered with respect to birth certificates and driver's licenses, are being supported by the National Federation of Independent Business, and they are key votes for that organization, by the chamber of commerce, by the National Association of Manufacturers, by the National Retail Federation, and yes, the National Restaurant Association. We have heard earlier somehow that restaurants were supporting this. The national association opposes it.

The businesses who will have to implement this, whether in pilot program form or otherwise, say, "Thank you, but no thanks." So, too, do groups historically fighting discrimination, such as the ACLU and others. The fact is, the beneficiaries are not really going to benefit, Mr. President, if this is looked at closely.

Meanwhile, I draw attention to the issue of the pilot project. We are being asked to support this on a theory it is not really a national system but a pilot project. The way the legislation is drafted allows that type of pilot program to encompass regions with no definition as for their size. In addition, because of the nature of verification, it almost certainly will require the creation of the type of national data base that will be both costly, onerous, and burdensome. To say that a pilot program is just a small step is not accurate, Mr. President. It is a very big step.

That brings me to the final point I want to make today—the cost versus the benefits. The costs will be great to employers who have to verify new employees, whatever the size of the program. The cost will be great to the employees themselves who are playing by the rules—U.S. citizens and those who legally can seek employment—because those people in some cases will be denied employment because of data base malfunctions. The cost to taxpayers of setting up the type of data base involved will be considerable, and the cost to average American citizens who, because of this type of program, find they need new birth certificates or new driver's licenses, will be considerable as well. A lot of costs, Mr. President.

The benefits, on the other side, are not very clear to me. First of all, as I have said in previous comments, those employers who intend to fire illegal aliens at lower-paying jobs or below the wage level they otherwise would have to pay will get around any kind of verification system because they will not participate. To the idea that we will create a foolproof system, a card that defies any type of tampering or counterfeiting, to me, is a remote possibility.

There will be plenty of costs and very few, in my view, benefits. Rather than going down the route we went in 1986, it is our argument that we understand, very simply, the losers here are the taxpayers, the employers, the employees, the people playing by the rules. Those are the folks we should be helping, Mr. President.

The balance of this legislation does exactly that, by cracking down on the people who are violating this. I do not think we should take a step other than in that direction. For those reasons, Mr. President, I strongly urge passage of this amendment, support for the striking of both the verification procedures as well as the procedure of the driver's license and the birth certificate procedure.

Mr. SIMPSON. Mr. President, I think this has been a very impressive and important debate. I commend Senator ABRAHAM. I can see why the people of his State placed him here. He will have a great career here. I wish him well. He is very able, formidable, and fair. We try to express to each other what is occurring on the floor, even though it may be arcane and somewhat bizarre from time to time, but I always try to do that. To Senator DEWINE and his participation, and Senator FEINGOLD, a very thorough debate.

Now, the reason we set that unanimous-consent agreement is that there are at least several who have told me, "I do want to get over and speak on the amendment of Senator LEAHY and Senator BRADLEY." I do not believe any further persons intend to debate on the issue of the Abraham amendment, but the reason we set the vote for 4 o'clock is to allow those who wish to debate the issues of Senator LEAHY's amendment and Senator BRADLEY to come forward. If they do not, they are foreclosed as of 4 o'clock. I hope they realize that, that there will be no further opportunity to address those two amendments, or three amendments

—the Abraham amendment, too—after the hour of 4 o'clock. Then we will go to the order of the amendments as Senator BRADLEY, Senator LEAHY, Senator ABRAHAM, with the usual 2 minutes of debate.

Mr. President, let me inform the Chair that the majority leader has designated Senator HATCH as the manager of the bill for the present time and that the majority leader has yielded 1 hour to me, in my capacity as an individual Senator, for the purposes of being able to complete debate on the bill, because I only have 27 minutes left. That is the purpose of that. I promise I shall not expend any more on the other issue. Maybe on the birth certificate—I could do a few minutes on that.

Well, I think I will since no one has come forward.

Let me indicate that I will speak a very few minutes on the issue of the birth certificate, but if these Senators who are going to come forward immediately will notify me—I will yield to them—that will expedite our efforts.

Let me just briefly remark about the birth certificate, because I think it is very important that we understand that that is the fundamental ID-related document. I think it would be just as disturbing to the Senator from Ohio as it is to me. We do not have any way to match up birth and death records in the United States. That seems bizarre, but we do not. Maybe some States have tried to do that. One of the questions that arose in the debate was, well, what will this do? One thing it will do, which we do not do now, is that if it is known that the person is deceased, the word "deceased" will be placed upon that birth certificate, wherever that birth certificate is. Now, that is one of the advantages of the word "deceased" being stamped on a birth certificate. You would think, surely, they must be doing that in the United States of America. But they are not doing that in the United States of America.

That is just one part of the proposal. Again, please recognize that the motion to strike is directed toward the revised or amended form as it left the Senate Judiciary Committee, as I say, trying to work with all concerns, realizing that we cannot indeed satisfy all aspects; but a good-faith attempt was done with regard to that.

Of course, the ID-related document that is the most fundamental. It proves U.S. citizenship, the most valuable benefit the country can provide. As we all have indicated, it is the common breeder document used to obtain other documents, including a driver's license and a Social Security number and card. That is the power of the birth certificate.

With the birth certificate, plus the driver's license, and a Social Security card, a person can obtain just about any other ID-related document and would be verified as authorized to work and receive public assistance by nearly any verification system it is possible to conceive, including any system likely to be implemented in the foreseeable future.

Yet, the weird part of it is that this birth certificate—and it is a sacred document, the type of document that is pressed into the Bible; it is the book that goes into the safe deposit box—is the most easily counterfeited of all ID-related documents, partly because copies are issued by 50 States, some with laws like Ohio, some with laws like Wyoming—50 States and over 7,000 local registrars in a myriad of forms and political subdivisions and, as Senator LEAHY indicated in committee, I think townships.

So how can anyone looking at a particular certificate know whether it even resembles a bona fide certificate? Furthermore, birth certificates can readily be obtained in genuine form by requesting a copy of a deceased person's certificate. And birth and death records are only beginning—this is the very beginnings—to be matched. That is puzzling to me in every sense. In most States, it is only for recent deaths. So we have a situation where people want to build a new identity. They try to get the certificate of a person who was born in the year they were, or near their own birth year, or died as an infant, perhaps, so that the deceased person would not have obtained a Social Security card or otherwise established an identity.

It is acknowledged by a great majority of experts that a secure verification system cannot be achieved without improvements in the birth certificate, and in the procedures followed to issue it. Without a secure, effective verification system, the current law prohibiting the knowing employment of illegal aliens cannot be enforced. I emphasize current law because some of my colleagues argue as if this bill would put this provision into law, and that is not so. It need not.

This is the law now. We are not putting this into the law. There is a system in the law. The issue simply is, do we here in Congress intend to take reasonable steps so that this part of current law can be effectively enforced? That is the problem. Do we want to do that?

Mr. President, without effective employer sanctions, illegal immigration, including not only unlawful border crossing, but visa overstays, will not be brought under control. It is just that simple. Thus, fraud resistant birth certificates and procedures to issue them are a crucial part of any effort to make that effective. In addition to immigration and welfare advantages, a more secure birth certificate will help us to reduce many more harms associated with fraudulent use of ID's, ranging from financial crimes—we will see ever more of those—and then those through the Internet—and we will see more of those—and through electronic and computer-based systems, to voting fraud, to terrorism. Accordingly, S. 1664 proposes significant reforms in birth certificates themselves, and in the procedures followed to issue them, and improvements of a similar nature for driver's licenses, which I think are critically important.

The final provision on birth certificates was drafted with assistance from the Association for Public Health Statistics and Information. I want to share that with my colleagues. The National Association of State Registrars and Vital Statistics Offices—that was drafted with their assistance—these officials made very valuable suggestions to us, and they expressed their approval of the final language, which is here to be stricken. Additional improvements were made in the amendment I offered yesterday, which was accepted, and which will be stricken if this amendment is passed.

I will just summarize the birth certificate provisions of the bill. I am using my time, but I will yield to my friend from Ohio. I emphasize to those who are waiting to come to the floor on the Bradley amendment or the Leahy amendment that their opportunity will close at 4 o'clock on that procedure.

If my friend from Ohio has any comment at this time, I will save some of my time.

Mr. DEWINE. Mr. President, I thank my colleague from Wyoming, and I agree with him that we have had a very spirited debate and, I think, a very good debate—a debate that has covered, I think, most of the issues that we are going to cover here today.

Let me just state, on a couple of related subjects, the following. We have, again, confirmed, I say to the Members of the Senate, this afternoon that this amendment is supported by the National Conference of State Legislators, the National Association of Counties, and by the National League of Cities. All three organizations support this amendment. Again, they emphasize they support it on the basis of cost—cost to them as local units of government—and they also support it on the basis of the whole question of preemption. Once again, that is the Federal Government coming in and, frankly, telling them exactly what to do.

Let me just make a couple of additional comments in regard to the issue my colleague from Wyoming was talking a moment ago about, which is birth certificates. To me, it is almost shocking when we think of the implications of what this bill, as currently written, would do. I have given the example here on the floor that when you turn 65, you are hopefully going to get Social Security and Medicare; at 16, in most States, a driver's license, or try to get your driver's license; or you will get married. For any of those purposes, you will have to get a birth certificate, and your old birth certificate is no longer going to be any good for that purpose.

Let your imagination run. You can think of all the other reasons why during your lifetime you might need a birth certificate. Everybody can just about figure 270 million Americans are

at some point in time going to need their birth certificates.

I suppose if you are over 65 and already on Social Security, and you are not traveling, I suppose some folks never are going to have to use this new birth certificate and are never going to have to do what tens of millions of Americans are now going to have to do under the provisions of this bill, which is to go and get new birth certificates.

Again, what we are saying in this bill and with this amendment, what we are saying to 270 million Americans is, "Yes, your birth certificate is still valid, but you really just cannot use it much for anything. You will have to get a new one." That, to me, is onerous, whether you travel overseas—how many of us have had occasion as Members of the Senate or the House to get the frantic call from someone who says, "I am supposed to be going overseas and I had this passport. I cannot find it. I found out today it is expired. I am leaving in 5 days, or 4 days." What if you had to add to all of the problems they have to go through now, with the red tape, one more thing—you have to go back and get a new birth certificate because that birth certificate which you have had all of these years will not work anymore. That might be acceptable. At least, it would not be for me. I do not think it would be.

If we could make the case that the reissuance of a new birth certificate on this tamperproof paper, with all of the bells and whistles prescribed by the Federal bureaucrats, if that would deal with the problem—but maybe I am missing something in this discussion. I believe my colleague from Wyoming when he says it is the breeder document. I trust him on it. He has had enough experience on this. He has talked about this problem. But it still is going to be a problem, and, in fact, it may be even worse of a problem, more of a problem.

There are States—and Ohio is one, but Ohio is not the only one—where you can get anybody's birth certificate. Let me repeat that: You can get anybody's birth certificate. You walk into the county, and if someone was born there, you can get their birth certificate. You put down $7; you can get 5, 20, or as many birth certificates as you want as long as you know the name of the people. You can get them. They are public records.

What we are now saying is, instead of the old birth certificate copy, these are going to be new ones. Obviously, they are more expensive—tamperproof, bells and whistles—with all of the things the printers told us when we tried to find out what the cost would be, and they will have them. So what? What is the protection? What is the protection if I have walked in and MIKE DEWINE, at the age of 49, went in and got somebody else's who is 49 and might look the same? I now have a birth certificate. I do not see what has been accomplished. I do not see what we have done in regard to this, even in States where it is more difficult.

Again, instead of the breeder document, instead of the father document or the mother document, this may be the son, or the granddaughter. This may be two generations away. It may be an illegal license, as my colleague still has displayed in the Senate here, maybe an illegal license that is the breeder document. I do not know.

Again, this is not going to solve the problem. My friend talks about now the provision is in the bill that States should, if they know it, stamp on this birth certificate if the person is deceased. We can imagine how accurate that is going to be, or what percentage of these birth certificates is going to ever be stamped with the deceased on them. It may be a great idea. But, again, it is going to be a very, very small percentage where the local clerk of the county is going to know that someone is deceased. In some cases, they will, but in a great majority of the cases, they will not. We live in a very mobile society, Mr. President. This, I do not think, is going to help a great deal.

If you really want to make these tamperproof, what you are going to do is require people to go in and, face to face, get their new birth certificate. I do not think we are going to do that. I do not think we are going to say to a retiree who lives in North Carolina or who lives in Florida or lives in California, "You have to go back to Cincinnati, OH, you have to drive back and get a new birth certificate." I do not think anyone is going to make them do that. I do not think it is a serious idea. But yet, if you are going to make it tamperproof, you at least have to do that, not allowing it to be by U.S. mail and getting anybody's birth certificate. I think it is very onerous, but I think it is not going to be effective. It is going to be no good at all.

In thinking about this, we ought to learn from our past mistakes. We ought to learn from what this Congress has done in the past that we have regretted. I have cast votes that I have regretted. I have cast votes where I looked around and said later on that I was wrong. This is not the first time we have tried in this Congress within recent memory to deal with a specific targeted problem by putting an onerous burden on everybody. We have a finite problem. It is important. But the way we deal with it, the way we would deal with it, without this amendment, is to put the burden on absolutely everyone, to say to 270 million Americans that "your birth certificate no longer is any good. You will have to go get a new one." If you ever want to use it, you will have to say to every employer in this country that if you, in fact, want to hire someone, you will have to call a 1-800 number. You will have to seek permission from the Federal Government. I know there has been comment on the floor about that not being the right terminology. That is what it is. You will have to check the person out and to do it by how the Federal bureaucracy tells you how to do it. As an employee, you are going to be in the situation of arguing with a computer.

Again, I have had some experience in dealing with the criminal records system. Anybody who has dealt with any kind of big data base knows the problems. Someone gets turned down for a job or someone is told after they have been hired that we have a problem. You need to get this problem straightened out with the INS. You need to get this problem straightened out with the computer data base. How many of us in this world today enjoy dealing with computers, particularly in regard to one of the most important things in our lives, how to make our livelihood?

So this is not the first time Congress has spread a burden among every single American to deal with a few people. If history tells us anything, it tells us that people in this country ultimately will not put up with this.

Let me give you a couple of examples. Remember contemporaneous recordkeeping for people who used their car in business? Remember when we passed that? We did it because some people cheated on their taxes when calculating the business use of their car. Because of that fact, because some people cheated, Congress made all of the people who used their car in business to keep very detailed daily records. I was in the House when that happened. I was in the House when we started getting calls. I was in the House when I would go out and have office hours and be flooded by people who said, "What is this? I do not keep records every single day just because a few people cheat." What did we do, Mr. President? We did what we always do: We repealed it. It was a mistake.

Remember section 89 because some businesses discriminated in setting up the benefit plans for their employees? Congress made all businesses comply with detailed recordkeeping to prove they were not discriminating. We did that. The public did not stand for that either. And, again, it was repealed. It happens every single time that we spread the burden among everyone for a very specific problem. In fact, I do not think Congress has ever had a provision as burdensome or really as broad as this particular provision. This provision applies to everyone who wants to use a birth certificate or a driver's license—to everyone.

I submit, Mr. President, that we do this at our own peril. The public ultimately is not going to stand for it. I think it is a very, very serious mistake.

Therefore, again, I urge my colleagues to pass the Abraham-Feingold amendment. It is an amendment that is supported by a broad group of Senators, certainly across the political spectrum.

At this point, Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent the pending amendment be set aside.

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

AMENDMENT NO. 3810

Mr. SIMON. Mr. President, I think we may be able to dispose of one of my amendments just before the 4 o'clock vote. I will simply speak briefly on this.

This is an amendment that says, "To exempt from the deeming rules, immigrants who are disabled after entering the United States."

That is the current law. It simply goes back to the current law. It sets a safety net there. So that no one thinks all of a sudden people are going to claim that they are disabled, the amendment says, the requirements of subsection (A) shall not apply with respect to any alien who has been lawfully admitted to the United States for permanent residence and who since the date of such lawful admission has become blind or disabled, as those terms are defined in the Social Security Act.

Social Security disability is not an easy thing to achieve, as my colleagues here know. I will add, the amendment is endorsed by State and local governments. I think it makes sense, and I hope it can be adopted.

AMENDMENT NO. 3752

The PRESIDING OFFICER. The question occurs on amendment No. 3752, offered by the Senator from Michigan [Mr. ABRAHAM].

There will order in the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, after the 2 minutes of explanation on this, I will make the motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, it is appropriate you recognize the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will not make the motion now, but immediately after the 2 minutes of explanation on this amendment, I will make the motion to table and ask for the yeas and nays.

Mr. SIMPSON. Are you asking for the yeas and nays?

Mr. SIMON. I have not made the motion to table because we have not had the final 2 minutes.

I move to table, Mr. President, and I ask for the yeas and nays.

The PRESIDING OFFICER. It would not be appropriate at this time. It will be necessary to wait until the time for debate has expired.

Mr. KENNEDY. Mr. President, can we have order, now? This is an extremely important 2 minutes we are having here on this debate. I think it is probably as important as any issue on the legislation. Members ought to have an opportunity to be heard.

If we could still insist on order in the Senate?

The PRESIDING OFFICER. The Senate will come to order. There will now be 2 minutes of debate equally divided.

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I would say this is an amendment brought by Senators DEWINE, FEINGOLD, INHOFE, MACK, LOTT, LIEBERMAN, NICKLES, and myself. It represents an effort to strike from the bill a verification system that is a Government intrusive system to try to verify employment. In our view it will not succeed, but it will be very costly, costly to employers, costly to employees who will be denied jobs because it is impossible to perfect such a system, costly to the taxpayers to the tune of hundreds of millions of dollars, and costly for reasons that the Senator from Ohio will now address in terms of the need for people to obtain new birth certificates in order to comply with this legislation.

I yield the remainder of my time to the Senator from Ohio.

Mr. DEWINE. Mr. President, this bill says to 270 million Americans that your birth certificate is still valid, but if you ever want to use it, you have to go back to the origin, the place you were born, and get a new federally prescribed birth certificate that this Congress is going to tell all 50 States they have to reissue.

If you get a driver's license at age 16, when you turn 65 and you want Social Security or Medicare, or you get married, or you want a passport, you are going to need your birth certificate, and that birth certificate that you have had all these years no longer is going to be valid for that purpose.

It is very costly. It is a hidden tax, and it is going to be a major, major mistake. It will be something I think, if we vote for it, will come back and we will be very, very sorry.

Mr. SIMPSON. Mr. President, this is the critical test of the legislation. Without effective employer sanctions, the United States will not achieve control over illegal immigration. Without an effective verification system, there cannot be effective employer sanctions. Without more fraud-resistant birth certificates and driver's licenses—this is my California variety, you can get them for 75 bucks—there will never be an effective verification system.

This amendment strips the verification process that was in the bill and strips any ability to deal with the worst fraud-ridden breeder document, which is the birth certificate. I yield.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Senator SIMPSON is absolutely right. This is the most important vote we are going to have on immigration. It is a question of whether we are going to continue with document abuse or not. That is the basic difficulty in terms of trying to protect American jobs, as well as trying to limit the magnet of immigration, which is jobs. If we deal with that, we are going to stop the magnet of immigration of people coming here illegally.

This is the heart and soul of that program. Otherwise, we are going to continue to get these false documents produced day in and day out. This is the only way to do it. It is a narrow, modest program. If we do not do it now, the rest of the bill, I think, is unworkable.

The PRESIDING OFFICER. All time has expired.

Mr. SIMON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3752, offered by the Senator from Michigan [Mr. ABRAHAM].

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—54

Akaka	Exon	Lautenberg
Biden	Faircloth	Levin
Bingaman	Feinstein	Mikulski
Bond	Glenn	Moynihan
Boxer	Gorton	Murkowski
Bradley	Grassley	Nunn
Brown	Gregg	Pell
Bryan	Harkin	Pryor
Byrd	Heflin	Reid
Campbell	Hollings	Robb
Chafee	Inouye	Rockefeller
Cochran	Jeffords	Roth
Cohen	Johnston	Sarbanes
Conrad	Kennedy	Shelby
D'Amato	Kerrey	Simon
Daschle	Kerry	Simpson
Dodd	Kohl	Specter
Dole	Kyl	Stevens

NAYS—46

Abraham	Graham	McConnell
Ashcroft	Gramm	Moseley-Braun
Bancus	Grams	Murray
Bennett	Hatch	Nickles
Breaux	Hatfield	Pressler
Bumpers	Helms	Santorum
Burns	Hutchison	Smith
Coats	Inhofe	Snowe
Coverdell	Kassebaum	Thomas
Craig	Kempthorne	Thompson
DeWine	Leahy	Thurmond
Domenici	Lieberman	Warner
Dorgan	Lott	Wellstone
Feingold	Lugar	Wyden
Ford	Mack	
Frist	McCain	

The motion to lay on the table the amendment (No. 3752) was agreed to.

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

Mr. LEAHY. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3810

Mr. SIMON. Mr. President, I believe the pending amendment is my amendment No. 3810, is that correct?

The PRESIDING OFFICER. The amendment is now pending.

Mr. SIMON. Mr. President, what this does—and this is not a complicated one—this simply says that we are going to go back to the current law that if someone is disabled under the definition of the Social Security Act, if you are blind or disabled, then the deeming provision does not apply.

The pending bill requires that 100 percent of an immigrant sponsor's income be deemed to the immigrants. Say your sponsor has a $30,000-a-year income; it is totally unrealistic, among other things, to assume that sponsor can provide $30,000 worth of support for the immigrant.

I hope we would keep the current law. I think it is simply sensible and compassionate as well as practical that we not move in this direction. I know my colleague from Wyoming has a slightly different perspective on this. My amendment is supported by the National Conference of State Legislatures, the Natural League of Cities and the National Association of Counties.

Mr. KENNEDY. Mr. President, I commend my colleague and friend for this amendment. I think it is important to note that disabled persons are covered by this amendment only if they become disabled after the immigrants arrive. It is unfair to make the sponsors foot the bill for unforeseen tragedies such as this. No one can predict when disability will strike. It is a very small target, but it will make a very important difference to a number of individuals who are experiencing this type of tragedy. I hope we might be able to see this amendment through and accept it.

Mr. SIMPSON. Mr. President, again, what seems to be so appropriate in immigration matters often has a deeper tenor when we are talking about the blind and the disabled. We all want to respond.

Let me say this: We only make the sponsor pay what the sponsor is able to pay. We are back to the same issue. This is a very singular issue, as were the amendments we voted on last night. The issue is, when you come to the United States of America as a sponsor, you are saying that the immigrant you are bringing here will not become a public charge. That is the law.

If you become disabled or blind and you go to seek assistance, the law provides that if your sponsor has a lot of money, you are going to get the money from the sponsor first. That is what we are going to do. It does not matter what your level of disability; that is the law, or will be the law under this bill. It will be clarified, it will be strengthened, and that is what this is about. We are not saying that we are going to break the sponsor because the person is disabled. If the sponsor has tremendous assets, and you have a disabled or blind person, that sponsor is supposed to keep their promise. Why should he or she not? That was the promise made. Maybe they were not disabled at the time. I understand that. But they become disabled and here they are. Should the taxpayers of America pick that up when the sponsor is financially able to do it?

But there is a little more to this here. The number of "disabled immigrants" receiving SSI has increased 825 percent over the last 15 years. That is an extraordinary figure. The number of disabled immigrants receiving SSI has increased 825 percent over the last 15 years. American taxpayers pay over $1 billion every year in SSI payments to disabled immigrants. The purpose of the requirement that immigrants obtain the sponsor agreement is precisely to provide a reasonable assurance to the American taxpayer that, if they need financial assistance, it will come first from the sponsor and not from the taxpayers.

It would actually be more reasonable to provide an exception, I think, here, if the sponsor became disabled and it was impossible for that sponsor to provide the support. Of course, please hear this: If the sponsor has no income, there is no income to deem, and no exception is needed. You do not need to have an exception if the sponsor went broke or if the sponsor cannot afford to do this. Then there we are. The sponsor's income is not deemed, and then the taxpayers pick up the program, pick up the individual. That is where we are.

I urge all of us to remember, as we do these amendments, that they all have a tremendous emotional pull. We have seen the emotional pulls for 11 or 12 days on this floor. But in each of these amendments related to deeming—whether it is blindness, whether it is disability, whether it is veterans, whether it is kids, whether it is senior citizens, whatever, plucks genuinely at your heartstrings—the issue is that none of those people should become the burden of the taxpayers if they had a sponsor that remains totally able, because of their assets, to sustain them. That is it. That is where we are. That was the contract made. That is what they agreed to do, and that is the public charge that we have always embraced since the year 1882, and which we are now trying to strengthen, and believe that we certainly will.

Mr. SIMON. Mr. President, I will take 1 minute in rebuttal. The figures that my friend from Wyoming cites are people, many of whom came here disabled, and so they have ended up on SSI. This applies to people who have become disabled after they have come here. I hope that the amendment will be accepted.

I ask the Senator from Wyoming this. I have another amendment that I am ready with. The understanding is that we will stack the votes, is that correct?

Mr. SIMPSON. No, Mr. President, that is not my understanding. The leader is here. Mr. President, we will work toward some type of agreement if we can either lock things in, and maybe get time agreements. There are not many amendments, actually, left. There are some place-holder amendments. But I cannot say that we will be stacking votes.

Certainly, if you wish to present an amendment and go back-to-back on that, we will certainly do that and maybe have 15 minutes on the first vote and 10 for the second. I think we can get a unanimous consent to do that, with the approval of the leader, at an appropriate time, according to the leader.

Mr. SIMON. Mr. President, if this is acceptable to the Senator from Wyoming, I will ask that we set aside the amendment I just offered so that I may consider a second amendment that I have.

Mr. SIMPSON. That is perfectly appropriate with me, Mr. President.

Mr. SIMON. Mr. President, I ask unanimous consent to set aside my first amendment.

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

AMENDMENT NO. 3813 TO AMENDMENT NO. 3743

(Purpose: To prevent retroactive deeming of sponsor income)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. GRAHAM, Mrs. FEINSTEIN, and Mrs. MURRAY, proposes an amendment numbered 3813 to amendment No. 3743.

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

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

The amendment is as follows:

Strike page 199, line 4, and all that follows through page 202, line 5, and insert the following: "to provide support for such alien.

"(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(I) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such detemination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under the title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits,under any state or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(c) LENGTH OF DEEMING PERIOD.—Subject to exceptions quivalent to the exceptions described in subsection (d), a State of local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien.

Mr. SIMON. Mr. President, this is an amendment that is cosponsored by Senator GRAHAM of Florida, Senator FEINSTEIN of California, and Senator MURRAY of Washington.

This amendment simply makes the deeming provisions prospective. Every once in a while—not often in this body—we retroactively change the law. And three out of four times, we do harm when we do it. This simply says to sponsors that this is going to apply prospectively.

Let me give you a very practical example. Let us say that, right now, because under the present law the only Federal programs that are subject to deeming are AFDC, food stamps, and SSI. Without my amendment, I say to my colleagues here from Michigan, Kansas, New Mexico, and Wyoming, if a student is at a community college and getting student assistance of one kind or another, without this amendment, the sponsor who signed up for 3 years is responsible for 5 years, not just for the three welfare programs, but for any Federal assistance.

I just think that is wrong. We ought to say it is prospectively. And I support Senator SIMPSON in this. Let us make it 5 years, but we should not say we are going back to sponsors who signed up for 3 years, and say, "Even though you signed up for 3 years, we are making it 5. And you thought you were only going to be responsible for three programs—AFDC, food stamps, and SSI—but you are going to be responsible for every kind of Federal program."

Let me just add, the higher education community strongly favors my amendment.

I think we ought to move in this direction. I think it is fair. I think, again, three out of four times when this body tries to do something retroactively, we make a mistake. If we go ahead with this retroactively, we are going to make a mistake.

I see my colleague, Senator GRAHAM, on the floor. I believe he wants to speak on this, too.

Mr. SIMPSON. Mr. President, here we are again dealing with the issue of deeming. When I said that my colleagues were persistent, I did not mean to leave out Senator PAUL SIMON of Illinois. In my experience of 25 years knowing this likeable man, I know his persistence is indeed one of his principal attributes.

He is back again with another deeming type of amendment. They are all very compassionately offered. They are carefully thought through. But, again, it is an issue we dealt with last night.

It is true, and he is right; he has found this provision that individuals already in this country will not be the beneficiaries of the new legally enforceable sponsor agreements. They are going to be very strict. We have done a good job on that. The ones that will be required is after enactment.

It is also true that some of them who have been here less than 5 years will nevertheless be subject to at least a portion of the minimum 5-year deeming period. Thus, there could be a case where such an individual would be unable to obtain public assistance because under deeming they neither received the promised assistance from their sponsor nor were able to sue them for support.

But, again, let me remind my colleagues that no immigrants are admitted to the United States if they cannot provide adequate assurance to the consular officer, or to the immigration inspector, that they are not likely become a public charge, making that promise to the American people that they will not became a burden on the taxpayers. If they do use a substantial amount of welfare within the first 5 years, they are subject to deportation under certain circumstances. That is not a swift procedure. It is a thoughtful procedure.

I remind my colleagues again that major welfare programs already require deeming—AFDC, food stamps for 3 years, SSI for 5, even though sponsored agreements are not now legally enforceable. Furthermore, the President's own 1994 welfare bill proposed a 5-year deeming for those programs. This would have applied to those who had only received the sponsor agreement to provide support for 3 years, an agreement that is not legally enforceable.

So I just do not believe it is unreasonable for the taxpayers of this country to require recently arrived immigrants to depend on their sponsors for the first 5 years under all circumstances if the sponsor has the assets. If the sponsor does not have the assets, we will pick them up. We have never failed to do that.

It is only on that basis of assurance that they even came here because they could not have come here if they were to be a public charge.

Regardless of the compassionate aspects of it, that is what we ought to do.

Thank you.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I had not intended to speak on this subject, but we have now had about a half dozen amendments on this deeming issue. It seems to me that the Senate has spoken on this issue. Far be it from me to say that our colleagues are infringing

on our patience, but it seems to me this is a very clear issue. The American people have very strong opinions about it. We have voted on it. I do not see what we gain by going over and over and over again plowing this same ground, or in this case dragging this dead cat which smells rank back across the table.

Here is the issue. When people come to America, they get the greatest worldly gift you can get. They have an opportunity to become Americans. I am very proud of the fact that I stood up on the floor of the Senate and fought an effort that was trying to slam the door on people who come to this country legally. I believe in immigration. I do not want to tear down the Statue of Liberty. I believe new Americans bring new vision and new energy, and America would not be America without immigrants. But when people come to America, they come with sponsors, and these sponsors guarantee to the American taxpayer that the immigrant is not going to become a ward of the State.

If you want to know how lousy the current program is, in the last 10 years when we have had millions of immigrants come to America legally, how many people do you think have been deported because they have become wards of the State? In 10 years with millions of legal immigrants, we have had, I understand, 13 people that have been deported. Obviously, the current system is not working.

What the bill of the distinguished Senator from Wyoming says is simply this: When you sign that pledge that you are going to take care of these people until they can take care of themselves, we expect you to live up to your promise. We expect you to use your energy and your assets to see that the person you have sponsored does not become a burden on the taxpayers.

So what the bill does, in essence, is count the sponsor's income and the sponsor's assets as yours for the purpose of your applying for welfare.

It seems to me that we do not have anything to apologize about in giving people the greatest worldly gift you can get, and that is becoming an American. I do not think we ought to have any deviations, period, from this whole deeming issue. If you come to America, you have a sponsor. They say they are going to take care of you. If things go wrong, we ought to go back on their assets.

But this idea that there ought to be some magic things that we are going to exempt—and we have seen all of these real tear-jerkers about, you know, in this particular case, or that particular case—this is a principle where I do not think there ought to be any particular cases.

If people want to come to America, let them come to America, but let them come with their sleeves rolled up ready to go to work. Do not let them come with their hand out. If you want to live off the fruits of somebody else's labor, go somewhere else; do not come to America. But if you want to come here and build your dream and build the American dream and work and struggle and succeed as the grandparents of most of the Members, the parents of most of the Members of this body did, welcome. We have too few people who want to come and work and build their dream.

But I think we pretty well settled this whole deeming issue. I think we ought to get on with it. This is now a good bill. We have spoken. I think we are at the point where people are ready to vote. I think after a half dozen votes on this issue that, "Well, you are exempt from deeming if you are going to church to say a prayer and you trip and you break your back"—I mean, I think we have established the principle. I do not think we have to go on plowing this ground over and over again.

The American people want people to come to work. They do not want people to come to go on welfare. We have a provision in the welfare bill that is even stronger than the deeming provision in this bill. Maybe we could have a vote that says under any circumstances except divine intervention that we stay with the provisions. We could vote on it and be through with it.

Mr. SIMON. Will the Senator from Texas yield?

Mr. GRAMM. I am happy to yield.

Mr. SIMON. My friend talks about the contract you sign. What I want to do is say the United States, which signs the contract with the sponsor, will live up to its side of the contract. That contract right now is for 3 years for every sponsor. I am for moving to 5 years but doing it prospectively. This bill says to the people who signed the contract that Uncle Sam has changed his mind. He is going to make you responsible for 5 years when you sign for 3 years.

Does the Senator from Texas think that is fair?

Mr. GRAMM. Let me respond by saying that I believe that when we are talking about people coming to America, that is a great deal. I do not think we have to second-guess it by saying that we are going to try to see that after so many years you can get welfare. I personally believe that until a person becomes a citizen, they ought not to be eligible for welfare. I am for a stronger provision than the Senate has adopted. I do not think immigrants should be eligible for welfare until they become citizens and, therefore, under the Constitution must be treated like everybody else, because under the Constitution there can be no differentiation between how they are treated as a natural-born American or nationalized. There is only one difference, and that is you cannot become President.

But here is the point. I think that ought to be the provision. That is not even what we are talking about here. We are talking about something much less, and that is the deeming provision. The point I am making is this:

The point I am making is this. We have voted on this thing a half a dozen times. I wish we could come up with every story or manipulation or hardship that we could get, put it all into one and vote on it and settle it. That is all I wish to do.

Mr. SIMON. First of all, the Senator does not understand the amendment, obviously.

Mr. GRAMM. No, I understand the amendment perfectly.

Mr. SIMON. The Senator then did not respond to my question. The question is whether Uncle Sam is going to live up to his contract. We say to the sponsors you are a sponsor for 3 years. Now we come back with this legislation and say, sorry, we are changing the contract. You thought you signed up for 3 years. We are going to make it 5 years.

I think that is wrong.

Mr. GRAMM. Would the Senator, if he wants to change the provision, change it to say that immigrants are not eligible for welfare or public assistance until they become citizens?

Mr. SIMON. We already have a provision in here for 5 years. That is not the issue. The issue is, are we going to go back, on this amendment, retroactively and say to sponsors, sorry, Uncle Sam is not going to live up to his word; we are changing your contract from 3 years to 5 years.

I think I know the Senator from Texas well enough—and, incidentally, he has had a lot more amendments on this floor than the Senator from Illinois over the years.

Mr. GRAMM. I do not think so today.

Mr. SIMON. Not today.

Mr. GRAMM. I object to amendments I am not participating in today.

Mr. SIMON. I am not complaining about the Senator from Texas offering too many amendments. But the question on this amendment—

Mr. GRAMM. Reclaiming my time, Mr. President. Let me just make a point on the deeming issue. The only point I wanted to make is this. We have had a half a dozen votes on it. The outcome has been the same each time, and each time we have had a new amendment we have had some new sob story where we picked out a little blue-eyed girl 3 years old or younger or something.

I am just saying I would like to settle the issue. I think the Senate has decided on the deeming issue, and I think the decision that we have made is you ought not to be able to come to America as an immigrant to go on welfare. We are having to go about that in different ways through different bills. My point is I do not know what the seventh or eighth or ninth amendment is going to do. I hope we will defeat these amendments decisively and get on with passing a bill that the American public wants.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to say to Senator GRAMM, first, I am

totally, fully aware of the Senator's commitment to legal immigration, and I have personally told the Senator that I saw his speech in the Chamber which had some personal aspects of the Senator's views because of his family, because of his wife and her family.

I have told the Senator of mine. Both of mine came over as little kids to Albuquerque from Italy. I was very lucky. I always say the only good thing about the farm programs of Italy at the turn of the century was they were so awful that kids like my folks could not make a living and so they sent them to America.

That is true. In my dad's family were six kids, and they had enough acreage, why, for 50 years before that they could all make a living. But as bureaucracies grow, they had a farm policy, and they could not make a nickel. So thank God for bad farm policy in Italy. That is why I am here.

From our earliest days, we did not intend that aliens be public charges. This is not today. This is America when we accepted millions that made America great. We had a philosophy that the public money would not be used for aliens.

Now, that is not a mean, harsh policy. It is a reality. And I am telling you what has happened. If it was a reality of the philosophy of America in the early days, what has happened to it today is that nobody paid attention to the programs that they were applying for, so that Medicaid has, it is estimated, up to $3 billion—it could be that high—being paid to people who are aliens. That is $3 billion of public charge when we probably never really intended it, for all of these did not come in after deeming periods. Everybody knew the deeming periods and all that were irrelevant.

Why did they know that? The Senator just stated it. Nothing happened to them if they violated them. I had them on the witness stand. I asked INS, "Could you enforce these?" "No, we cannot enforce them." I said, "Do you think there are only 13?" There are 1.2 million aliens on one program—1.2 million people. I said, "Could you enforce it? Could there be 500 of them that are illegal?" I said, "I think probably there are 600,000 that should not be on there." I think that might be so.

So I do not think this is an issue of changing the contract. In fact, this is a whole new concept about deeming the resources of a sponsor liable for an alien before the citizens of America under taxes pay for it. And it is pretty patent to me that to say everything stays just like it is for the past is just not fair to the American people.

We are talking about it is unfair to some certain patrons. We are still saying—this bill is very generous because what it says is, if a sponsor does not have the money, they are back on public charge.

Did the Senator know that?

That is different than we were thinking of. That is a generous act on the part of the chairman, saying, well, OK, if the ward does not have any money, then it does not do much good to deem them; they cannot pay for it.

That is pretty generous. That is a whole new act of generosity on the part of America, if that becomes law.

Now, I would say it is fair because if you do not want that new act of generosity, then maybe we will go back to the old one. But you can count on it: Up to the deeming period, we will not pay for you whether your sponsor runs out of money or not because that was the law, albeit never enforced.

So I think there are things on both sides of that scale of fairness, and, frankly, from my standpoint, I have been through so many efforts to cut back programs that Americans get angry at us about that are programs for Americans that I thought we had to come here as budgeteers—the Senator worked at it with me, I say to the senior Senator from Texas. We are over here saying, look, we cannot afford education money, we cannot afford this. Why, here we have $3 billion maybe, $1 to $3 billion in Medicaid going to aliens. And I am not sure the public even knows that. Where should we save first? It seems to me we should save by passing this bill. That is what I think.

I yield the floor.

Mr. SIMPSON. I thank the Senator and Senator GRAMM.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I thank the Chair.

Let me review where we are and where the leader would like us to be. We have the Simon amendment and two Graham amendments, Senator GRAHAM of Florida, and Senator FEINSTEIN will modify her amendment. Senator KYL and she have resolved any difficulty there. We will take that.

We would like to proceed with debate and try to have votes stacked around 7 or 7:30, if we could proceed with gusto, and I will try to do that, too. It is very difficult. But that would be the pattern, if there is further debate. And I concur with Senator GRAMM. It is about deeming, and we have addressed that last night and we will address it again today.

Just remember one thing. We did not like this before. A few years ago, we voted to extend deeming from 3 to 5 years for SSI, and we did that to achieve savings for an extension of unemployment benefits. We did not ask the sponsors. We just extended the deeming period, and we have done that in the past.

I think those would be my final remarks on that. I wonder if we might—unless there is some further discussion of that amendment, if we might set that aside and go to Senator GRAHAM.

Mr. GRAHAM. Mr. President, I wish to speak in support of the amendment of the Senator from Illinois.

Mr. SIMPSON. I see.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, we had a lot of rhetoric, expressions of what we might have fantasized reality was, what we thought it might be; words like "we expect you to live up to your promise." All of those are patriotic, soaring statements, which have little to do with the reality of the amendment that the Senator from Illinois has offered.

What is the reality today, of the requirement of sponsors to their legal alien sponsoree, who is in the United States? As the Senator from Illinois has pointed out, we Members of Congress have looked at all the programs that we might wish to require deeming to apply to, that is to require the sponsor's income to be added to the alien's income in determining the alien's eligibility for programs. What have we decided? We have decided we will require deeming for SSI, supplemental Social Security income, which primarily affects older aliens; we will require deeming for food stamps; and we will require deeming for aid to families with dependent children.

We could have passed deeming for Medicaid, we could have passed deeming for college Pell grants and guaranteed Federal loans, we could have passed deeming for weatherization and heating for low-income people, we could have passed deeming for any one of the hundreds of programs the Federal Government has that requires some form of means testing in order to be eligible. But we decided thus far not to do so, but to limit it to those three programs. As the Senator from Illinois has pointed out, in two of those three programs the deeming period is 3 years, not the 5 years that is being suggested here today.

But I think even more powerful is the fact that this Congress has known for a long, long time that the courts have held the current application, the affidavit signed by the sponsor, to be legally unenforceable. Let me read a paragraph from a letter from the office of the Commissioner of INS on the issue of what is the enforceability of these affidavits that sponsors sign. To quote from the letter:

> In at least three States, however, courts have held that an affidavit of support does not impose on the person who signs it a legally enforceable obligation to reimburse public agencies and provide public assistance to an alien.

The letter then cites a case, San Diego County versus Viarea, from the California court, a 1969 opinion; the Attorney General versus Binder, an opinion from the State of our Presiding Officer, from 1959; California Department of Mental Hygiene versus Reynault, a case from 1958; another case from New York dated 1959.

The letter goes on to state,

> The Michigan Supreme Court has also held that Michigan public assistance agencies may not consider the income of a person who executed an affidavit of support to be an alien's income in determining the alien's eligibility for State public assistance programs.

That is a 1987 Michigan case, despite the fact that this income deeming is permitted in determining eligibility for food stamps.

Finally, the Missouri Court of Appeals has held that an affidavit of support does not create an express or implied contract for the payment of child support on behalf of a child adopted by a former spouse. That is a 1992 opinion.

Mr. President, I cite these cases, not with the spirit of support but of the cold reality that this is the state of the law. So a person who has sponsored an alien to come into the United States today has had the legal expectation of the unenforceability of that affidavit and this Congress has, at least since 1958, been aware that courts were ruling thus and has not, until the action of the Senator from Wyoming, taken steps to make these affidavits enforceable.

So the consequence of applying this new standard retroactively is going to be to substantially change the expectation of both the legal alien and the legal alien's sponsor, because now we are about to say that an affidavit which the courts have consistently ruled to be unenforceable, we are going to breathe life into that affidavit and we are going to expand that affidavit to cover an indeterminate number of programs for which there is some Federal financial involvement.

Mr. President, I do not disagree with the thrust of the idea that we ought to be making these affidavits financially responsible, that we ought to make them documents which have some legal enforceability. I am concerned about the reach that we are about to apply to the number of programs, but that is for another debate. But I think it is patently unfair to now say we are going to retroactively go back and make affidavits that have been unenforceable, enforceable, and expand them to an indeterminate number of programs.

The argument for doing so, for reaching back retroactively, is that, "We have two people who can pay. We have one person who can pay who is the sponsor. We have the other person who can pay who is the Federal taxpayer. It is better to force the sponsor to pay even if we do it in derogation of the understandings when the sponsor signed the affidavit, than it is to continue to ask the Federal taxpayer to pay." I suggest that is a false analysis of what is really going to happen. What is really going to happen is not that the sponsor is going to pay retroactively, because I do not think we can legally breathe life into a currently unenforceable affidavit. And I do not think the Federal taxpayer is the party that is at final risk.

I suggest what is really going to happen is what the National Conference of State Legislators has said. What really is going to happen is what the National Association of Counties has said. What is really going to happen is what the National League of Cities has said. What is really going to happen is what the National Association of Public Hospitals and Health Systems has said. What is really going to happen is what Catholic Charities USA has said. And that is that there is going to be a massive transfer of responsibility to the communities and States, and they will be asked to pick up these costs.

The most dramatic example of that is going to be in the area of health care. In the field of health care, we have the anomaly that, by Federal law, public hospitals are required to treat anybody with an emergency condition. By laws that we passed, they are prohibited from asking a person seeking emergency assistance, what is your income? What is your financial capability? So we are going to be encouraging people to get sick enough to come in and use the emergency rooms at the local hospital and then, with no one to pay and with the Federal Government no longer picking up part of the cost through Medicaid, they will become a massive burden on those hospitals and on the communities which support those hospitals.

The further irony of this is, this is going to be occurring in communities which are already paying a substantial burden because of the Federal Government's failure to enforce its immigration laws and to have provided adequately for the impact of these large populations. I know it well in my own State, which is one of the States that is particularly at risk under this proposal. Dade County, FL, Miami, has had one of the fastest if not the fastest growing urban school systems in America in the last 10 years, primarily because of the massive numbers of nonnative students who have entered that school system. It has stretched the system to the breaking point.

Now we are about to say in this bill that the Federal Government will provide less support to the education system of that and other stressed counties, and that the Federal Government will restrict the funding for individuals who would otherwise be eligible for these programs, retroactively, so that those costs will now become an additional burden of those already overburdened communities.

I think, Mr. President, in the fundamental spirit of fairness to all concerned, and specifically to those communities that have already paid a heavy price, that it is only fair and proper that we make this change of rules be prospective. Let us apply it to those people who come from the enactment of this bill forward, who come with the understanding that they are signing an affidavit, if they are a sponsor, that will be legally enforceable; that they will know if they are coming as a legal alien what they are going to be able to expect once they arrive here.

I think it is patently unfair to change the rule for thousands of people who are already here and then to have us, essentially, transfer this financial responsibility to the communities in which they happen to have chosen to live.

So, Mr. President, I urge in the strongest terms the support of the amendment of the Senator from Illinois, because without his amendment, I think this legislation carries with it the fatal flaw of fundamental unfairness.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think we have perhaps completed the debate on that amendment and we might set that aside and proceed to—my friend from Massachusetts is not here.

Is there a second Graham amendment? Does the Senator from Florida have any idea as to the time involved in the presentation of this amendment? May I inquire, Mr. President, of the Senator from Florida if he has any idea where we are, because so many people are involved—apparently there is an Olympics banquet, many awards banquets. Many people have asked for a window. I am perfectly willing to stand right here until midnight and finish this bill. I would do that. If we can get an idea of time, that would be very helpful.

Mr. GRAHAM. Mr. President, in response to the question of the Senator from Wyoming, the time to present this amendment, which is amendment No. 3764, will be approximately 15 to 20 minutes.

Mr. SIMPSON. I thank the Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the pending amendment of the Senator from Illinois be set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is temporarily set aside. The Senator from Florida is recognized.

AMENDMENT NO. 3764 TO AMENDMENT NO. 3743

(Purpose: To limit the deeming provisions for purposes of determining eligibility of legal aliens for Medicaid, and for other purposes)

Mr. GRAHAM. Mr. President, I call up amendment No. 3764.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3764 to amendment No. 3743.

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

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

The amendment is as follows:

On page 201, strike lines 1 through 4 and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any services or assistance described in subsection 201(a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(f)(1))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1903(v)(3) of the Social Security Act; and

(ii) any public health assistance for immunizations and immunizable diseases, and for the testing and treatment of communicable diseases.

(4) MEDICAL SERVICES FOR LEGAL IMMIGRANTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act (other than services for which an exception is provided under paragraph (3)(B))—

(i) the requirements of subsection (a) shall not apply to an alien lawfully admitted to the United States before the date of the enactment of this Act; and

(ii) for an alien who has entered the United States on or after the date of enactment of this Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

Mr. GRAHAM. Mr. President, the underlying bill, S. 1664, for the first time would deny to legal immigrants—legal immigrants—access to Medicaid through newly federally imposed or mandated deeming requirements. This prohibition, as the discussion of the amendment of the Senator from Illinois has indicated, will apply both prospectively, to persons who arrive after this bill is enacted, and retroactively, to legal aliens who are already in the country.

My amendment changes the deeming period for Medicaid to 2 years. It eliminates the retrospective nature of this provision, and it would apply these provisions to future immigrants and provide for an exemption for emergency care and public health.

So to restate what the amendment does, the amendment changes the deeming period for Medicaid to 2 years. Second, it eliminates the retroactive nature of the legislation in the same way that the amendment of the Senator from Illinois would do to all of the deemed programs. It would apply these provisions prospectively to future legal aliens, and it would provide an exemption for emergency care and for public health.

This amendment is supported by the National Conference of State Legislators. It is supported by the National Association of Counties. It is supported by the National League of Cities. It is supported by the United States Conference of Mayors. It is supported by the National Association of Public Hospitals. It is supported by the American Public Health Association. It is supported by the National Association of Community Health Centers. It is supported by Interfaith, by the Catholic Charities USA and the U.S. Catholic Conference. It is supported by the Council of Jewish Federations, the Lutheran Immigration and Refugee Services and the Evangelical Lutheran Church of America.

Mr. President, I offer this amendment today which I consider to be a substantial improvement of this bill. It is a substantial improvement by recognizing the fact that health services are different from other benefits that a legal alien might seek.

While I strongly support the idea that sponsors should be required to provide housing, transportation, food, cash assistance to legal aliens who they have sponsored, legal aliens and the sponsor would be unable to provide for themselves, for whatever reason, reasonable access to the health care which unpredictable illness and debilitating disease or injury might impose.

Unlike cash assistance, housing or food, health care must be provided by a qualified professional, tailored to the specific diagnostic and treatment needs. Ultimately, no amount of hard work and personal responsibility can protect an immigrant or anyone else from illness or injury.

My proposal would be to deem Medicaid for 2 years. That is, for the first 2 years that the legal alien is in the United States, the income of the sponsor will be deemed to be that of the alien.

This is a reasonable compromise with what I hope will have bipartisan support. It would not exempt Medicaid from deeming altogether. Instead, it would create a 2-year deeming period for the Medicaid Program alone.

As a result, this amendment eliminates the magnet, the draw or incentive to come to the United States in order to receive medical care, especially since an immigrant cannot plan to get sick 2 years in advance.

However, it does recognize that in the long run, health care is different from other benefits. This amendment also recognizes and attempts to alleviate the tremendous other burdens, cost shifts, unfunded mandates and public health problems which potentially could be caused by S. 1664.

What are some of these potential problems?

First, cost shifting. The Medicaid provisions in S. 1664 are currently nothing more than a cost shift to States, local governmental units and our Nation's hospital system. Simply put, if people are sick and cannot afford to pay for coverage for some of the most disabling conditions, someone will absorb the cost.

The question is whether the Federal Government will pay a portion of that cost, or will such costs be shifted entirely to those States and local governments and hospitals where legal aliens will seek those services?

As the National Conference of State Legislatures, the National Association of Counties and National League of Cities wrote in an April 24, 1996, letter:

> Without Medicaid eligibility, many legal immigrants will have no access to health care. Legal immigrants will be forced to turn to state indigent health care programs, public hospitals, and emergency rooms for assistance or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone. Furthermore, without Medicaid reimbursement, public hospitals and clinics in States and localities would incur increased unreimbursed costs for treating legal immigrants.

The National Association of Public Hospitals, in their April 12, 1996, letter added:

> The [National Association of Public Hospitals] opposes a deeming requirement for Medicaid. It will lead to an increase in the number of uninsured patients and exacerbate an already tremendous burden of uncompensated care on public hospitals. * * *

The Congressional Budget Office estimates that the effect of this bill's current provision will be to reduce Federal reimbursement for such Medicaid costs by $2.7 billion. This is nothing more than a massive cost shifting to the States and local governments in which these legal aliens reside.

The bill's deeming provisions, in addition to being nothing more than a huge cost-shift to State and local governments, will also impose an administrative burden and a huge unfunded mandate on State Medicaid programs. In light of a series of calls throughout the year by the Nation's Governors, the administration and this Congress have been asked to provide States with greater flexibility to more efficiently administer their Medicaid programs. This provision is incredibly ironic and in sharp contrast to everything that we have been discussing in Medicaid policy over the last 2 years.

For a Medicaid case worker, who already has to learn the complex requirements of the Medicaid program, he or she now must also learn immigration law. As a study by the National Conference of State Legislatures notes, this would require an extensive citizenship verification made for all applicants to the Medicaid Program.

According to the Conference of State Legislatures:

> These [deeming] mandates will require States to verify citizenship status, immigration status, sponsoring status, and length of time in the U.S. in each eligibility determination for a deemed Federal program. They will also require State and local governments to implement and maintain costly data information systems.

In addition to all these costs, States will have infrastructure training and ongoing implementation costs associated with the staff time needed to make these complicated deeming calculations. The result will be a tremendously costly and bureaucratic unfunded mandate on State Medicaid programs.

This bill also threatens our Nation's public health. Residents of communities where legal aliens live would face an increased health risk from communicable diseases under this provision of the bill because immigrants would be ineligible for Medicaid and other public health programs designated to provide early treatment to prevent communicable disease outbreaks.

Such policies have historically and consistently had horrendous results. For example, in 1977, Orange County, TX, instituted a policy that required people to prove legal status or be reported to the Immigration and Naturalization Service when requesting service at any county health facility.

As noted by El Paso County Judge Pat O'Rourke, in a letter dated September 24, 1986:

. . . within eighteen months, the county experienced a 57 percent increase in extrapulmonary tuberculosis, a 47 percent increase in salmonella, a 14 percent increase in infectious hepatitis, a 53 percent increase in rubella and a 153 percent increase in syphilis.

The judge cites a 1978 report by the Task Force on Public General Hospitals of the American Public Health Association in saying:

Hence, what was a simple condition requiring a relatively small expense became a large matter adversely affecting all taxpayers.

In an analysis of the potential health impacts of S. 1664, the bill before us this evening, conducted by Dr. Richard Brown, the president of the American Public Health Association and director of the University of California at Los Angeles Center for Health Policy Research, Dr. Brown states:

In a study of tuberculosis patients in Los Angeles, more than 80 percent learned of their disease when they sought treatment for a symptom or other health condition, not because they sought a TB screening. Yet [S. 1664] would make it more difficult for immigrants to seek diagnosis and treatment because their access to health care would be sharply reduced, permitting this debilitating and often deadly disease to spread throughout the community. When an infected person becomes seriously ill with tuberculosis, the costs of treating these true emergencies will be borne by everyone, especially taxpayers.

Dr. Brown concludes:

Tuberculosis and other communicable diseases do not respect distinctions between citizens and non-citizens, legal residents and people who are not here lawfully. The key to controlling an outbreak of tuberculosis, hepatitis, sexually transmitted diseases, or other communicable diseases is early identification of the source of the infection and immediate intervention to treat all infected persons. Because these bills will discourage immigrants from seeking treatment, they will endanger the health of everyone in the community.

In the interest of our Nation's public health, why, Mr. President, why would we wish to take such an unnecessary risk?

In addition, the Medicaid deeming provisions, by creating a obstacle to preventive health services, will result in certain cases of immigrants resorting to emergency room care. Health care costs will thus be more expensive.

This would further strain the already overburdened and underfunded emergency and trauma care facilities across the country, particularly in our Nation's urban centers. Without reimbursements, such hospitals will be forced to consider shutting their emergency room doors for all residents of the county, affecting all residents, immigrants or otherwise.

For example, Jackson Memorial Hospital in Miami estimates that its uncompensated care costs for fiscal year 1995 for undocumented immigrants was $45.8 million. To repeat, for 1995, in that one public hospital, Jackson Memorial in Miami, the cost in uncompensated care for undocumented aliens was $45.8 million. An additional $60 million in uncompensated care costs was attributed by Jackson Memorial Hospital to legal aliens in the community. However, they currently do receive some reimbursement for care to legal aliens through private health care plans and Medicaid. Without the Medicaid payments, total uncompensated costs will grow and require the local community to either raise its taxes or consider reducing hospital services.

In addition, by reducing access of pregnant immigrant women to prenatal care and nutrition support programs, the health of the U.S.-citizen infants will be threatened. The National Academy of Sciences' Institute of Medicine estimates that for every $1 spent on prenatal care, there is a $3 savings in future medical care for low birthweight babies. Denying prenatal and well-baby care to an immigrant only threatens the life of her U.S.-citizen child. Mr. President, that makes absolutely no sense. In fact, it is neither cost effective nor in the interest of public health.

Another concern raised by Catholic Charities USA is the potential for increased abortions as a result of S. 1664.

To quote from the Catholic Charities U.S.A.,

The most immediate threat of the Medicaid deeming provision is the pressure on poor pregnant women to end their pregnancies inexpensively through abortion rather than to carry them to term. A legal immigrant who becomes pregnant and does not have the means to obtain health care will be able to finance a $250 abortion at a local clinic much more easily than either she or her sponsor can pay for prenatal care or put down a $1,000 deposit at a hospital for labor and delivery.

In summary, as currently drafted, S. 1664 would have the following negative consequences: It shifts costs to States, local governments, and hospitals. It imposes an administrative unfunded mandate on State medicaid programs. It threatens the Nation's or the public's health. It is not cost effective and it may lead to an increase in abortions.

My amendment would help address these problems. Therefore, it is supported by the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, U.S. Conference of Mayors, the National Association of Public Hospitals, the American Public Health Association, the National Association of Community Health Centers, InterHealth, Catholic Charities U.S.A., and the U.S. Catholic Conference, the Council of Jewish Federations, Lutheran Immigration and Refugee Services, and Evangelical Lutheran Church of America.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately after my remarks statements by several of these organizations in support of this amendment.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, I close by saying that I regret we have had to consider so many amendments that related specifically to the provisions in this bill that will apply retroactively and prospectively the income of a sponsor to the income of a legal alien—I emphasize legal alien—for purposes determining eligibility for means-tested programs.

Mr. President, if you represent the concerns of the millions of Americans who are represented by these organizations, if you understand the pragmatic reality of what we are about to do both to individuals and to the communities in which they live, and to the taxpayers in the communities and States in which you live, you would understand why there have been so many amendments offered on this subject.

I believe that the amendment which I have offered is a reasoned middle ground. By setting a 2-year deeming provision it would give us assurance that no one would come to this country with a specific condition—whether that be pregnancy or a known medical infirmity—in order to receive U.S. taxpayer-financed medical service. Very few people are prophetic enough to know what their condition is going to be 24 months from now. By providing that this will be prospective, all persons who come into this country from this point forward, from the enactment of this bill forward, will know under what conditions they will be entering this country.

By exempting those programs that affect the public health and relate to emergency care, we will be recognizing the fact that those steps are not just for the benefit of the individual but they are for the benefit of the broad public with its interest in continuing to have access to emergency facilities and to be saved from having unintended access to communicable diseases.

Mr. President, I believe this is a constructive amendment which deals with serious issues within this legislation. I urge its adoption.

EXHIBIT 1

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES

April 24, 1996.

DEAR SENATOR: The National Conference of State Legislatures (NCSL), the National Association of Counties, (NCAo), and the National League of Cities (NLC) are very concerned about unfunded mandates in S. 1664, the Immigration Control and Financial Responsibility Act of 1996 that would be an administrative burden on all states and localities. We urge you to support a number of amendments that will be offered on the Senate floor to mitigate the impact of these mandates on, and cost shifts to, states and localities.

S. 1664 would extend "deeming" from three programs (AFDC, SSI and Food Stamps) to all federal means-tested programs, including foster care, adoption assistance, school lunch, WIC and approximately fifty others. As you know, "deeming" is attributing a sponsor's income to the immigrant when determining program eligibility. It is unclear what "all federal means-tested programs" means. Various definitions of the phrase

"federal means-tested programs" would include a range of between 50–80 programs. Furthermore, regardless of the size of their immigrant populations, this mandate will require all states to verify citizenships status, immigration status, sponsorship status, sponsor's income and length of time in the U.S. in each eligibility determination for "all federal means-tested programs." NCSL estimates that implementing deeming restrictions for just ten of these programs will cost states approximately $744 million. Extending deeming mandates to over 50 programs garners little federal savings and should be eliminated as part of the Congressional commitment to eliminating cost shifts to state and local budgets and taxpayers.

Therefore, we urge you to support Senator Bob Graham's effort to raise a point of order against S. 1664 based on its violation of P.L. 104–4, the Unfunded Mandates Act of 1995. This is a critical test of your commitment to preventing cost-shifts to, and unfunded administrative burdens on, states and localities. We also urge you to support subsequent amendments that will reduce the scope of the deeming provisions and limit the administrative burden on states and localities. These include:

Senator Graham's amendment giving deeming mandate exemption to: 1) programs where deeming costs more to implement than it saves in state or local spending; or 2) programs that the federal government does not pay for the administrative cost of implementing deeming. This ensures that new deeming mandates are cost effective and are not unfunded mandates.

Senator Graham's amendment substituting a clear and concrete list of programs to be deemed for the vague language in S. 1664 requiring deeming for "all federal means-tested programs." This amendment ensures that Congress, and not the courts, will decide which programs are deemed.

Senator Kennedy's amendment conforming Senate deeming exemptions to those accepted by the House in H.R. 2202.

In addition, we urge you to support other amendments that would temper the unfunded mandates in S. 1664 and relieve the administrative burden on states and localities. We are especially concerned about the impact of extending the deeming requirements to the Medicaid program. Without Medicaid eligibility, many legal immigrants will not have access to health care. Legal immigrants will be forced to turn to state indigent health care programs, public hospitals, and emergency rooms for assistance or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone. Furthermore, without Medicaid reimbursement, public hospitals and clinics and states and localities would incur increased unreimbursed costs for treating legal immigrants. We support the following compromise amendment to preserve some Medicaid eligibility for legal sponsored immigrants.

Senator Graham's amendment to limit Medicaid deeming to two years.

We strongly support amendments to exempt the most vulnerable legal immigrant populations from deeming requirements. We urge you to support the following amendments that will preserve a minimal amount of federal program eligibility for the neediest legal immigrants and protect states and localities from bearing the cost of these services.

Senator Kennedy's amendment exempting children and pre-natal and post-partum care from Medicaid deeming restrictions.

Senator Simon's amendment exempting immigrants disabled after arrival from deeming restrictions.

Senator Leahy's amendment exempting immigrant children from nutrition program deeming.

Finally, we firmly believe that deeming restrictions are incompatible with our responsibility to protect abused and neglected children. Courts will decide to remove children from unsafe homes regardless of their sponsorship status and state and local officials must protect them. Deeming for foster care and adoption services will shift massive administrative costs to states and localities and force them to fund 100% of thee benefits. We urge you to support the following amendments to protect states and localities from this cost shift.

Senator Murray's amendment exempting immigrant children from foster care and adoption deeming restrictions.

Senator Wellstone's amendment exempting battered spouses and children from deeming restrictions.

We appreciate your consideration of our concerns and urge you to protect states and localities from the unfunded mandates in S. 1664.

Sincerely,

JAMES J. LACK,
New York Senate,
President, NCSL.
DOUGLAS R. BOVIN,
Commissioner, Delta County, MI,
President, NACo.
GREGORY S. LASHUTKA,
Mayor, Columbus, OH,
President, NLC.

CATHOLIC CHARITIES USA SUPPORTS THE ELIMINATION OF THE MEDICAID "DEEMING" REQUIREMENT INCLUDED IN THE IMMIGRATION REFORM BILL

S. 269 currently requires that the income and resources of a legal immigrant's sponsor and the sponsor's spouse be "deemed" to the income of the legal immigrant when determining the immigrant's eligibility for all means-tested federal public assistance programs, including Medicaid. The deeming period would be a minimum of 10 years (or until citizenship).

Catholic Charities USA supports the elimination of the Medicaid deeming requirement for two main reasons. First, requiring deeming for the Medicaid program ignores the dichotomy between medical services and other need-based assistance that Congress has followed since the inception of Medicaid. For over 30 years, Congress has treated Medicaid benefits for legal immigrants in a fundamentally different fashion than other federal benefits programs. Historically, Congress has never required deeming for Medicaid, recognizing that no level of hard work and personal responsibility can protect someone from illness and injury, and that payments for medical care are significantly higher and more unpredictable than payments for other necessities. In addition, although an immigrant's sponsor or other charitable individual may be able to share food and shelter—and even income to a certain extent—a person cannot share his or her medical care. Unlike housing or food, health care must be provided by a qualified professional and must be tailored to a person's specific health needs. In this sense, Medicaid is substantively different than other needs-based assistance. S. 269 would end Congress' longstanding recognition of the special nature of Medicaid.

Second, the Medicaid deeming requirement will lead to an increase in the number of uninsured patients and exacerbate an already tremendous burden of uncompensated care on public hospitals and other providers who treat large numbers of low-income patients. Although the bill would require the sponsor to agree, in a legally enforceable affidavit of support, to financially support the immigrant, many sponsors may nevertheless be unable to finance the health care costs of the immigrants, many sponsors may nevertheless be unable to finance the health care costs of the immigrants they sponsor.

Finally, it should be noted that in order to qualify for Medicaid coverage an individual must not only be very poor but in addition must qualify under one of the vulnerable categories that include pregnant women, children, the elderly, and people with disabilities. Therefore, because of the strict eligibility requirements for the Medicaid program, legal immigrants who do qualify for coverage are very limited in number and extremely vulnerable.

For these reasons, Catholic Charities USA supports the elimination of the deeming requirement for Medicaid. Should the elimination of deeming for Medicaid prove unworkable in the current political context, we would support an amendment to limit Medicaid deeming to the shortest time period possible.

MEDICAID "DEEMING" FOR LEGAL IMMIGRANTS SHOULD BE LIMITED TO TWO YEARS

The Immigration Control and Financial Responsibility Act (S. 1664), which is scheduled for Senate floor action on April 15, proposes harsh new restrictions on immigrants who are in this country legally. The bill denies Medicaid for a minimum of ten years, or until citizenship, for immigrants who have come to this country, worked hard, paid taxes, and in every respect "played by the rules." The bill does this through a mechanism called "deeming."

How Deeming Works: To be eligible for Medicaid, an individual must have sufficiently low income to qualify. Deeming is a process where by a person's income is "deemed" to include not only is or her own income, but also income from other sources. S. 1664 requires a legal immigrant's income to be deemed to include the income of the immigrant's sponsor and the sponsor's spouse. In addition, the immigrant's income is "deemed" to include the value of the sponsor's resources, such as the sponsor's car and home. Although a legal immigrant could well qualify for benefits based on his or her own resources, many immigrants will effectively be denied Medicaid because of their sponsor's income and resources.

Catholic Charities USA opposes Medicaid deeming for the following reasons:

The Risk of Increased Abortions: To most immediate threat of the Medicaid deeming provision is the pressure on poor pregnant women to end their pregnancies inexpensively through abortion rather than carry them to term. A legal immigrant who becomes pregnant and does not have the means to obtain health care will be able to finance a $250 abortion at a local clinic much more easily than either she or her sponsor can pay for prenatal care or put down a $1000 deposit at a hospital for labor and delivery.

Medical Needs are Unpredictable and Impossible to "Share:" If an immigrant cannot provide for him or herself S. 1664 requires that a sponsor provide housing, transportation, food. or even cash assistance in some circumstances. Although Catholic Charities USA opposes these extensions of current law, we acknowledge a distinction between these forms of assistance and the specific area of medical care. Unlike housing or food, health care must be provided by a qualified professional and tailored to a persons's specific diagnostic and treatments needs. Although a citizen may have enough income and resources to qualify as a sponsor, the sometimes expensive and often unpredictable nature of medical care may limit the sponsor's

ability to finance a sudden and drastic emergency.

Early Diagnosis and Treatment is Less Expensive Than Emergency Care: Basic preventative and diagnostic services treat conditions inexpensively before they become aggravated. If such services are denied, relatively unthreatening illnesses may turn into emergencies to be treated with much more expansive and expensive means. For example, $3 is saved on average for every $1 spent in prenatal care. Moreover, if a legal immigrant is denied prenatal services, her child may be born with serious conditions that will last an entire lifetime. These children, born to legal immigrants, are citizens who will be eligible for Medicaid.

The Cost of Denying Care is an Unfunded Mandate to be Borne By Local Hospitals and Communities: Public hospitals in local communities are required to treat anyone with emergency conditions. If legal immigrants are denied medical services and forced to let their illnesses deteriorate, local hospitals eventually will be required to treat them as emergencies. Since public hospitals are funded by local taxpayers, this policy represents an enormous cost-shift from the federal government onto state and local entities. Although designed to reduce federal expense, the deeming provision would essentially create an entirely new population of uninsured individuals, force immigrants to wait until their conditions become more expensive, and then mandate that local hospitals serve them and pay for this service—all effects that will have real-world financial repercussions for citizens.

Denying Medical Services to Immigrants Endangers Entire Communities: Due to the increased cost to local hospitals, services will degenerate—not only for legal immigrants—but for every person in the community who relies on that hospital for care. If a portion of a hospital's budget is diverted to cover the increased expense of handling emergency conditions, less money will be available to finance services for everyone. Perhaps more importantly, if immigrants are not immunized or treated for communicable diseases, entire communities will be at risk.

Immigrants Currently Finance Benefits for Citizens: Legal immigrants are subject to the same tax laws as citizens. However, as a group, legal immigrants pay more proportionally in taxes than citizens. They also use fewer benefits than citizens. Although some claim immigrants drain resources, legal immigrants actually finance public assistance benefits for citizens. Because of these factors, basic fairness counsels against denying legal immigrants the same safety net security as citizens. Immigrants should be able to rely on support times of need in the same manner as other taxpayers, especially since they have demonstrated that they require such services less often.

Catholic Charities USA favors a reduced deeming period of two years for Medicaid. A two-year deeming period would substantially remove what some view as a "draw" for immigrants entering the country solely to obtain medical services, especially since an immigrant could hardly plan an illness two years in advance. In addition, this compromise would preserve the distinction between medical services and other forms of assistance, recognizing that no amount of hard work and personal responsibility can protect someone from illness and injury. Although opponents may oppose such an amendment because it won't reduce federal spending as much, the effect of a longer period would be an exponential increase in the cost to state and local entities. The bill itself, by setting the deeming period at two years, recognizes that a sponsor's liability should not continue indefinitely. Catholic Charities USA believes a reduced, two year deeming period for Medicaid is a viable compromise that recognizes all of these concerns.

THE HEALTH EFFECTS OF S. 1664 AND H.R. 2202

(By E. Richard Brown, Ph.D)

S. 1664 and H.R. 2202 threaten the health of immigrants and of the larger community. They threaten the health of immigrants and the larger community by making it more difficult to control the spread of serious communicable diseases and making it more likely that such diseases would spread through the community, threaten the health of U.S.-citizen infants by reducing the access of pregnant immigrant women to prenatal care and nutrition support programs; and threaten the health of immigrants by reducing management of chronic illnesses and early intervention to prevent health problems from developing into more serious ones, resulting in more disability and higher medical costs both among immigrants and their U.S.-citizen children.

PROVISIONS OF S. 1664 AND H.R. 2202

Public health care services and publicly funded community-based services are essential to control the progression and spread of disease among low-income persons and communities. These services are essential because a high proportion of low-income immigrants do not receive health insurance through employment, despite their high rates of labor force participation. Because of their low incomes, they cannot afford to purchase health insurance in the private marketplace. Although uninsured immigrants pay a considerably higher proportion of their incomes out-of-pocket for medical services than do persons with insurance, they often cannot afford an adequate level of medical care without the assistance of public programs and publicly subsidized health services.

S. 1664 and H.R. 2202 would impose such onerous financial requirements on legal immigrants that they effectively exclude millions of legally resident children and adult immigrants from receiving any health services or nutrition supplements. These bills also prohibit undocumented immigrants from receiving all but emergency medical care from any public agency or from community-based health services, such as migrant health centers and community health centers. These bills will reduce access to cost-effective primary care and prevention and force immigrants to use expensive emergency and hospital services—at increased cost to taxpayers and poorer health outcomes for immigrants and the larger community.

Legal immigrants

Legal immigrants would become deportable if they participate in Medicaid, virtually any state health insurance or health care program that is means-tested, or any local means-tested services for more than 12 months during their first five years (seven years in the House bill) in the United States. This provision would strongly deter most legal immigrants from enrolling in Medicaid or otherwise obtaining health services on a sliding fee-scale from a local health department or any community health center, migrant health center, or other community-based health service which receives any federal, state or local government funds. Receiving any combination of such benefits for a total of more than 12 months would make the immigrant ineligible for citizenship.

Furthermore, to determine eligibility for such services or programs, the sponsor's income (and the income of the sponsor's spouse) would be "deemed" available to the immigrant. The bills would require that the sponsor's income be combined with the immigrant's income until the immigrant had worked for 40 quarters (at least 10 years) in which he/she earned enough to pay taxes or until he/she became a citizen. This provision would make most sponsored legal immigrants ineligible for such benefits; even if they maintain a separate household with substantial combined expenses or do not have access to their sponsor's income.

These provisions make more stringent the conditions under which legal immigrants may receive these public benefits, lengthening the time during which they are potentially deportable for receiving benefits, reducing the conditions under which they may legitimately receive them, and extending the "deeming" process to more programs and for a longer period of time.

Undocumented immigrants

Undocumented immigrant women would be barred from receiving prenatal and postpartum care under Medicaid. States may provide prenatal and postpartum care to undocumented immigrant women who have continuously resided in the United States for at least three years (the House bill excludes pregnancy care altogether). The bills would allow undocumented immigrants to receive immunizations and be tested and treated for serious communicable diseases. Because these provisions apply to any services provided or funded by federal, state or local government, they prohibit most community-based health services, such as migrant health centers and community health centers, from providing primary or preventive care to undocumented immigrants.

Undocumented immigrants currently are not eligible for any means-tested health programs except *emergency* medical services, including childbirth services (funded by Medicaid), immunizations, and nutrition programs for pregnant women and children. These bills extend this prohibition to prenatal and postpartum care, and they extend to nearly all publicly funded programs and services the prohibitions on providing non-emergency care that formerly were restricted to Medicaid.

EFFECTS ON HEALTH

These bills would maek it more difficult for low-income immigrants, whether they are here legally or not, to obtain preventive or porimary health care. By denying access to cost-effective health services that can prevent or limit illness, this legislation would increase the use of emergency rooms and hospitals at greater cost to taxpayers and cause more disability among immigrants.

Prenatal care and birth outcomes

The provisions in these bills will result in an increased number of low birthweight and higher death rates among U.S.-citizen infants. The expanded "deeming" provisions would prevent many legal immigrant women who are pregnant and needy from qualifying for Medicaid, and the expanded threats of deportation would discourage other needy legal immigrant women from applying for Medicaid. The bills also would prohibit pregnancy-related health services to most undocumented immigrant women.

Denying inexpensive prenatal care to many pregnant women will increase the health risks to the women and their U.S.-citizen infants, all at great cost to federal and state taxpayers. The National Academy of Sciences' Institute of Medicine estimates that every $1 spent on prenatal care saves $3 that otherwise would be spent on medical care for low birthweight infants. A recent study by the California Department of Health Services found that Medi-Cal hospital

costs for low birthweight babies averaged $32,800, thirteen times higher than those of non-low birthweight babies ($2,560). With no prenatal care, the expected hospital medical costs for a baby born to a Mexican-American woman with no prenatal care are 60% higher than if she had gotten adequate prenatal care, or $1,360 higher per birth. The American-born infants of immigrant mothers automatically would be U.S. citizens, entitling them to medical care paid for by Medicaid. These added medical costs may well exceed any savings due to reduced Medicaid eligibility among immigrant pregnant women.

Management of chronic illness

These bills would prohibit undocumented and many legal immigrants from using local health department clinics or community-based clinics, such as migrant or community health centers, for other than emergency care or diagnosis and treatment for a communicable disease. High blood pressure, diabetes, asthma, and many other chronic illnesses can be managed effectively by regular medical care, which includes monitoring of the condition, teaching the patient appropriate self-management, and provision of necessary medication. When diabetes goes untreated, it results in diabetic foot ulcers, blindness, and many other complications. Uncontrolled high blood pressure causes heart attacks, strokes, and kidney failure, all of which lead to expensive emergency hospital admissions. In the absence of regular care, people with these controllable diseases will present repeatedly to hospitals in severe distress, resulting in emergency and intensive care for a much higher cost than periodic visits and maintenance medication. Primary care and prevention are cost-effective alternatives to use of emergency rooms, specialty clinics, and hospitalization—and they preserve and improve the person's functional status. As with pre- and postnatal care, the costs of increased use of emergency and hospital services are likely to offset any savings due to reduced use of primary and preventive care.

Communicable diseases

These bills would make it more difficult for undocumented immigrants or legal immigrants to obtain care for communicable diseases. Although they explicitly permit undocumented immigrants to be diagnosed and treated for communicable diseases, public health services throughout the country are being restructured to eliminate dedicated clinics for tuberculosis, sexually transmitted diseases, and other cummunicable diseases. Instead diagnosis, treatment, and management of these health problems are being integrated into primary care, which would be denied to undocumented immigrants and most legal immigrants alike who cannot afford to pay the full cost of these services. Without access to primary care, immigrants would have few options to receive medical attention for persistent illnesses. Coughs that do not go away, fevers that do not subside, and rashes and lesions that do not heal may be due to communicable diseases such as tuberculosis, hepatitis, meningitis, or a sexually transmitted disease.

Tuberculosis is prevalent among legal, as well as undocumented, immigrants from Asia and Latin America. It is easily spread if those who are infected are not diagnosed and treated. In a recent study of tuberculosis patients in Los Angeles, more than 80% learned of their disease when they sought treatment for a symptom or other health condition, not because they sought tuberculosis screening. Yet these bills would make it more difficult for immigrants to seek diagnosis and treatment because their access to health care would be sharply reduced, permitting this debilitating and often deadly disease to spread throughout the community. When an infected person becomes seriously ill with tuberculosis, the costs of treating these true emergencies will be borne by everyone, especially taxpayers. The California Department of Health Services estimates that it costs $150 to provide preventive therapy to a tuberculosis-infected patient, but it costs 100 times as much for a tuberculosis patient who must be hospitalized—and more than 600 times as much if the patient has developed a drug-resistant variety of tuberculosis.

Tuberculosis and other communicable diseases do not respect distinctions between citizens and non-citizens, legal residents and people who are not here lawfully. The key to controlling an outbreak of tuberculosis, hepatitis, sexually transmitted diseases, or other communicable diseases is early identification of the source of infection and immediate intervention to treat all infected persons. Because these bills will discourage immigrants from seeking treatment, they will endanger the health of everyone in the community.

ADMINISTRATIVE COSTS

S. 1664 and H.R. 2202 would impose substantial administrative burdens on health care services to check clients' immigration status and obtain information necessary to "deeming." These administrative costs include interviewing clients and obtaining the information from them, verifying the accuracy of information, training of staff, and record keeping and processing. The administrative burden includes obtaining information about the client's immigration status, date on which the person entered the country, whether the immigrant has a sponsor, whether the immigrant has worked for 40 quarters during which they earned enough to have a tax liability, and the income and resources of the immigrant, the sponsor, and the sponsor's spouse. These administrative costs must be borne by the program or service provider, except for anti-fraud investigators in hospitals.

SUMMARY

1664 and H.R. 2202 will:

Reduce access of legal immigrants and undocumented immigrants to primary care and preventive health services and increase immigrants' use of emergency and hospital services;

Result in poorer health outcomes for immigrants and their U.S.-citizen infants;

Increase the larger community's risk of contracting communicable diseases;

Increase expenditures on emergency and hospital services, offsetting savings due to reduced use of preventive and primary care; and

Increase administrative costs for publicly funded health care providers.

Mr. SIMPSON. Mr. President, may we set aside this amendment and go directly to the amendment of Senator FEINSTEIN so she might modify a previous amendment?

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

The pending amendment No. 3764 is set aside.

AMENDMENT NO. 3764

Mr. SIMPSON. We have not quite finished dealing with them. I had a comment or two to make.

Mr. President, with regard to Senator GRAHAM's remarks and his amendment, I hope—and I will not be long—we have heard in that amendment the revisitation of an old theme. The issue is very simple. As we hear the continual discussion about taxpayers and what is going to happen to taxpayers—taxpayers this, taxpayers that—I have a thought for you. I will tell you who should pay for the legal immigrant: the sponsor who promised to pay for the legal immigrant.

This is not mystery land. This is extraordinary. How can we keep coming back to the same theme when the issue is so basic?

If you are a legal immigrant to the United States, this is such a basic theme that I do not know why it needs to be repeated again and again and again. But I hope it will be dealt with in the same fashion again and again and again, because it is this: When the legal immigrant comes to the United States, the consular officer, the people involved in the decision, and the sponsor agrees that that person will not become a public charge. That was the law in 1882. We have made a mockery of that law through administrative law judge decisions and court decisions through the years, where it is not just the "steak and the tooth," as my friend from Illinois referred to, there is no steak and no teeth in it.

And so, one of the most expensive welfare programs for the United States taxpayers is Medicaid. Everybody knows it. The figures are huge. Senator DOMENICI knows it. He covered it the other day. They are huge, and we all know that. We know the burden on the States.

So all we are saying is the sponsor, the person who made the move to bring in the legal immigrant, is going to be responsible, and all of that person's assets are going to be deemed for the assets of the legal immigrant. So it does not matter what type of extraordinary situation you want to describe to us all, and all of them will be genuinely and authentically touching, they will move us, maybe to tears. I am not being sarcastic. Those things are real. They will be veterans, they will be children, they will be disabled, they will be sick, and all we are saying is that the sponsor will pay first, which is exactly what they promised to do. And so, if the sponsor, having been hit too hard, is pressed to bankruptcy, is pressed to destruction, is pressed wherever one would be pressed, then we step in, the U.S.A., the old taxpayers step into the game —but not until the sponsor has suffered to a degree where they cannot pony up the bucks that they promised to pay.

If the sponsor has the financial resources to pay for the medical care needed by an immigrant, why on God's earth should the U.S. taxpayers pay for it? That is the real question. That is one that is easy to debate.

Does any Senator in this Chamber believe that the taxpayers of this country would agree to admit to our country an immigrant if they believed that the immigrant would impose major medical costs on the taxpayers, and that the immigrant sponsor would not be providing the support that they promised to pay? Now, that is where we are. That is where we have been. We can argue on into the night and get the same result, I think, that we got last night and will get tomorrow—the issue being, regardless of the tragic nature of this situation, whatever it is, the sponsor pays.

Then if you are saying, "But if the sponsor cannot pay," we have already taken care of that. If the sponsor cannot pay—goes bankrupt, dies, or whatever—the Government of the United States of America, the taxpayers, will pick up the slack; but not until the sponsor has had the slack drawn out of them—not to the point so they cannot live or become public charges themselves, but that is what this is about.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to slightly, again, correct the RECORD. I know the Senator from Wyoming feels passionately about his position. His position just happens to be at variance with the facts.

I will cite and read this and ask if the Senator would disagree that these are the words in the United States Code 42, section 1382(j). This happens to be one of the three areas in which this Congress, at its election, has decided to specifically require that the income of the sponsor be added to that of the income of the legal alien for the purposes of determining eligibility for benefits. This happens to be the program of Supplemental Security Income. Here is what the law says:

For the purposes of determining eligibility for and the amount of benefits under this subchapter for an individual who is an alien, the income and resources of any person who, as a sponsor of such individual's entry into the United States, executed an affidavit of support or similar agreement, with respect to such individual, and the income and resources of the sponsor spouse shall be deemed to be the income and resources of the individual for a period of 3 years after the individual's entry into the United States.

That is quite clear. That is what the obligation of the sponsor was. There is similar clarity of language to be found under the provisions relating to Aid to Families with Dependent Children and food stamps. So if a person wanted to know, what is my legal obligation when I sign a sponsorship affidavit, they could go to the law books of the United States and read, with clarity, what those programs happen to be.

My friend from Wyoming, the reality is that this Congress, until tonight, has not chosen to place Medicaid as one of those programs for which such deeming is required. By failing to do so, and by doing so for these three distinct programs, I think a very clear implication has been created that we did not intend, that there be deeming of the sponsor's income for the purposes of eligibility for Medicaid.

I believe that the kinds of arguments that are made by responsible organizations, such as the Association of Public Hospitals, is why this Congress, up until tonight, has not deemed it appropriate to deem the income of the sponsor to the legal alien for the purposes of Medicaid.

If that argument was so persuasive in the past, why have we not added Medicaid to the list of responsibilities in the past?

Mr. President, I believe—the rhetoric aside—that the facts are that there is clarity as to what the sponsor's obligation is today. No. 2, that we are about to change that responsibility and make those changes retroactive, applying to literally hundreds of thousands of people. And, in the case of Medicaid, in my judgment, we are about to adopt legislation that would have a range of negative effects, from increasing the threat to the public health of communicable diseases, to endangering the already fragile financial status of some of our most important American hospitals, to increasing the likelihood that a poor, pregnant woman would choose abortion rather than deliver a full-term child.

And so, Mr. President, I believe that both the amendment offered by the Senator from Illinois and, immodestly, the amendment I have presented to the Senate represent the kind of public policy that is consistent with the reality of our history of the treatment of legal aliens—again, I underscore legal aliens—and should be continued by the adoption of the amendments that will be before the Senate shortly.

Thank you.

The PRESIDING OFFICER. Is there further debate?

MODIFICATION TO AMENDMENT NO. 3866

Mr. SIMPSON. Mr. President, I have a unanimous-consent request cleared with the minority.

Mr. President, I ask unanimous consent to make two minor technical corrections to two provisions of amendment No. 3866 to the bill, S. 1664.

The first correction corrects a printing error, by which a provision belonging in one section of the amendment No. 3866 was inadvertently placed in a different section.

The second correction is a minor change in the wording.

These two corrections have been cleared on both sides, and I ask unanimous consent that they be accepted.

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

The modification follows:

(1) Subsection (c) of section 201 of S. 1664, (relating to social security benefits), as amended by amendment no. 3866, is further amended to read as follows:

(c) SOCIAL SECURITY BENEFITS.—(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y)(1) Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.

"(2) Paragraph (1) shall not apply in any case where entitlement to such benefit is based on an application filed before the date of the enactment of this subsection.".

(2) Nothing in this subsection (c) shall affect any obligation or liability of any individual or employer under title 21 of subtitle C of the Internal Revenue Code.

(3) No more than 18 months following enactment of this Act, the Comptroller General is directed to conduct and complete a study of whether, and to what extent, individuals who are not authorized to work in the United States are qualifying for Old Age, Survivors, and Disability Insurance (OASDI) benefits based on their earnings record.

(2) In section 214(b)(2) of the Housing and Community Development Act of 1980, as added by section 222 of S. 1664 (relating to prorating of financial assistance), as added by amendment no. 3866—

(A) strike "eligibility of one or more" and insert "ineligibility of one or more"; and

(B) strike "has not been affirmatively" and insert "has been affirmatively".

(3) In the last sentence of section 214(d)(1)(A) of the Housing and Community Development Act of 1980, as added by section 224 of S. 1664 (relating to verification of immigration status and eligibility for financial assistance), as added by amendment no. 3866, insert after "Housing and Urban Development" the following: "or the agency administering assistance covered by this section".

Mr. SIMPSON. Mr. President, I think we can go forward. We now, so that our colleagues will be aware, are in a position to vote on three amendments. We will likely do that in a short period of time.

The Feinstein amendment has been resolved.

There is a Simon amendment on disability deeming, a Simon amendment on retroactivity deeming, and the Graham amendment that we have just been debating with regard to 2-year deeming.

We have many of our colleagues who apparently are involved with the Olympic activities tonight passing on the torch, and some other activity.

There is a Gramm amendment on the Border Patrol and a Hutchison amendment on Border Patrol. Those will be accepted. There is a Robb amendment which will be accepted.

I inquire of the Senator from Florida if he has any further amendments. At one time there was a list. I wonder if there is any further amendment other than the pending amendment from the Senator from Florida.

Mr. GRAHAM. Yes. I have one other amendment that relates to the impact on State and local communities of unfunded mandates. I understand that there may be a desire to withhold further votes after the three that are currently stacked. If that is the case, I would be pleased to offer my next amendment tomorrow morning.

Mr. SIMPSON. Mr. President, I thank our remarkable staff. And Elizabeth certainly is one of the most remarkable. I think we can get a vote here in the next few minutes on three amendments which are 15 minutes in original time and 10 on the second two with a lock-in of tomorrow to take care of the rest of the amendments on this bill. We may proceed a bit tonight with the debate. That will be resolved shortly.

But the Senator from Florida has one rather sweeping amendment on which we will need further debate, will we not; more than 15 minutes perhaps?

Mr. GRAHAM. I anticipate it will require more than 15 minutes.

Mr. SIMPSON. I see. I would probably have that much on the other side.

Then I have one with Senator KENNEDY and share with my colleagues that I do have a place holder amendment. It is my intention, unless anyone responds to this, not at this time but tomorrow—you will recall that Senator MOYNIHAN placed an amendment at the time of the welfare bill with regard to the Social Security system having a study, that they should begin to do something in that agency to determine how to make that card more tamper resistant. It was cosponsored by Senator DOLE. It passed unanimously here. That would be an amendment that I have the ability to enter unless it is exceedingly contentious. I intend to do so because it certainly is one that is not strange to us, and the date of its original passage was—so that the staff may be aware of the measure, that was in the CONGRESSIONAL RECORD of September 8, 1995, page S12915, directing the Commissioner to develop—this is not something that is immediate—to be done in a year, and a study and a report will come back. There is nothing sinister with regard to it, but it is important to consider that.

We have an amendment of Senator ROBB, and apparently an objection to that amendment from that side of the aisle. I hope that might be resolved.

Let me go forward and accept the Gramm amendment, the Hutchison amendment, and if you have those, I will send them to the desk.

Mr. SIMPSON. There is a Hutchison amendment which has been questioned by the Senator from Florida. There is a Simpson-Kennedy amendment with regard to verification. And then there is a place holder amendment which I intend to present, the Moynihan-Dole amendment, which passed unanimously in September, to allow the Social Security Administration to begin, nothing more, a study to determine how in the future we are to make that system more tamper resistant. It is not anything that goes into place. It is a report. And those who were involved at the time will recall.

That is what I have. That is the extent of it.

Mr. KENNEDY. Since we have another moment then, is it the intention, after we dispose of this, to at least make a request that only those amendments which have been outlined now be in order for tomorrow? And that it would at least be our attempt during the evening time to try and get some time understandings with those——

Mr. SIMPSON. That is being done at the present time, all of that.

Mr. KENNEDY. The leader will be out here, I am sure, shortly, but we would start then early and try and move this through in the course of the day.

Mr. SIMPSON. This matter will be concluded. The staffs on both sides of the aisle are working to present that to us in a few moments, to tighten and button down a complete agreement on time agreements and unanimous consent.

Mr. KENNEDY. The leader will outline the plan for the rest of the evening. Is it the Senator's understanding that those three amendments will be the final voting amendments for the evening?

Mr. SIMPSON. I think that would be the case. The leader is not here, but I think conjecture would have it be so.

Mr. KENNEDY. We will wait on that issue until the leader makes a final definitive decision. I thank the Chair.

Mr. SIMPSON. I thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, let me ask unanimous consent, in the voting to take place at 7:15, that the first vote at 7:15 be 15 minutes and the subsequent votes 10 minutes each.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT 3810

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 3810. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mr. KASSEBAUM] is necessarily absent.

The result was announced, yeas 30, nays 69, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—30

Akaka	Hollings	Mikulski
Breaux	Inouye	Moseley-Braun
Bumpers	Jeffords	Moynihan
Conrad	Kennedy	Murray
Daschle	Kerrey	Pell
Dodd	Kerry	Rockefeller
Dorgan	Lautenberg	Sarbanes
Feingold	Leahy	Simon
Graham	Levin	Wellstone
Harkin	Lieberman	Wyden

NAYS—69

Abraham	Domenici	Lugar
Ashcroft	Exon	Mack
Bancus	Faircloth	McCain
Bennett	Feinstein	McConnell
Biden	Ford	Murkowski
Bingaman	Frist	Nickles
Bond	Glenn	Nunn
Boxer	Gorton	Pressler
Bradley	Gramm	Pryor
Brown	Grams	Reid
Bryan	Grassley	Robb
Burns	Gregg	Roth
Byrd	Hatch	Santorum
Campbell	Hatfield	Shelby
Chafee	Heflin	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Johnston	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kohl	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner

NOT VOTING—1

Kassebaum

The amendment (No. 3810) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3813

The PRESIDING OFFICER. The question before the Senate now is Simon amendment No. 3813. There are 2 minutes to be divided equally between the sides.

Mr. SIMON. Mr. President, this is a relatively simple amendment. If anything, this area is simple. If you are a sponsor of someone coming in, you sign up for 3 years. The Simpson bill says we go to 5 years. I am for that prospectively. I do not believe it is right for Uncle Sam to rewrite the contract and say, "You signed up for 3 years, now you are responsible for 5 years." That is what happens without my amendment.

I favor the 5 years prospectively, but I think if Uncle Sam signs a deal, Uncle Sam should be responsible. He should not change a contract. That is true for a used car dealer. It certainly ought to be true for Uncle Sam.

Mr. SIMPSON. It is true that individuals already in the country will not be the beneficiaries of new legally enforceable sponsor agreements that will be required after enactment. It is also true that some of those, those who have been here less than 5 years, will nevertheless be subject to at least a portion of the minimum 5-year deeming period.

I remind my colleagues, however, that no immigrant is admitted to the United States if the immigrant does not provide adequate assurance to the consular officer and commissioner and the immigration inspector that he or she is not likely to become a public charge. In effect, that is a promise to the American people that they will not become a burden to the taxpayers, under any circumstance.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SANTORUM). The question occurs on agreeing to amendment No. 3813. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—36

Akaka	Heflin	Mikulski
Boxer	Hollings	Moseley-Braun
Breaux	Inouye	Moynihan
Chafee	Johnston	Murray
Conrad	Kennedy	Pell
Daschle	Kerrey	Pryor
DeWine	Kerry	Rockefeller
Dodd	Lautenberg	Sarbanes
Feinstein	Leahy	Simon
Glenn	Levin	Specter
Graham	Lieberman	Wellstone
Hatfield	Mack	Wyden

NAYS—63

Abraham	Domenici	Lott
Ashcroft	Dorgan	Lugar
Bancus	Exon	McCain
Bennett	Faircloth	McConnell
Biden	Feingold	Murkowski
Bingaman	Ford	Nickles
Bond	Frist	Nunn
Bradley	Gorton	Pressler
Brown	Gramm	Reid
Bryan	Grams	Robb
Bumpers	Grassley	Roth
Burns	Gregg	Santorum
Byrd	Harkin	Shelby
Campbell	Hatch	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kempthorne	Thompson
D'Amato	Kohl	Thurmond
Dole	Kyl	Warner

NOT VOTING—1

Kassebaum

So the amendment (No. 3813) was rejected.

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

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3764

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, the question occurs on amendment No. 3764 offered by the Senator from Florida, Senator GRAHAM.

Mr. KENNEDY. Mr. President, the Senator would like to speak.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, the amendment, which will next be voted on, would do three things: One, it will say that the application of deeming to Medicaid will be only for a period of 2 years. Second, it will exempt emergency care and public health services. Third, it will apply prospectively.

Mr. President, this amendment is supported by groups, which range from the Catholic Conference to the League of Cities. They support it for a set of common reasons. They understand that the public health will be at risk if we deny Medicaid to this population of legal aliens, and that there will be a massive cost shift to the communities in which hospitals, which are obligated to provide medical services that will now no longer be reimbursed in part by Medicaid, are located. Catholic Charities is concerned about an increase in abortion, as poor pregnant women would find it economically necessary to seek an abortion rather than pay the cost of a delivery.

For all of those reasons, I urge adoption of this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, this amendment, like so many others before, would reduce the sponsor's responsibility for their immigrant relatives they bring to the United States on the basis that they will not become a public charge. This amendment would nearly eliminate deeming for Medicaid, the most costly and expensive of all of the welfare programs. Medicaid deeming would be limited to 2 years.

The sponsors who promised to provide the needed assistance should pay the health care assistance, as long as they have the assets to do so. Otherwise, the taxpayers pick up the tab.

The PRESIDING OFFICER. Does the Senator request the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 22, nays 77, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—22

Akaka	Ford	Kohl
Boxer	Graham	Lautenberg
Daschle	Hatfield	Lieberman
Dodd	Hollings	Mikulski
Feingold	Kennedy	Moseley-Braun

Moynihan	Rockefeller	Wyden
Murray	Sarbanes	
Pell	Simon	

NAYS—77

Abraham	Dorgan	Lott
Ashcroft	Exon	Lugar
Baucus	Faircloth	Mack
Bennett	Feinstein	McCain
Biden	Frist	McConnell
Bingaman	Glenn	Murkowski
Bond	Gorton	Nickles
Bradley	Gramm	Nunn
Breaux	Grams	Pressler
Brown	Grassley	Pryor
Bryan	Gregg	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roth
Byrd	Heflin	Santorum
Campbell	Helms	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Inouye	Snowe
Cohen	Jeffords	Specter
Conrad	Johnston	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kerrey	Thompson
D'Amato	Kerry	Thurmond
DeWine	Kyl	Warner
Dole	Leahy	Wellstone
Domenici	Levin	

NOT VOTING—1

Kassebaum

The amendment (No. 3764) was rejected.

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

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate resumes S. 1664 on Thursday, May 2, the following amendments be the only amendments remaining in order: Senator GRAHAM of Florida, Senator GRAHAM of Florida, Senator CHAFEE, Senator SIMPSON, and Senator DEWINE.

I further ask that following the debate on the above-listed amendments, the Senate proceed to vote on in relation to those amendments, with the votes occurring in the order in which they were debated, and there be 2 minutes equally divided for debate between each vote.

I further ask that following the disposition of the amendments or points of order, the Senate proceed for 30 minutes of debate only to be equally divided between Senator SIMPSON and Senator KENNEDY, and following that time the Senate proceed to vote on Simpson Amendment No. 3743, as amended, to be followed by a cloture vote on the bill; and if cloture is invoked, the Senate proceed immediately to advance S. 1644 to third reading and proceed to the House companion bill, H.R. 2022; that all after the enacting clause be stricken, the text of S. 1644 be inserted, the bill be advanced to third reading and final passage occur, all without further action or debate.

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

Mr. KENNEDY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Senator BYRD evidently notified the leadership that he wanted to be able to address the Senate before the final vote on the bill.

Mr. DOLE. Mr. President, I also ask that Senator BYRD have whatever time he wishes under his control prior to the vote.

Mr. GRAHAM. Mr. President, reserving the right to object, it is my intention to offer a point of order prior to the vote on the Dole-Simpson amendment. Is that provided for?

Mr. DOLE. Yes. In fact, I said, "or points of order."

Mr. GRAHAM. All right.

Mr. DOLE. There could be more than one, so we did not designate any names.

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

Mr. DOLE. I might also indicate to my colleagues and perhaps the managers that between 10 and 12 they could sort of stack the votes, whatever works out. We could have a series of votes at noon. Otherwise, whatever the managers desire.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I would now ask that we resume immigration. I understand there are a couple of amendments Senators can dispose of.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NOS. 3949 AND 3950, EN BLOC

Mr. KENNEDY. I send to the desk two amendments to S. 1664 at the request of Senator SIMPSON and myself that have been cleared on both sides, and ask unanimous consent they be considered en bloc and adopted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Massachusetts [Mr. KENNEDY], for Mr. BRYAN, proposes an amendment numbered 3949.

The Senator from Massachusetts [Mr. KENNEDY], for Mrs. HUTCHISON, proposes an amendment numbered 3950.

The amendments are as follows:

AMENDMENT NO. 3949

(Purpose: To prevent certain aliens from participating in the family unity program)

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAMS.

Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

"(e) EXCEPTION FOR CERTAIN ALIENS.—An aliens is not eligible for a new grant or extension of benefits of this section if the Attorney General finds that the alien—

"(1) has been convicted of a felony or 3 or more misdemeanors in the United States.

"(2) is described in section 243(h)(2) of the Immigration and Nationality Act, or

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against the person of another; or

"(B) a felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.".

AMENDMENT NO. 3950

(Purpose: To preserve law enforcement functions and capabilities in the interior of States)

At the appropriate place, insert the following section:

SEC. . The Immigration and Naturalization Service shall, when redeploying Border Patrol personnel from interior stations, coordinate with and act in conjunction with State and local law enforcement agencies to ensure that such redeployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior Border Patrol stations.

The PRESIDING OFFICER. There being no objection, the amendments are considered read and agreed to.

The amendments (Nos. 3949 and 3950) were agreed to.

Mr. KENNEDY. I thank the Chair. For Senator SIMPSON and myself, we thank all the Members for their attention during the course of the debate and for all of the cooperation that was given to Senator SIMPSON and myself. We made good progress. The end is in sight. These are important matters that still must be addressed tomorrow, but we will start at 10 o'clock. We know which amendments are out there. We hope those who are going to offer those amendments will make themselves available at the earliest possible times for the convenience of all Senators. We look forward to the conclusion of the bill. We thank all Members for their cooperation and attention today.

The PRESIDING OFFICER. The majority leader.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the Senate will now resume consideration of S. 1664, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States, by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole (for Simpson) amendment No. 3743, of a perfecting nature.

Simpson amendment No. 3853 (to amendment No. 3743), relating to pilot projects on systems to verify eligibility for employment in the United States and to verify immigration status for purposes of eligibility for public assistance or certain other government benefits.

Simpson amendment No. 3854 (to amendment No. 3743), to define "regional project" to mean a project conducted in an area which includes more than a single locality but which is smaller than an entire State.

Mr. SIMPSON. Mr. President, let me just relate where we are, and then I will certainly yield, and we can ask unanimous consent that Senator BAUCUS continue for 7 minutes as in morning business.

We have our order from yesterday, and we are going to go forward with four amendments, perhaps a motion, and we intend to finish this bill today. I know Senator KENNEDY feels the same. He, particularly, so he can get on with his minimum wage issue—no, excuse me, I am sorry. He will eventually get on with that. We do know that. We do know him well.

So I hope Senators will—and I know the Senator shares my view—come to the floor and process these floor amendments so we can move on to the next item of business. We are going to finish this bill. The sooner the better, and we will call for third reading at some appropriate time this morning if the action does not go swiftly. I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as in morning business.

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

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

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

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I join with Senator SIMPSON in urging our colleagues to come over and consider these amendments. We have been going on through the evening the last two nights, and we are always asked at the end of the day if we cannot conclude it so that we can accommodate Members' schedules. Here we are at 10 o'clock, ready to do business.

There are a limited number of amendments out there. The particular Senators know the amendments have been listed. We are prepared to move ahead and dispose of these amendments. It is better for us to have the debate at the present time. So we ask, just out of consideration for the other Members of the Senate, that those Members come over so we can dispose of those amendments and we can accommodate our other friends and colleagues here. We will go into a quorum call, but we hope those Senators will come to the floor and address those amendments. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I am going to proceed with a discussion of an amendment which I believe I will send to the desk because Senator GRAHAM and Senator CHAFEE apparently will not be here until approximately 11 o'clock. So we will proceed with the amendment. I will send it to the desk in a moment and proceed with the debate on the amendment.

The amendment would modify section 112 of the bill relating to pilot projects on systems to verify work authorization and eligibility to apply for public assistance.

It has three parts. The first part would require that at a minimum three particular pilot projects—remember, these are pilot projects. Remember, whatever one is selected has to have a second vote in this Chamber years down the line. This is not tomorrow. This is not next year. The purpose of the amendment is to require these to be pilot projects rather than the present language which makes it somewhat optional.

The three parts are: The first part would require that at a minimum three particular pilot projects be conducted; one providing for telephone verification of Social Security numbers; one providing for use—pilot projects again—for use of a counterfeit-resistant driver's license with a Social Security number on it, but only in a State that already issues such a license. We are not imposing this as a national standard. But if the State of Wyoming has a driver's license with a Social Security number on it, which they do, that State will have the pilot on a counterfeit-resistant driver's license.

Then the final one involves the confirmation of the immigration status of aliens, but with regard to citizens only, an attestation only for citizens, which people have said in the debate—I think it is a good debate—"Why should a U.S. citizen have to go through these procedures?" The answer is, we will have a pilot project to find out. But I certainly hope that we could do that and require eventually, through the pilot project, only an attestation by persons who are claiming to be citizens.

Under the present bill, current bill in its present form—after the amendment yesterday, this is in the bill—there are seven different types of pilot projects that are specifically authorized, but none is required. Senator KENNEDY and I have concluded that it is especially important that the three projects I have specified are conducted, at least these three. The other four, making up the seven, that is fine, too. I think we need to study every possible aspect of this.

The first type of pilot project providing for the telephone verification of the Social Security numbers of all new employees was a recommendation of the Commission on Immigration Reform, chaired by former Congresswoman Barbara Jordan, and is and was the most frequently discussed option as it was in the House of Representatives.

The second type providing for use of a counterfeit-resistant driver's license with a Social Security number on it in a State that already issues such a license—please hear that—would have the major advantage that employers would be required only to check a single document, one that is already in existence. There would be no new documents, no new database, no new procedure such as a telephone call verification.

The third type involving confirmation of the immigration status of aliens but only an attestation by persons claiming to be citizens. That would also have a major advantage, in our mind. Employers would not have to verify employees. They would have nothing to do in that situation. Of course, in that situation, the obvious weakness in such a system is the potential for false claims of citizenship. That is why I did offer a separate amendment which was accepted, I think, in the manager's amendments, creating a new disincentive for falsely claiming U.S. citizenship, which will be a new ground of exclusion and of deportation. I think that will be very effective in reducing that obvious weakness. Because of the potential advantages of these three approaches to verification, I believe that the Attorney General should be required to conduct pilot projects on those.

Mr. President, the second part of the present amendment provides that if the Attorney General—and this is very important for employers—again, if the Attorney General determines that a pilot project adequately satisfies accuracy and other criteria such as those relating to privacy, precious privacy, discrimination and unauthorized use, two results can follow. First, the project's requirements will supersede any verification requirements under current law for participating employers. In addition, the Attorney General will be authorized to make the participation mandatory for some or all employers in the pilot project's area of coverage for the remaining period of its operation.

Here is what the intent of this portion of the amendment is. It is that no employer be subject to requirements of doing both the current law and the pilot project in which participation is mandatory. Of course, an employer can voluntarily participate in any project without any preliminary determination by the Attorney General, or anyone, that the criteria are adequately met. If there is no such determination, the requirements of both the project and the current law will be required, trying to assure there is not a double burdening upon the employer.

The third and final part of this amendment defines words "regional project." That was thoroughly discussed in committee and I believe referred to here yesterday and the day before. This amendment defines a "regional project" as a project conducted in an area which includes more than a single locality but which is smaller than an entire State. This definition is included because section 112 of the bill directs the President, acting through the Attorney General, to conduct several local or regional pilot projects.

The reason the amendment is so crafted is that some persons have expressed concern that the reference to "regional projects" could be interpreted to mean projects involving several States. Then this could create something close to a de facto nationwide system, especially if there were a number of multistate projects. Thus, the reason for the amendment. Yet, such a system would not have been the subject of a Presidential recommendation or report and subsequent enactment of the legislation as would be required in the bill before a pilot project can be implemented nationwide.

Let me say that again. Before any project, whether regional—and this defines regional—whether national, and this will take years to do, before the recommended pilot project—the "preferred alternative," I suppose, would be the phrase—in some future year would be presented to the Congress, and then

a second vote would take place with regard to which of the pilot projects would eventually come into the statutes of the United States.

That is the essence of the amendment. I look forward to the discussion of it.

AMENDMENTS NOS. 3853 AND 3843, EN BLOC

Mr. SIMPSON. Mr. President, I now send to the desk the amendment I have described. By previous unanimous consent, amendments 3753 and 3754 were combined to be considered as a single amendment.

The PRESIDING OFFICER. The amendments en bloc are before the Senate.

Mr. SIMPSON. Mr. President, I have no further comments with regard to the amendment, but I emphasize to our colleagues that we are going to proceed and try to accommodate each and every one of the Members who are involved in the amending process. We are certainly not going to cut off debate, but let all be aware we are going to finish this bill today in the morning hour or the darkening color of evening.

I must relate to the occupant of the chair that the Senator from Massachusetts handed me a tattered document from some calendar of some kind that says, "What State is home to more pronghorn antelope than people?" I believe the occupant of the chair and I know the answer. It is our native State of Wyoming.

But we also have a story we tell of the old cowboy out fixing his fence and doing a nice job. A tourist lady came by—I think Massachusetts plates—and she said, "I understand you have more cows than people out there. Why is that?" He looked at her with steady gaze, hooked his thumb in his belt, and he said, "We prefer 'em."

Mr. KENNEDY. On that note, Mr. President, let me just say a very brief word about the modification of the verification proposal.

The development of studies that would help and guide policy has been controversial over some period of time. The Senate now is on record in support of those pilot programs. I strongly support them. We will have maximum flexibility to see at the time when the report comes back to the Congress, what has been recommended or suggested along the guidelines that have been included in the bill and which I referenced yesterday.

This amendment effectively ensures mandates that those programs are actually going to go ahead. It was always our assumption they would go ahead. I believe this Justice Department is well on the road toward assuring they would go ahead. A number of us have been briefed on what progress has been made, and has been impressive in terms of the design of these programs. I think they offer some very, very important, hopeful indications that many of the abuses we have seen currently would be addressed with either these types of programs or those that are closely related to those programs.

Effectively, what this amendment does, as the Senator has pointed out, it defines the term "region" as an area within a State. This proposal limits the verification to local and regional pilots only. There was some question about what the region might be. We know about 80 percent of illegals are in seven States. Some are bunched into regions of the country. We wanted to make it very clear that we were not talking about regions of the country, but we are talking about an area within a State. That is an improvement, and I think it is a worthwhile statement to ensure that the purposes of this pilot program will be defined as an area within a State.

Second, it mandates the INS to conduct the three types of programs which are listed in the bill. These three had been selected after the consideration of a number of other suggestions. And, as I mentioned earlier, I think they are worthy of pursuing. We are making sure that they will be pursued. There is one pilot project where employers have to verify an employee's Social Security number over the phone; one which tests the effectiveness of the State identification card, and that includes a readable Social Security number; and one where employers have to verify employment eligibility, only for employees who are noncitizens. These three mandates of the INS cannot require employers to participate in a pilot program, unless the Attorney General certifies it is anticipated to meet the privacy and accuracy standards of the bill.

We have outlined in very careful detail the privacy provisions, and we are strongly committed to ensuring that privacy will be realized and achieved. We will work closely with the INS to make sure that that happens.

As has been pointed out in the course of the debate, we wanted to insist on accuracy. If you have just programs that are maybe 80 percent, or 85, or even 90 percent accurate, you are still 10, or 15, or 20 percent inaccurate, and you are still talking about tens of thousands of people who would be unfairly treated. And so that aspect of the pilot program—to insist on the accuracy standards which have been outlined—is 99 percent in this bill and is enormously important.

So I think questions had been raised after we had determined that the pilot program would be instituted in the Judiciary Committee, and from the Judiciary Committee to the floor, and even during the course of the debate, we have been asked to clarify these particular measures, and the Simpson amendment does that. These modifications make good sense. This amendment ensures that pilot projects can be no larger than an area within a State. It means that a pilot that covers an entire State would be too large. The amendment requires the INS to conduct the three projects, and these projects are listed as optional pilots in the bill. The amendment simply requires the INS to test these three projects. If any of these work, it will mark a major improvement in denying jobs to illegal immigrants.

Once again, this is where the focus ought to be on the issue of the job magnet, the fact that jobs are what bring people here to the United States illegally. As we know, those individuals who are the illegals basically are low-skill or no-skill workers, and they are the ones which add the least, obviously, to the economy and still are involved in displacing other Americans and driving wages down.

So if we are able to address the issues of the job magnet—and this legislation attempts to do that in a variety of ways, which have been spelled out earlier in the course of the debate, both from trying to address the issues of the fraud documents and trying to strengthen the Border Patrol, trying to develop these other kinds of proposals to limit the—and make it less likely that illegals will enter the job market, I think we are on the road to trying to take meaningful steps to deal with the problems of illegal immigrants coming to this country and still ensure the protections for American workers that may speak with a foreign language or may have a different appearance.

I do not know of any opposition to this amendment. Members have known about it for some period of time. Perhaps we will be willing to set this aside. We are personally contacting Members who have indicated an interest to find out whether they either want to address it or require a rollcall vote. It seems to me that we will pursue that. But we, again, hope that our other colleagues who have other amendments will come forward. I am sure when they do, we will set this aside. At some time later, I suppose, we will ask, when we stack the votes, that this be one that we stack.

If Members have differing views on this issue, we are here now to debate it. After a reasonable period of time, we will assume that those Members, unless they notify us, are willing to let us move forward and accept this amendment. We intend to do that in a reasonable period of time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3759 TO AMENDMENT NO. 3743

(Purpose: To suspend the requirements imposed on State and local governments if certain conditions prevail)

Mr. GRAHAM. Mr. President, I call up amendment 3759 which has been previously filed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] for himself and Mr. SIMPSON, proposes an amendment numbered 3759 to amendment No. 3743.

Mr. GRAHAM. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

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

The amendment is as follows:

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following new section:

SEC. . UNFUNDED FEDERAL INTERGOVERNMENTAL MANDATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the beginning of fiscal year 1997, and annually thereafter, the determinatons described in subsection (b) shall be made, if any such determination is affirmative, the requirements imposed on State and local governments under this Act relating to the affirmative determination shall be suspended.

(b) DETERMINATION DESCRIBED.—A determination described in this subsection means one of the following:

(1) A determination by the responsible Federal agency or the responsible State or local administering agency regarding whether the costs of administering a requirement imposed on State and local government under this Act exceeds the estimated net savings in benefit expenditures.

(2) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether Federal funding is insufficient to fully fund the costs imposed by a requirement imposed on State and local governments under this Act.

(3) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether application of the requirement on a State or local government would significantly delay or deny services to otherwise eligible individuals in a manner that would hinder the protection of life, safety, or public health.

Mr. GRAHAM. Mr. President, before I commence my remarks on this specific amendment I will provide some context. I strongly support the efforts that have been made and that are being made in this legislation to stem the tide of illegal alien entry and continued presence in the United States of America. Clearly, it is a national responsibility delegated singularly to the Federal Government under our U.S. Constitution to protect our borders and assure that in all areas, including immigration, that we live by the rule of law and not by the rule of the jungle.

What concerns me, from the State which has experienced the adverse effect of illegal aliens to a greater extent that any other State in the Nation has done so, and who feels so passionately about the national responsibility to enforce our laws and protect our borders, what concerns me is that in this legislation which is labeled, which has on its book jacket the phrase "illegal immigration," when you open the book, look at the individual chapters, there are significant provisions that do not relate to illegal immigration.

We dealt with one of those provisions earlier this week when we eliminated the provision in the original bill that would have essentially terminated immediately the Cuban Adjustment Act, an act from 1966 to today which only is available to people who are in this country with legal status. That is not the only example in a book which has in its title "illegal immigration." Its chapters have provisions relating to people who are in here, having followed the law, having followed the rules, paying taxes, doing all the things that we expect of law-abiding residents within the United States. Most particularly, Mr. President, those provisions that affect legal aliens come into play in the aspect of the eligibility of those legal aliens for a variety of programs which have some degree of Federal financial involvement.

I support, also, the principle that the sponsors of this legislation have articulated on repeated occasions that we should look first to the person who sponsored the alien into the country as being the financially responsible partner, for their needs to avoid the necessity of that individual becoming a public charge. That is a desirable and, frankly, too-long ignored principle. Our courts have ruled as recently as 2 years ago that the current affidavit of sponsorship is not legally enforceable. This legislation will hope to breathe the fire of enforceability into that affidavit.

My concern, Mr. President, is not only that we are dealing with legal aliens in a bill described as illegal immigration, and carries with it all of the momentum and all of the emotion and passion that that title brings, but also that we are placing the Federal Government in a position of being the deadbeat dad of immigration. And how is that? The Federal Government determines how many legal aliens can come into this country. The Federal Government determines under what conditions they can come and under what conditions they can stay. None of those decisions can be influenced by the local community, whether it is Dayton, OH, or Dade County, FL. None of those can be influenced by a State. They are totally national judgments, and we made several of those judgments in the past few days here on the Senate floor.

We are now saying that we are going to look primarily to the sponsor to pay the cost of that sponsored alien. But what happens if that sponsor is unable, unwilling, or cannot be found to carry on that responsibility? The way the structure of this bill is, you determine the financial condition of the sponsor, and since this bill says nobody can sponsor an alien unless they are at least 125 percent above the poverty level, and since for most of the programs of eligibility you have to have less than 125 percent in order to qualify—for instance, Medicaid—in most States, unless you are in a special category such as a pregnant woman or a child, you have to be substantially less than 100 percent of poverty in order to qualify. So, by definition, almost every one of these legal aliens with a sponsor's income is going to be rendered ineligible for needs-based programs in which the Federal Government is a participant.

But what happens when the reality is that the sponsor is unable or unwilling to meet the obligations of the sponsored legal alien? The most likely area in which that is going to occur is going to be health care. Most sponsors will be able to meet their obligations in terms of providing food, or shelter, or other basic necessities of life, but what happens when that alien is diagnosed as having cancer? What happens when that legal alien is seriously injured? That is when that sponsor, at 125 percent of the poverty level, is not going to realistically be able to meet those needs.

We have a Federal law that says that any American person—not just a citizen—any person can go to a hospital and get emergency treatment regardless of their financial condition. That is exactly what is going to happen with that legal alien with cancer, or a serious accident, or if they become pregnant and they cannot afford the cost of delivery. They are going to end up at a hospital with their medical condition and unable to pay and the sponsor being unable to pay.

Now the Federal Government has washed its hands of that responsibility. We are the "deadbeat dad" of obligations of legal aliens. But somebody is going to pay. That somebody is going to be the hospital or, more likely, the local community and the State and their taxpayers in which that hospital is located.

So the issue is not should the sponsor be responsible. Yes, the sponsor should be responsible, and we are helping to make that more likely. But the question is, what happens when the sponsor, for a variety of reasons, is not there when the bill comes due? The fact is, what is going to happen is that there will be a new unfunded mandate imposed upon the communities in which the legal alien lives.

We also have some unfunded mandates, Mr. President, that you spoke to eloquently yesterday relative to new responsibilities on businesses. We are not willing to pick up all of the cost that it is going to take to implement many of these programs, including the verification programs. So we have said, in addition to asking local governments and States to have to pick up additional costs, we are going to shift some of these costs off to the private sector and let them pay for it. I do not think this is a fair allocation of what is

a constitutional Federal responsibility for our immigration laws.

So, Mr. President, as I begin my comments on this specific amendment, I want to make it clear: I think we ought to have the strongest laws and commitment to enforce those laws against illegal immigration that are available to us. I think that it is appropriate to ask sponsors to be primarily responsible for legal aliens. I do not think we ought to be doing it in this bill. As a matter of policy, it is a desirable objective, but I do not think that we ought to be setting up a circumstance in which the Federal Government essentially shirks its financial obligation and adds that obligation to the communities in which legal aliens are living and to the business sector which is now going to carry new responsibilities for verification.

Mr. President, the first priority of the Senate during this 104th Congress was S. 1, the very first bill filed at the desk, S. 1, and the title of that was the unfunded mandate reform bill of 1995. It was also included as a top priority in the House of Representatives, and it passed both bodies in the first 100 days of the 104th Congress. At the time we considered that legislation, the majority leader of the Senate said, and I quote:

> Mr. President, the time has come for a little legislative truth-in-advertising. Before Members of Congress vote for a piece of legislation, they need to know how it would impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for them.

I strongly concur in the statement of our majority leader.

What does that statement now have to say about the legislation that is before us this morning? The Congressional Budget Office, in the limited time available to it to review the legislation's broad, sweeping impact on State and local governments, has determined that this bill, S. 1664, does in fact violate the $50 million threshold for tripping into effect the unfunded mandate procedure. That $50 million is found just in two areas: the requirements governing increased expenses for birth certificates, and driver's licenses. Although the bill would impact literally hundreds of programs run by State and local governments, just these two—birth certificates and driver's licenses—would have an unfunded mandate on State and local governments in excess of $50 million.

With respect to all of the encompassing requirements imposed under this legislation, the Congressional Budget Office states:

> Given the scope and complexity of the affected programs, however, the Congressional Budget Office has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the Federal Government.

Let me repeat. "These costs could be significant."

Mr. President, S. 1664 fails the majority leader's truth-in-advertising test. We are prepared to vote on a bill that we truly have not the foggiest idea what its impact will be on State and local governments. We certainly are extremely concerned and strongly supportive of raising the issue of unfunded mandates.

As a result, I have offered the amendment which is currently before the Senate that would waive the imposed and mandated bureaucratic requirements if the Federal, State, or local administering agency makes one of these three determinations: a determination that the cost of imposing the requirement exceeds the benefit; second, that Federal funding is not sufficient to cover the cost of the imposed requirement; or, third, that the application of the requirement would delay or deny services to the otherwise eligible legal immigrant in a manner that threatens life, safety, or public health.

Mr. President, I have a letter dated April 24 from the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities. This letter strongly supports the pending amendment. In it, these three organizations write:

> This assures that new deeming mandates are cost effective and not unfunded mandates. This is a critical test of your commitment to preventing cost shifts to, and unfunded administrative burdens on, State and local governments.

The U.S. Conference of Mayors also supports this amendment. In short, this bill, once again, creates a large unfunded mandate on State and local governments. Once again, I repeat the quote from the Congressional Budget Office:

> Given the scope and complexity of the affected programs, CBO was not able to estimate either the likelihood or the magnitude of such costs at this time. These costs could be significant.

Mr. President, the only study as to what these costs may be comes from the National Conference of State Legislatures. These are our colleagues, fellow legislators in State capitals across the land. Many of us had the privilege, at a previous time, to have served in a State legislature. We know the difficult choices that they must make in terms of balancing limited resources at the State level, because they do not have the option, as we do, to deficit finance their programs. So they are very concerned about unfunded mandates that distort priorities.

The CBO had a limited time, as did the National Conference of State Legislatures, to do its study. But the NCSL developed a report on 10 affected programs. This study, incidentally, did not include Medicaid and did not include 40 other Federal means-tested programs which will be covered by this legislation. But what did it find in the 10 programs that were studied? After contacting more than 10 States of varying sizes, the study concludes that:

> Regardless of the size of the immigrant population, all States and localities will have to implement these unfunded mandates.

In other words, this bill impacts Sioux City, IA, and Billings, MT, just as it does Los Angeles, CA, or Miami, FL. This bill requires all Federal, State, and local means-tested programs to have a new citizenship verification bureaucracy imposed upon them—even those areas which have very few aliens. As a result, what are the estimated costs being imposed on State and local governments, even for just the 10 programs that the NCSL has studied? According to the study, "The cost of these requirements for 10 selected programs would result in a $744-million unfunded mandate." A $744-million unfunded mandate.

Mr. President, let me repeat that the NCSL study indicates that the unfunded mandate cost of 10 programs will be $744 million. Once the other multitude of programs are analyzed, the cost on State and local governments could far exceed a billion dollars. It could be several billion dollars. Nobody has the foggiest idea.

However, there are no provisions in the pending legislation to reimburse State and local governments for the administrative costs and the cost shifts that will be imposed upon them. As the majority leader said, again, in debating the unfunded mandate bill:

> We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of Kansas, or the State of South Dakota, or any State, that we are going to pass this Federal law, and we are going to require that you do certain things, but we are not going to send you any money? So you raise taxes in the local communities or in the State. You tax the people, and when they complain about it, say, "Well, we cannot help it because the Federal Government passed this mandate." So we are going to continue our drive to return power to our States and our people through the 104th Congress.

Those words were a ringing declaration of purpose in January 1995, which I think we should now recall in May 1996. All programs in all places, regardless of whether the new bureaucratic costs exceed the benefit, regardless of whether it imposes a very large unfunded mandate on State and local government, are impacted by this bill.

Some examples: Foster grandparents in Bismarck, ND, or a van to check the blood pressure of poor, pregnant mothers in Topeka, KS, using alternative child care health funding. These are examples of programs that have Federal funding that would now be subject to the verification requirements of this legislation. The local jurisdictions with few if any aliens would have to verify immigration status and sponsorship information, regardless of that fact.

My amendment would allow the State or local administrative agency, or the Federal agency, to certify and waive out of the bill's requirement in such a case where the cost of implementation clearly exceeds the savings that are contemplated. This amendment recognizes that one-size-fits-all policies do not work and are not cost

effective—a recognition of a basic tenet of this country's federalism.

This amendment would also recognize that this may be virtually no savings—something that the Congressional Budget Office has verified in its scoring of the bill's savings in certain programs. For example, the maternal child health block grant funding is often used to augment services provided by the public health department for preventive health care services aimed at pregnant women. However, since the maternal child care program is capped—that is, there is a maximum expenditure—there would be no Federal savings by imposing any additional administrative requirements. Again, CBO estimates no cost savings by imposing deeming in the maternal child care program. But administrative costs would certainly increase substantially for public health units across America.

In such a case, despite the fact that the Federal funding to the public health department would account for as little as 1 percent of total funding, all of this new bureaucracy would be imposed. The added cost of administering deeming, for example, in such a program could exceed all of the Federal funding that goes into the program. This is neither prudent nor something which I believe our colleagues would think is sufficient government.

Moreover, this amendment is entirely consistent with statutory language, which provided that the implementation of the system of alien verification—the SAVE Program—was administered. Under the SAVE Program, States could be waived from the program upon a determination that implementing SAVE would cost more money than the savings that would flow from such implementation. So we already have, in the immigration law itself, an example of recognizing a cost-benefit relationship, and that cost-benefit relationship will differ from one community to another.

In addition, the amendment would allow the appropriate Federal, State, or local agency to suspend the application of the bill's administrative requirements upon the determination that the application requirement would significantly delay or deny services to otherwise eligible individuals in a manner that would hinder the protection of life, safety, or public health.

For example, the determination could be made that the alien sponsor's deeming requirement should not be applied on a temporary basis with respect to short-term disaster relief, because it could delay essential aid to citizens and aliens alike who are disaster victims. In the case of a major natural disaster, which could occur with little or no prior warning, a person's home can be destroyed in short notice. One's lost possessions could include proof of immigration, citizenship status, or financial information.

Without this amendment, emergency food or housing vouchers could not be provided to a disaster victim until the alien's citizenship status and sponsorship information has been verified, which can take weeks. It would also relieve an undue administrative burden on disaster relief agencies that would presently have to verify immigration status and sponsorship information during the course of dealing with the disaster in its aftermath. The ultimate victims of such administrative burdens would be the disaster victims themselves, who would have to wait longer to receive services.

Mr. President, we passed the unfunded mandate bill as our first priority. The National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors have said, "This is a critical test of our commitment to the unfunded mandate law we passed."

To be against this amendment would be to argue that we should impose costs that exceed the benefit, to impose unfunded mandates on State and local governments and to deny or delay services even if they threaten life, safety, and public health. I cannot believe that anyone in this Chamber believes that those would be wise or prudent courses of public policy.

I urge the adoption of this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, this is like a symphony. We are returning once again to the central theme: This is about deeming, and it is about the sponsor paying what the sponsor promised to pay.

I hear every one of those remarkable and compassionate examples that the Senator from Florida portrays. I know him well. He believes deeply in this. He is a caring person, and he obviously is receiving a great deal of information from his State and from those who administer health care in his State. I understand that. I understand it all.

However, I understand something even more clearly, and that is this. We are talking about legal immigrants, and a legal immigrant cannot come to this country, cannot get in until the sponsor has promised and given an affidavit of support that the person coming in will not become a public charge and that whatever assets the sponsor has or income that the sponsor has are deemed to be the assets of the legal immigrant.

Too bad we have come to the word "deem." The word "deem" seems to confuse people, but I think with the votes we have had the last few days, or 2 or 3 days on this same issue, they are not confused.

Deeming means that if your sponsor has money, his money is considered your money when you go down to get relief from the taxpayers. I do not know how that seems to escape the debate. When you walk up to get money from the Federal Treasury, from the rest of us, why should the rest of us cough up the money when the sponsor has not done it yet, or has not run out of money himself or herself?

That is the issue. There is no other issue.

Now, what if the sponsor is in trouble? What if the sponsor cannot cut the mustard? What if the sponsor says: I did agree to bring this person to the United States and I did agree that they would not become a public charge, and I did agree to sign an affidavit of sponsorship, and I promised to do that, but I cannot do it. I have had a bankruptcy. I have lost my job. I cannot do it.

And what happens then? That is it. The sponsor is off the hook, and the taxpayers pick up the load. Nobody is saying that these people wander around in the streets; that they do not make it; that they are not going to make it. All we are saying is whatever the program, if the sponsor has the assets and the income stream and can afford to pay, that sponsor will pay before the taxpayers of the United States pay anything, regardless of what it may be, with the exception of what was in the managers' amendment, which was in the committee amendment, which was about soup kitchens—that is in there. We do provide that—and there were several other items, and Senator KENNEDY will recall what those are.

If this is one that I guess our colleagues do not understand, then I think we have failed in the debate, and people may vote it certainly either way. But I urge my colleagues to defeat this amendment. It is one more amendment on deeming. The amendment would allow State welfare agencies to avoid the requirement to deem if the State agency itself—now listen to that—it is the State agency itself determining that, one, the administrative costs would exceed the net savings or, two, that Federal funds are insufficient to fund the administrative costs, or, three, that deeming would "significantly delay or deny services in a manner that would hinder the protection of life, safety, or public health."

The enactment of the bill itself would create a congressional requirement for deeming, for Federal and all federally funded programs, and that requirement is based on the basic belief that after immigrants are admitted to the United States they should be self-sufficient. It is based on the belief that when immigrants need assistance, such assistance should be provided, first, by the immigrant's sponsor who made the initial promise, and if they have not made the initial promise, these people would not have been admitted to the United States. That was the sponsor's promise. That was a condition of the immigrant's admission to our country, a very generous country. And I do not feel it should be up to a State welfare agency or even a Federal welfare agency to decide that such deeming should not be required.

Let us face the real basic fact. You have some agencies in some States and,

boy, they have a tremendous drain—I am sure Florida is one—created by a legal and illegal immigrant population, created by parolees, created by Cubans and Haitians. I understand that. I do understand that. And that is why we provide and always have provided in this work for extra money, extra money always for Florida, California—I remember that in the original bills. I remember that. But let us face the facts. Those agencies, for the best of motives, are far more interested in spending money than in saving it.

Mr. President, if the Congress decides that deeming is not appropriate for particular programs or particular classes of immigrants, I think then and only then the deeming should not be required, but it should not be done by State fiat.

Let me just say a few words about the issue of administrative costs. The Senator from Florida mentions the administrative costs to the States of the deeming requirements. I remind my colleagues the deeming requirements only apply to programs that under current law are means tested.

The effect of deeming is that when an immigrant applies, as I say, for assistance, he or she must report to the provider not only his or her income and assets but also that of the sponsor. That just adds another line or two to the application form. So to be told that this is a terrible administrative burden, here is how I foresee it. You fill out the form, and it says on there your assets and your income. You fill it out, and you add two new lines: Do you have a sponsor in the United States of America? If the answer is yes, you say, what are the assets of your sponsor in dollars? And you enter it. And the second line: What is the income of the sponsor? And you enter that.

That does not seem to me to be a great administrative burden. But, how deeming is enforced, and I hear that argument, how agencies determine whether applicants are telling the truth, of course is another matter, as we all know.

I assume various agencies will have different enforcement policies, as they do today. Some may require verification of income levels from every applicant. Some may adopt an audit-type approach similar to that of the IRS. I do not understand why the bill would lead to any change in that situation. Enforcement policy would be determined by the agency involved. It appears likely to be similar to current practices. If an applicant's own income must be verified, and I assure my colleague that is always the case, then the income of the applicant's sponsor also is likely to be verified also. That is the extra administrative burden, and the purpose of it is to find out what they have, and if they have it you make them pay it before the rest of us pick up the tab for people who promised to pay for them when they came here or they could not have come here unless they made the promise.

I do not know—and I respect greatly my friend from Florida, and certainly consistency and persistency are his forte—but I just think the American public has a lot of difficulty wondering why the general taxpayers have to pick up the tab for anything on someone who came here on the sole promise that their sponsor would take care of everything and that they would not become a "public charge." Now, under the present bill, if they become a public charge for 12 months out of the 5-year period they can be subject to deportation, with certain clearly expressed exclusions.

I regret being in a position where one would have to be portrayed as, "Why are you doing this?" We are doing it only because I think Americans understand something about taking care of others. Our budget this year is $1,506,000,000,000 so we must be taking care of someone in the United States of America; $1,506,000,000,000. Food stamps, cash, noncash, I vote for those things and will continue to do so. But I do not know why I should do it if someone agreed to pay it before I had to pay it. I guess I have enough regard for my own promises, that if I promise to bring people to the United States and pay for them and they went down to get some kind of means-tested assistance or welfare, I would be embarrassed that I could not cough up the money to do it because they are probably relatives of mine and I promised they would not become a burden on the taxpayers. I would keep that promise. I have done that with relatives of mine. I do not know why that should be the responsibility of others. And that is where we are and that is what deeming is and there is a reason for it.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think the Senator from Florida is really putting his finger on a different issue, and it is a very real issue for anyone who considers, in this instance, large public hospitals. I think all of us understand the real crisis public hospitals have in serving the needy in all of our great communities and cities.

As I understand the point of the Senator from Florida, if someone is a legal immigrant and has a sponsor and arrives at the Boston City Hospital, that person is going to be treated right away. As the Senator pointed out, we are required to treat him, but it is the hospital policy, in any event, to treat that individual. So they get treated right away. Their emergency is attended to. Now the hospital goes about saying, "How are we going to recover the payments for it?" It goes to the individual. That person happens to be needy, happens to be poor, and happens to be a legal immigrant.

The point, No. 1, Mr. President, is that the foreign-born immigrants in the United States represent 6 percent of the population and only 8 percent of the utilization in the Medicaid Program. We do not find the abuses in the Medicaid Program. We do in the SSI, which has been addressed in this with effective measures over the period of the next 10 years. But this program we are talking about is not more heavily used by legal immigrants than it is by American citizens. We have to understand that.

We are not going to take the time of the Senate to demonstrate how legal immigrants pay in billions of dollars more than they ever benefit from in terms of taxes, which they are glad and willing to do.

We are talking about that individual who has fallen on hard times and has some kind of unforeseen accident. All right, that person goes in and they are attended to. Then the hospital has to set up some process and procedure—which is going to cost them something, which is not going to be reimbursed by this bill—to go on out and find out who that sponsor is. That sponsor may be in a different part of the country. He or she may be glad to participate and pay for those medical bills.

But, on the other hand, that sponsor may have died, may be bankrupt, may be in another part of the country and refuses to respond. Our concerns are what is going to happen to that city hospital? What is going to happen to that city hospital when that city hospital does not get paid by the individual, does not get paid by the sponsor, and has to go to court? Who is paying the court fees to try to get the money?

I am sure the Senator from Wyoming would assume the responsibility that they have assigned. But suppose that individual is in some financial difficulty. That would have been very easy, in my part of the country, during the 1980's, when we were having a serious, serious recession. That person comes in and the hospital cannot recover. So, what do they do? They serve primarily the poorest of the poor, the uninsured. Even though there is not overutilization of the Medicaid Program, there are many hospitals like the public hospitals, like a good hospital that serves—particularly city hospital, in Cambridge, that serves about half our foreign born—that would have very substantial additional costs.

Over the 6-year period, the Boston City Hospital estimates that the additional costs will be $26 to $28 million. We cannot say that to an absolute certainty. But looking over their lists, and at a quick review, they estimate that is the additional cost to the Boston City Hospital. And there is not going to be any additional help and assistance for Boston City Hospital.

Senators can say we do not want the taxpayers to pay. They are going to end up paying in that local community, the taxpayers are going to end up paying. All we are saying is, unless we are going to provide at least some recognition of this problem, if that is going to be the case then do not jam it

to the health institutions that are providing for the neediest people in our society. That is, effectively, an unfunded mandate, as far as I can see. It might not fall within the particular scope of the legislation that was passed. I understand that. And perhaps technically it does not. But the idea that we around here some months ago were saying that at least the Federal Government is not going to do something to States and local communities, or in this instance the city of Boston and the Boston City Hospital—"We are not going to give you something that you cannot afford to pay for"—is not so, with regard to this particular provision.

You can ask any administrator at any public hospital in this country. They have an interest in trying to, No. 1, provide health services. But, also, to be able to provide them, they are going to have at least some kind of financial assurance they are going to be able to do it.

They are going to end up either trying to pass the costs on to others who have insurance, and most of them in the inner cities—many of the clinics in rural areas just are not going to do it. We are going to see a deterioration in the quality of health care. People ought to understand it. That is what is going to happen. We can say it is not going to happen, that that hospital in Boston is just going to pick up that piece of paper and say, "Oh, it is John Doe, he has $25,000 in a safety deposit box and he just cannot wait to pay that hospital." That is unreal.

We are talking about the real world in many of these urban areas, whether it is in Florida or the hospitals in Los Angeles or Boston City Hospital, Chicago, San Francisco—any of them. They are in crisis, in any event. Given the additional kinds of responsibilities that they have had to treat people who have preexisting conditions, or who are the subject of violence and battering, which has grown and exploded, or substance abuse in those communities, or HIV infections—all of these problems fall on the inner-city hospitals. That is the reality of it.

To think these overtaxed medical professionals are going to be able to run through this gamut to find that person who is deeming and bring court cases and recover those funds, good for them when they can do it. But the purpose of this is to recognize you are still going to insist these hospitals are going to end up holding the bag, and that is unfair.

As I understand the amendment, it says if that is the case, after they made every effort to try and recover and that is the case, that this is going to be at least suspended until we address that particular issue. It seems to me that happens to be fair.

Finally, as I mentioned earlier, Mr. President, if this looks like a duck and this quacks like a duck, it is a duck. This is a requirement on State and local communities and local institutions to take actions for which we are not providing the resources. There is not a nickel in here to either try to help the State of Massachusetts or Suffolk County or the public hospitals in Boston to help relieve them when we are tightening the belt.

I think the point is well taken on this issue. I think we should recognize that and support the amendment of the Senator from Florida.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, just a query. What is the plan here? Is it to stack votes? What is the arrangement going to be?

Mr. SIMPSON. Mr. President, I have not visited with our majority leader, but the plan is to conclude the debate on the pending amendments. So I am ready to set aside the pending amendment and go immediately to the amendment of the Senator from Rhode Island, if that is appropriate.

I believe there is one other amendment to be offered by Senator DEWINE. There is a Senator Chafee amendment. There is the Graham amendment. The Simpson-Kennedy amendment is pending. We would like to complete the debate.

So, if the Senator from Rhode Island would like to offer his amendment at this time—we can set aside and continue debate later on the Graham amendment with no time agreement. We will try to get a time agreement on these various measures. If the Senator wishes to enter into a time agreement, I would enjoy that opportunity.

Mr. CHAFEE. Mr. President, I am willing to enter a time agreement of 20 minutes equally divided, with the understanding that if I do need a couple more minutes, the Senator will be good enough to let me have that. I will sure appreciate it.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senator from Rhode Island offer an amendment with a time agreement of 20 minutes equally divided, and if the Senator should require more time, I will yield sufficient time from what little time I have left. What is the status with regard to my time, Mr. President?

The PRESIDING OFFICER. The Chair will answer the question of the Senator from Wyoming. He has 34 minutes remaining.

Mr. CHAFEE. Under the system of the stacking, will there be the usual system of when we do vote, we will have a minute to each side to explain?

Mr. SIMPSON. Mr. President, when we eventually enter that unanimous-consent request, indeed there will be the usual provision and assurance that there will be 2 minutes equally divided.

The PRESIDING OFFICER. That has already been ordered. The Senator has asked unanimous consent for 20 minutes equally divided. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that Senator GRAHAM's amendment be temporarily set aside.

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

The Chair recognizes the Senator from Rhode Island.

AMENDMENT NO. 3840

(Purpose: To provide that the emergency benefits available to illegal immigrants also are made available to legal immigrants as exceptions to the deeming requirements)

Mr. CHAFEE. Mr. President, I have a very simple amendment. Some will say we have been over this ground before. I do not think that is quite accurate in that this is far narrower—

The PRESIDING OFFICER. Is the Senator from Rhode Island calling up his amendment?

Mr. CHAFEE. Amendment No. 3840, and I ask unanimous consent that Senator MACK be added as a cosponsor.

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

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. MACK, proposes an amendment numbered 3840.

On page 201, line 4, strike "(vii)".

Mr. CHAFEE. Mr. President, as I say, this is an amendment that is far narrower than any other amendment that has been brought up in connection with this matter that we have been discussing.

I hope that the floor managers of this legislation will accept this amendment. What it does is it says in those areas where illegal aliens—illegal—who have come in unauthorized into the country are entitled to certain benefits in four categories—emergency Medicaid, prenatal and postpartum Medicaid services, short-term emergency disaster relief, and public health assistance for immunizations, all of these are emergency health matters—all of these are granted to illegal aliens, and I am saying they ought to be granted to legal aliens.

If we let those who have come into the country illegally have these services, then certainly they ought to be available for legal aliens who properly came in under all the right procedures.

There will be considerable discussion, I suspect, about deeming, about saying, "Well, their sponsors ought to pay for these things."

First of all, in a straight matter of equity, if you are illegal, you get them for free or you are able to qualify under whatever the qualifications are under these programs, and it seems to me if you are legal, you should be entitled to the same thing.

You do have situations where a legal immigrant is reluctant to go to his or her sponsor for support in certain matters. We have determined by the fact we are granting these privileges to illegal aliens, we are doing it not because we have great big good hearts, but because we think it is good for the country. We think it is good that illegal

aliens get immunization shots, and certainly if that is true, for the benefit of the Nation, for the benefit of the public health, then the same ought to apply to legal aliens.

So there it is, Mr. President. It is strictly an equity matter, if you will. It is strictly a public health matter, likewise. We think it is worthwhile for illegal aliens to get proper prenatal care, and if we think that is true for illegal aliens, certainly it ought to be true for legal aliens.

This is not a budget buster. This is not going to drive the national debt through the sky. These are very narrow, very limited matters, far more limited than any of those that have been brought up in past amendments.

This is not replaying an old record. This is a very, very defined group of benefits, and I hope that the floor managers will accept it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, there is no one more sincere in his beliefs than my friend from Rhode Island. He is a man of great integrity and courage, and I admire his strength as he does his work. He is good at it.

This is another one of those amendments—this is my view of it, which I get to express—this is exactly what this is, another form of this amendment, of what we have done before in six previous votes and will do again.

We are considering an amendment which would have the effect of shifting cost from the persons who sponsor immigrants, usually their relatives. We are shifting that to the American taxpayers.

This argument of how could we possibly do this for illegal aliens and not do it for legal aliens who are paying and doing their share is a great argument. The reason we allow illegal aliens to receive certain benefits, if the alien is needy, is because most Americans are like Senator JOHN CHAFEE of Rhode Island or Senator AL SIMPSON of Wyoming. The issue is, they should have that basic support system if they are needy.

I have voted for that consistently. There were some in the House of Representatives who did not want to consistently stay with that support level. I have never been of that category. Most Americans, almost all Americans, would agree that that is a wonderful thing to do for illegal aliens who are here and who are needy.

The immigrants, the legal immigrants, can also receive all of those benefits, too, if they are needy. I hope you hear this. I think I will never make it through any more of it. If a legal immigrant is needy, they will get everything in the left-hand column. I hope you hear that.

But if they have a legal sponsor who said that he or she was bringing these people here only on the condition that they would not become a public charge, then when that legal immigrant goes in to get a means-tested program, cash or noncash, they say, "Are you needy?" and he says, "I am." They say, "Do you have a sponsor?" "I do." "Does your sponsor have any money?" "Yes." "How much? List it." If that sponsor has funds, that sponsor will pay the bill and not the rest of us.

It is then a confusion, I guess, for people. It is deemed that the sponsor's income and assets are the assets and income of the legal immigrant. So when they go to get those benefits, they are not going to get them if the sponsor has money. If the sponsor does not have money—and I want this very clearly heard, because the Senator from Massachusetts is saying, what will happen, what will happen if the sponsor does not have the money, cannot meet the obligation?

Ladies and gentlemen, it is very clear what will happen if the sponsor cannot cut the mustard and something has happened to the sponsor, the sponsor is sick or ill or bankrupt or whatever, then the sponsor is off the hook. That is listed in this bill; a determination that, if the sponsor cannot meet the obligation that they assumed in the promise, once that determination is made, then the U.S. taxpayers will pick that up.

That is the purpose of our effort. The issue is just as simple as it always was: Sponsor or taxpayer; take your choice.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. There are two points I would like to make.

First, Mr. President, why in the world do we provide these benefits for illegal aliens if we do not think they are important for the national health and benefit of the Nation? I mean, we have decided as a nation that it is important that any woman have proper prenatal care because we want that baby that is born to be healthy, healthy when born, healthy throughout its life.

So we do not argue, we do not say, "You're here illegally. Go back to where you came from." We say, "You're here illegally, and we're going to see that you get proper prenatal care. We're going to see you are immunized." That is one of the provisions we have made here.

So, if it is that important that we are going to pay for that person, then it seems to me likewise for the person who is here legally—without going through a lot of song and dance about the sponsorship or deeming or tracing that person down, making sure that sponsor pays for it—get it over with, give them the immunization.

I say, Mr. President, that this is not something new I am bringing up here. In two of these categories, as you note on this sheet here, that the managers of the legislation in committee or on the floor, or someplace, have agreed to, is the fact that the legal alien should indeed get two of these benefits.

What are they? Nutrition programs. We say the illegal alien is entitled to the nutrition programs. And we say the legal alien is likewise entitled. You do not have to go to your sponsor or get involved with this deeming business. You just get it. Nutrition programs. If a nutrition program is important, it seems to me an immunization program is just as important.

So, Mr. President, to me this is not any budget buster. This is very narrow. This is not your entitlement for all of Medicaid. It is very, very limited. I hope, Mr. President, that the managers of the bill will accept the amendment. I want to thank the Chair.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, I will make a statement. But first, I inquire from the managers if we are making any progress on this legislation.

Mr. SIMPSON. Mr. President, after serving as this leader's assistant for some 10 years, I do know that he does desire to move things along rather adroitly. We are ready to do that.

Let me share with my respected leader where we are. No one has come over to debate on the Simpson-Kennedy amendment, so I think we are ready to proceed with that. I think we are nearly concluded with regard to the Graham amendment—I think maybe another 5 minutes or so. The DeWine amendment is an amendment about coerced abortion in China. I think it is out of order. Respectfully I say that. A point will lie toward that. I do not know if the Senator will be coming to address that. I think he will.

Then we have the Chafee amendment under a time agreement which is nearly expired. That is it. So I am sure that that is cheerful news for the leader. There is a point of order, too, I share with Senator DOLE.

Mr. DOLE. I think a point of order by Senator GRAHAM. So do the managers anticipate when we might be voting on some of these amendments? I know we have a conflict this afternoon. I know from 2 to 3 there is a ceremony honoring the Reverend Billy Graham. Then I think at 4:30—unless that is going to change.

Mr. CHAFEE. At 3:45 we go down.

Mr. DOLE. At 3:45, a number of our Members need to go to the White House. I guess my point is whether we can have all those votes between 3 and 3:45. There will be an effort to move that White House meeting to a later time, because I assume the managers would like to finish this bill, too, so we would not have to come back at 6 o'clock after the White House meeting and have votes to 7, 8, 9 o'clock. We are just trying to be helpful to the managers. I know you have done an outstanding job, and it has taken a great deal of time to move action on the bill.

Mr. SIMPSON. Mr. President, I thank the leader.

I think that would be an appropriate scenario. I hope that might be part of

a unanimous-consent request, with that time set, with a 15-minute first rollcall vote, and 10-minute votes thereafter. There will be four votes and a point of order, with a 1-minute explanation on each side of the three following votes, not the first one. We would be ready, I think, to propose that.

Mr. DOLE. Let me have drafted a consent agreement. I will show it to both Senator KENNEDY and Senator SIMPSON. Perhaps if we could somehow arrange to move the White House meeting 45 minutes, we could do all the votes between 3 and 4:30 and then move on to the next item of business.

Mr. CHAFEE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DOLE. We are prepared to accept that.

Mr. CHAFEE. I am prepared to yield back the remainder of my time on this.

Mr. SIMPSON. I will just take another 2 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that we proceed to the Chafee amendment.

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

The pending business is the Chafee amendment.

Mr. SIMPSON. Mr. President, in this rather unique 2 minutes, I want to go back to the chart of Senator CHAFEE, if I may. I have been given this stick. I want to tell you in 2 minutes that these people here, under the category "legal immigrant," "no, no, no," that these people are taken care of. They receive emergency Medicaid, they receive prenatal postpartum Medicaid services, they receive short-term emergency disaster relief, public health assistance, and the sponsor is paying for them—not the taxpayer. These people are not deprived.

When we say how can they be receiving something that the illegal is receiving, they are receiving it, but we are not paying for it because the sponsor that agreed to bring them here and pay for them to not become a public charge is paying for them. The reason we do this for illegal immigrants is because we are a very generous nation. I have voted for all of that. I am not generous to somebody who brings someone here and says they will pay the whole tab and they do not.

Mr. CHAFEE. Mr. President, I ask unanimous consent for an additional minute.

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

Mr. CHAFEE. Mr. President, I want to stress once again that these are all emergency or health-oriented measures. Emergency Medicaid, prenatal Medicaid services, short-term disaster relief, nutrition programs, immunization. We do not want these legal aliens hesitating to apply for those because they are reluctant to go to their sponsor, because they are a long distance from their sponsor, because their problems might involve with just going to their sponsor to start with. We want them immunized. We want them to have prenatal care.

We will not spend a lot of time asking a lot of questions. We have decided as a nation, not just out of generosity, but for the rest of us who are here, that we want illegal aliens, immigrants, immunized so that we will not have a whole series of infectious diseases passed around. Certainly we ought to have the same requirement or hope that the same thing will apply to the legal aliens.

Mr. President, that is the argument. On the basis of fairness and the basis of public health protection, I hope we support the amendment.

Mr. SIMPSON. Mr. President, I think at this point we will say debate on this amendment is concluded and it will be voted on in accordance with the unanimous-consent request which will be propounded shortly. I thank the Senator from Rhode Island very much.

Mr. CHAFEE. May I ask the Chair, is now the time to ask for the yeas and nays?

Mr. SIMPSON. Perfectly appropriate. You require one person from the other party, if I am not mistaken.

The PRESIDING OFFICER. The Senator from Wyoming is correct.

Mr. SIMPSON. We do now have a Senator from the other side.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3759

Mr. SIMPSON. Mr. President, I direct my comments now to the amendment of Senator GRAHAM. I conclude in my remarks, I do not believe that the Federal Government is going to be a deadbeat dad in this situation. In fact, I am reminded of the old road sign, the picture of the very dapper-looking Uncle Sam that says, "He's your uncle, not your dad."

We are a very generous nation. Medicaid has been picked to bits by the States. Medicare has been picked to bits and will go bankrupt in the year—originally we were told 2002; now we are told it will be 2001; now the other day it will be 2000. We can talk about this all day and there will not be enough to do anything unless we deal with the entitlements programs. You will not want me to give that pitch again—deal with Social Security, deal with Medicare, Medicaid, Federal retirement. Nothing will get done. We can pick through these piles forever.

Then, of course, remember how this is happening. You are talking about legal immigrants. I did not see much activity on this floor to do much about legal immigrants. There will be a million of them next year and they will all be fitting right here, and nobody, at least the vast majority, decided to do nothing with the flow of legal immigrants.

I hope that those colleagues who have already voted to keep legal immigration at its historically highest levels in the history of our country at least will know what is happening when we find the resources of this country, where they are and where they go, for legal immigration. But remember this: If the sponsor is unable to provide the support, loses his job, dies, whatever, the Federal Government will pay. The Federal Government is here to support those people—and it should.

I encourage my colleagues to read the bill. We provide an exception for indigent immigrants whose sponsors cannot be located. We have it in there. If you cannot find their address, cannot hunt them down, or if they refuse to pay, the Graham amendment—let us be clear what the amendment does—allows the States to exempt themselves from the new welfare restrictions and forces the U.S. taxpayers to pick up the tab.

I want to be perfectly clear here. CBO says that this bill, as modified by the Simpson-Dole amendment, does not have any unfunded mandates. There are no unfunded mandates in the Simpson amendment, which is the bill. There were unfunded mandates in the original legislation which underlies. So when the point of order comes, it will look strange to you because it will say that there was an unfunded mandate—and there was—but it is corrected when we get to the final product. We have already removed the unfunded mandate portion of those provisions. I think that should be made quite clear.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that any votes ordered with respect to S. 1664 occur beginning at 2:40 p.m. today, with the first vote being 15 minutes in length and any stacked votes in sequence be limited to 10 minutes, with 2 minutes for debate, to be equally divided, between each vote.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I further ask that any votes remaining to be disposed of at 3:45 p.m. today be further postponed, to begin at 5:30 p.m. in the order in which they were debated and under the same time restraints as mentioned above.

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

Mr. SIMPSON. I thank my colleagues. That will enable us to have final passage of this bill soon after the last amendment is presented. The gap there is because the Senators Chafee-Breaux bipartisan budget group will be at the White House. We thank them for that accommodation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3853 AND 3854, EN BLOC

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Simpson amendment, earlier presented today, be the order of business.

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

Mr. SIMPSON. Mr. President, I have cleared these amendments with our side of the aisle. Senator KENNEDY has cleared them with his side of the aisle. I urge adoption of the amendments, en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

The amendments (No. 3853 and 3854) were agreed to, en bloc.

Mr. SIMPSON. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3759

Mr. GRAHAM. Madam President, I see my friend and colleague, the Senator from Ohio, is on the floor, I assume, for purposes of offering his amendment. Before he commences I would like to take a few moments to comment on some statements that have been made about the amendment which I offered earlier and which will be the first amendment that will be voted on at 2:40 this afternoon. This amendment is about unfunded mandates.

It is about the reality that the legislation before us represents a staggering transfer of administrative costs and cost shift of programs from the Federal Government to the States and local communities in which legal aliens are resident.

The National Conference of State Legislatures, in examining just 10 of the literally scores of programs that will be covered by this act, has found that the cost to the States in those 10 programs is $744 million per year. The total cost could be into the billions.

The amendment that I have offered is a modest attempt to deal with that. It basically says, first, that if a Federal agency, State, or local government can make a determination that the cost savings of following the procedures of S. 1664 are less than the costs to administer the program, it would not be necessary to implement the program. We have done exactly this in a very analogous program called the SAVE Program, which is an employer verification program in which there is the capacity to waive out of the SAVE Program if it can be demonstrated that the benefits do not equal the costs of the program.

Assume, Madam President, that the issue were reversed. Would we affirmatively vote to say to a State, to a local community, that you must administer this federally mandated program even if the cost of administration can be shown to exceed the savings or the benefits of the program itself? I think not. And so our amendment would create such an opportunity.

I might just add one final point. We are requiring exactly the same administrative structure in a community such as Topeka, KS, as we are in Tampa, FL, although the number of legal aliens in Tampa, FL, probably substantially exceeds those in Topeka, KS. There should be some capability to adjust the level of burden to the reality of the circumstance in that particular community.

Second is the provision that if the Federal Government thinks this is such a good idea, then the Federal Government ought to pay for it. I thought that was the fundamental premise behind the unfunded mandate program that we passed as S. 1, as one of the first acts of the 104th Congress. I used the phrase "deadbeat dad" to describe what the Federal Government is about to do here. The Federal Government is about to say: "We are going to put all of our reliance on the sponsor, but incidentally, if, in fact, the sponsor does not come through with the health care financing or the other sources of financing that will be necessary to maintain this legal alien, we, the Federal Government, are off the hook. It is now going to be up to the local community to pay those hospital costs for that legal alien or to pay the cost of prenatal care for the pregnant legal alien, poor woman."

I think the phrase "deadbeat dad" properly describes what the Federal Government is trying to do: to shift an obligation to States and communities. If we think this is such a good idea and if we are faithful to our constitutional responsibility as the only level of Government that has jurisdiction over immigration, we ought to pay those costs, not ask the local government to do so.

Finally, in this amendment we recognize the fact that there are unusual emergency circumstances. We had one of those in my State in late August 1992 with Hurricane Andrew. I was there. I saw what happened as the emergency and disaster preparedness and response teams attempted to deal with an enormous natural disaster. The very idea of having to subject people who had seen their homes, their documents, their jobs, their lives wrecked by this hurricane, to then have to go through a tedious verification process to determine what their status was and what the income of a sponsor who may well have just been subjected to the same thing that they were, puts the public health at risk. If you cannot vaccinate people against a potential outbreak of typhoid after a natural disaster until you have gone through the bureaucratic steps of verification, just pure common sense tells you there has to be some capability to waive these in an emergency situation. This amendment provides that opportunity.

I believe this is a prudent amendment. Members of this Congress, Members of this Senate, who wish to deal effectively with the issue of illegal immigration should not have that tide of passion and emotion erase our basic sense of common sense and fairness and rational justice to preclude a community from making a judgment as to the cost-benefit analysis of implementing these programs to avoid the Federal Government assuming its responsibility to pay as well as it imposes new responsibilities and to be able to respond to unexpected emergency situations. That is the essence of the amendment which is before us, Madam President. I urge my colleagues at 2:40 to support it.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. May I inquire as to the pending business?

The PRESIDING OFFICER. The pending question is amendment 3759 offered by the Senator from Florida.

Mr. DEWINE. I ask unanimous consent to set aside for a moment the pending business.

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

VOTE ON AMENDMENT NO. 3759

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3759, the amendment offered by Senator GRAHAM of Florida.

Mr. GRAHAM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 30, nays 70, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—30

Akaka	Graham	Moseley-Braun
Boxer	Inouye	Moynihan
Bradley	Johnston	Murray
Breaux	Kennedy	Pell
Bumpers	Kerry	Pryor
Conrad	Lautenberg	Rockefeller
Daschle	Leahy	Sarbanes
Dodd	Levin	Simon
Ford	Lieberman	Wellstone
Glenn	Mikulski	Wyden

NAYS—70

Abraham	Faircloth	Lugar
Ashcroft	Feingold	Mack
Bancus	Feinstein	McCain
Bennett	Frist	McConnell
Biden	Gorton	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Pressler
Bryan	Gregg	Reid
Burns	Harkin	Robb
Byrd	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Heflin	Shelby
Coats	Helms	Simpson
Cochran	Hollings	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kassebanm	Thomas
DeWine	Kempthorne	Thompson
Dole	Kerrey	Thurmond
Domenici	Kohl	Warner
Dorgan	Kyl	
Exon	Lott	

The amendment (No. 3759) was rejected.

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

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3840

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate, equally divided, on amendment No. 3840 offered by the Senators from Rhode Island and Florida.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I hope everybody will listen to this because we think it is important. Illegal immigrants now are entitled to a series of limited benefits, such as emergency Medicaid, prenatal Medicaid services, nutrition programs, and public assistance for immunizations. Illegal aliens are entitled to this. This is not the big broad scope of things. This is limited. What we are saying is legal immigrants should be entitled to the same thing. It is a little odd to say that the illegals can get these. Why do we give them to those individuals, the illegals? It is for the benefit of public health overall. It seems to me that the legal immigrants should likewise be entitled to immunization, prenatal, and postpartum Medicaid services. That is what it is all about. It is a limited group. It is not going to break the budget, but certainly the legals under equity should be entitled to what the illegals are entitled to.

Thank you.

Mr. SIMPSON. Give me your attention just for a moment, please. This amendment is about welfare reform for legal immigrants—the same issue you have already voted on seven separate times now. The reason that legal immigrants are in the situation they are in is because the person who brought them here promised to pay for their support. All we are saying is that sponsors should pay for these benefits if they have the means to do so. That is what deeming is. No legal immigrant will receive any fewer benefits than an illegal immigrant, but the legal immigrant's sponsor will have to pay for the benefits before the American taxpayers do. Should the financial burden be on the immigrant's sponsor or on the U.S. taxpayers? Take your pick.

The PRESIDING OFFICER. The question now occurs on the amendment offered by the Senator from Rhode Island. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 40, nays 60, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—40

Abraham	Hatfield	Moynihan
Akaka	Hollings	Murray
Boxer	Inouye	Nunn
Bradley	Jeffords	Pell
Bumpers	Kennedy	Pryor
Chafee	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
DeWine	Leahy	Simon
Dodd	Levin	Snowe
Feingold	Lieberman	Wellstone
Ford	Mack	Wyden
Graham	Mikulski	
Harkin	Moseley-Braun	

NAYS—60

Ashcroft	Dorgan	Kyl
Bancus	Exon	Lott
Bennett	Faircloth	Lugar
Biden	Feinstein	McCain
Bingaman	Frist	McConnell
Bond	Glenn	Murkowski
Breaux	Gorton	Nickles
Brown	Gramm	Pressler
Bryan	Grams	Reid
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Campbell	Hatch	Shelby
Coats	Heflin	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebanm	Thompson
Dole	Kempthorne	Thurmond
Domenici	Kerrey	Warner

The amendment (No. 3840) was rejected.

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

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. If I could have my colleagues' attention, I would like to make an announcement that I think is important to everyone.

I ask unanimous consent that the agreement relative to the 3:45 p.m. suspension of votes be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE. Let me say for the information of all Senators it is my understanding that a rollcall will not be necessary on the underlying Dole-Simpson

amendment. Therefore, Senators can expect two additional votes that will start within a minute, and it will be a 10-minute vote, and then we will start the other vote. The first will be on cloture on the bill. The second vote, if cloture is invoked, will be on final passage of the immigration bill.

I also ask unanimous consent that the yeas and nays be vitiated on amendment No. 3743.

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

Mr. DOLE. I ask for the yeas and nays on those two votes and that the votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. A number of our colleagues on both sides are headed for the White House after the second vote. There will be a bus at the bottom of the stairs to take them down there. I do not know how they will come back.

Mr. SIMPSON addressed the Chair.

(Disturbance in the Visitors' Gallery)

The PRESIDING OFFICER. The sergeant at arms will restore order.

The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, that disturbance is certainly in spirit with the last 10 days.

I did not realize I had such support up there in that quarter, and I must say I am very pleased. Somebody once said, "You're on a roll." I said, "I have been rolled for 6 months on this issue."

AMENDMENT NO. 3951 TO AMENDMENT NO. 3743

Mr. SIMPSON. I have a unanimous consent request that the following amendments be accepted. There is a package of managers' amendments at the desk, cleared on both sides, that will be noncontroversial.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], proposes an amendment numbered 3951.

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

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

The amendment is as follows:

SEC. . ADMINISTRATIVE REVIEW OF ORDERS.

Section 274A(e)(7) is amended by striking the phrase ", within 30 days,".

Section 274C(d)(4) is amended by striking the phrase ", within 30 days,".

SEC. . SOCIAL SECURITY ACT.

Section 1173(d)(4)(B) of the Social Security Act (42 U.S.C. 1320B-7(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980.

Section 214(d)(4)(B) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection: "(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostatic or other

similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . HIGHER EDUCATION ACT OF 1965.

Section 484(g)(B) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . JUDICIAL REVIEW OF ORDERS OF EXCLUSION AND DEPORTATION.

Page 87, at the end of line 9, insert at the end the following:

"Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to exclude or deport an alien from the United States under Title II of this Act shall be available only in the judicial review of a final order of exclusion or deportation under this section. If a petition filed under this section raises a constitutional issue that the court of appeals finds presents a genuine issue of material fact that cannot be resolved on the basis of the administrative record, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides or is detained for a new hearing on the constitutional claim as if the proceedings were originally initiated in district court. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure."

SEC. . LAND ACQUISITION AUTHORITY.

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended by redesignating subsections "(b)", "(c)", and "(d)" as subsections "(c)", "(d)", and "(e)" accordingly, and inserting the following new subsection "(b)":

"(b)—(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to subsection (a) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to subsection (a) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to 40 U.S.C. section 257.

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to subsection (a)."

SEC. . SERVICES TO FAMILY MEMBERS OF INS OFFICERS KILLED IN THE LINE OF DUTY.

SEC. 294. [8 U.S.C. 1364]—TRANSPORATION OF THE REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE DUTY.

(a) Notwithstanding any other provision of law, the Attorney General may expend appropriated funds to pay for:

(1) the transportation of the remains of any Immigration Officer or Border Patrol Agent killed in the line of duty to a place of burial located in the United States, the Commonwealth of Puerto Rico, or the territories and possessions of the United States;

(2) the transportation of the decedent's spouse and minor children to and from the same site at rates no greater than those established for official government travel; and

(3) any other memorial service sanctioned by the Department of Justice.

(b) The Department of Justice may prepay the costs of any transportation authorized by this section.

SEC. . POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended in subsection (a) by adding the following after the last sentence of that subsection:

"the Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under intergovernmental service agreements with State or local units of government. The Attorney General, in support of persons in administrative detention in non-Federal institutions, is further authorized to enter into cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for persons detained by the Immigration and Naturalization Service."

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended in subsection (b) by adding the following:

"The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws of the United States."

SEC. . PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. §1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers."

On page 173, line 16, insert "(a)" before the word "Section".

On page 174, at the end of line 4, insert the following:

"(b) As used in this section, "good cause" may include, but is not limited to, circumstances that changed after the applicant entered the U.S. and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; attempts to file affirmatively that were unsuccessful because of technical defects; efforts to seek asylum that were delayed by the temporary unavailability of professional assistance; the illness or death of the applicant's legal representative; or other extenuating circumstances as determined by the Attorney General."

Page 106, line 15, strike "(A), (B), or (D)" and insert "(B) or (D)".

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—With respect to information provided pursuant to Section 150(b)(c) of this Act and except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using only information furnished solely by—

(A) a spouse or parent who has battered the alien or the alien's children or subjected the alien or the alien's children to extreme cruelty, or

(B) a member of the alien's spouse's or parent's family who has battered the alien or the alien's child or subjected the alien or alien's child to extreme cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act;

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) permit anyone other than the sworn officers and employees of the Department, bureau or agency, who needs to examine such information for legitimate Department, bureau, or agency purposes, to examine any publication of any individual who files for relief as a person who has been battered or subjected to extreme cruelty.

(b) EXCEPTIONS.—(1) The Attorney General may provide for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide for the furnishing of information furnished under this section to law enforcement officials to be used solely for legitimate law enforcement purposes.

SEC. . DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study

shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated and are appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

Page 15, lines 12 through 14, strike: "(other than a document used under section 274A of the Immigration and Nationality Act)".

DEVELOPMENT OF COUNTERFEIT-PROOF SOCIAL SECURITY CARD

Mr. MOYNIHAN. Mr. President, I thank Senator SIMPSON and Senator KENNEDY for accepting this amendment providing for a prototype counterfeit-proof Social Security card.

It was 18 years ago that I first proposed we produce a tamper-resistant Social Security card to reduce fraud and enhance public confidence in our Social Security system. The amendment accepted today is very simple. It would require the Commissioner of the Social Security Administration to develop a prototype of a counterfeit-proof Social Security card. The prototype card would be designed with the security features necessary to be used reliably to confirm U.S. citizenship or legal resident alien status.

The amendment would also require the Commissioner to study and report to Congress on ways to improve the Social Security card application process so as to reduce fraud. An evaluation of cost and workload implications of issuing a counterfeit-resistant Social Security card is also required.

Let me point out that Congress adopted this provision last year as part of the Personal Responsibility and Work Opportunity Act (H.R. 4), the welfare legislation vetoed by the President. Senator DOLE cosponsored the amendment, and it passed the Senate by a voice vote. The Senate also included it in its version of the budget reconciliation bill, but the provision was dropped in the conference committee.

When the Social Security amendments were before us in 1983, we approved a provision to require the production of a new tamper-resistant Social Security card. The law, section 345 of Public Law 98-21, stated:

> The Social Security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited.

What a disappointment when late in 1983 the Social Security Administration began to issue the new card, and it became clear that the agency simply had not understood what Congress intended. The new card looks much like the old, much like the first ones produced by Social Security in 1936. It has the same design framing the name and nearly the same colors. It feels the same. An expert examining a card with a magnifying glass can certainly detect whether or not one of the new ones is genuine, but therein lies the problem. We should have a new, durable card that can hold vital information and can be authenticated easily.

A new Social Security card—one very difficult to counterfeit and easily verified as genuine—could be manufactured at a low cost. The major expense, if we were to approve new cards, would be the cost of the interview process, and that is why the amendment requires a study to include the cost and workload implications of a new card.

A Social Security card could be designed along the lines of today's high technology credit cards. The card could be highly tamper-resistant, and its authenticity could be readily discerned by the untrained eye. The card must be seen as a special document; one which would be visually and tactilely more difficult to counterfeit than the current paper card.

The magnetic strip would contain the Social Security number, encoded with an algorithm known only to the Social Security Administration. A so-called watermark strip could be placed over it, making it nearly impossible to counterfeit without technology that currently costs $10 million. The decoding algorithm could be integrated with the Social Security Administration computers.

The new cards will not eliminate all fraudulent use of Social Security cards. But it will close down the shopfront operations that flood America with false Social Security cards.

That is what the Congress intended in the 1983 legislation.

Let us try again. We have seen that it can be done. It is what the Clinton Administration intended last year when they introduced the Health Security card. As many of you remember, it had a magnetic strip to hold whatever information may be necessary.

I am pleased that the Senate has adopted this amendment, and I again thank the managers of the bill for their support.

Mr. SIMPSON. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is in order.

Mr. SIMPSON. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3951) was agreed to.

WORKER VERIFICATION/IDENTIFICATION SYSTEM

Mr. ROBB. Mr. President, I rise to discuss briefly an amendment I had offered to S. 1664, the Immigration and Financial Responsibility Act of 1996 but have subsequently withdrawn in the interest of completing action on the underlying bill without unnecessary delay at this time. This amendment was designed to ensure the consideration of innovative authentication technology as we develop a new verification system for alien employment and public assistance eligibility.

There is a large and important debate before us. Should we implement a national verification system in the United States? Well, we already have one, but it's failing America. It allows illegal immigrants to skirt the system—to take jobs away from Americans and immigrants who have played by the rules. Moreover, the current system also allows for abuse of our pubic assistance programs that were established to provide a safety net for those who have contributed to our society and deserve help in a time of need. We need to update the current verification system—and 53 Senate colleagues agree as evidenced by their votes to reject the Abraham amendment to strike the verification system from the bill.

The system in place now requires employers to check two forms of identification from a list of 29 acceptable documents. We know that these documents are far from being tamper-resistant and we know that employers are unfairly held accountable for hiring illegal aliens.

The bill before us sets out the goals and objectives for a new verification system and also provides for pilot projects to determine the costs, technology, and effectiveness of a new program. Contrary to what many believe, the bill's provisions address the concerns that have been expressed regarding privacy, the potential for discrimination, and cost. All of these provisions supplement the protections of the U.S. Constitution and anti-discrimination laws. And regarding cost, the unfunded federal mandates law and the recently-passed improvements to the Regulatory Flexibility Act will help insulate businesses and State and local governments against the imposition of exorbitant costs from a new verification system.

Looking at the inventive programs that businesses, universities, hospitals and other institutions are using to monitor human resources, it seems only appropriate that we consider the feasibility of upgrading our current system.

My amendment is simple. It would allow for the consideration of innovative authentication technology such as finger print readers or smart cards to verify eligibility for employment or other applicable Federal benefits in a pilot program.

Already, the INS has begun to investigate the feasibility of creating a new generation of smarter employment authorization cards, border-crossing cards, and green cards. And the Federal Government is also examining the uses of electronic benefits transfer. My amendment would supplement these activities.

Smart cards are credit card-sized devices containing one or more integrated circuits. They are information

carriers like ATM cards, that can hold bank account data, school ID numbers, benefit enrollment status, Social Security numbers and biometric data, such as photographs. Unlike ATM's, which give you access to accounts or information, smart cards actually hold the value of money and information.

I know that some of our colleagues are concerned about the use of biometric data such as DNA samples, blood types, or retina scans. My amendment does not anticipate the use of these types of biometric data. But the use of biometric data has already found its way into our daily lives. We use credit cards with photographs and driver's licences that detail our height, weight and gender. If we are to reduce document fraud, we must incorporate the limited use of biometric data. That is the only way to securely connect a document to an individual.

Setting aside the merits of my amendment, I understand the hesitance of many Members to embrace innovative authentication technologies. While the future is uncertain and change is difficult, we have to look ahead. We had a full debate on the issue of the so-called national ID card yesterday. And while I am not now promoting a national ID, nor did my amendment require the use of biometrics or smart cards, the concerns raised yesterday are similar. My amendment sought only to ensure the consideration of these tools in the development of the pilot programs.

While my amendment has been withdrawn, I will continue to work toward broadening the debate on smart cards and other forms of authentication technology with our Senate colleagues.

In utilizing the most up-to-date technology in these demonstration projects, we can ensure that the President will have the most efficient and the most cost-effective alternatives to scrutinize. If we take deliberate care to develop a new identification system, then we can all benefit: American workers can be further protected; Employers can be relieved of the burden of sanctions; the jobs magnet will be shut off; and most importantly, we will be able to clearly view the benefits of immigration and diversity in our society.

Mr. ROTH. Mr. President, I rise today to speak in favor of this bill, on which Senator SIMPSON and others have labored so hard and for so long. The bill will do much to stem the tide of illegal immigration into this country.

During the Judiciary Committee's mark up of the bill in March, several provisions were added that address the problem of criminal aliens in this country. I want to draw my colleagues' attention in particular to these provisions, because they significantly strengthen the Federal Government's ability to deport and exclude aliens who have committed serious crimes in our country. Senator ABRAHAM pushed for these provisions in committee, and he is to be commended for that effort.

I would like to offer a brief historical perspective on the nature of the criminal alien crisis, based on my past investigative and legislative work in this area. Criminal aliens represent a problem of enormous proportions, and a problem, regrettably, that our present criminal and immigration laws do little to address.

In simplest terms, criminal aliens are noncitizens who commit serious crimes in this country. Currently, aliens who commit certain serious felonies are deportable or excludable. The problem is that at present we permit such aliens to go through two completely separate systems—one for their crimes, and one for their immigration status—in a way that invites abuse and creates confusion. The results are dismal.

At my direction during the previous Congress, the Permanent Subcommittee on Investigations conducted an investigation and held 2 days of hearings regarding criminal aliens in the United States. The subcommittee's investigation found that criminal aliens are a serious and growing threat to our public safety. They are also an expensive problem. Under even the most conservative of estimates, criminal aliens cost our criminal justice system hundreds of millions of dollars each year.

No one, including the INS, knows for sure how many criminal aliens there are in the United States. A study by our subcommittee staff estimated that there are about 450,000 criminal aliens in all parts of our criminal justice system including Federal and State prisons, local jails, probation, and parole. Incredibly, criminal aliens now account for an all time high of 25 percent of the Federal prison population.

Under current law, aliens who commit aggravated felonies or crimes of moral turpitude are deportable. But last year only about 4 percent of the estimated total number of criminal aliens in the United States were deported. The law is not being enforced in part because it is too complex with too many levels of appeal. It needs to be simplified.

The law is also not being enforced in part because INS does not have its act together. The INS is unable to even identify most of the criminal aliens who clog our State and local jails before these criminals are released back onto our streets.

As things now stand, many criminal aliens are released on bond by the INS while the deportation process is pending. It is not surprising that many skip bond and never show up for their hearings, especially in light of the fact that the INS makes little effort to locate them when they do abscond. In 1992 alone, nearly 11,000 aliens convicted of serious felonies failed to show up for their deportation hearings. It is safe to assume that many of them walk our streets today.

A frustrated INS official described the current state of affairs aptly when he said of criminal aliens—and I quote—"only the stupid and honest get deported." The others abuse the system with impunity.

Ironically, criminal aliens who have served their time and are fighting their deportation routinely received work permits from the INS, which allow them to get jobs while their appeals are pending. One INS deportation officer told the subcommittee staff that he spends only about 5 percent of his time looking for criminal aliens who have absconded, because he must spend most of his time processing work permits for criminal aliens with pending deportation proceedings. This is an outrageous situation.

Although, our investigation found that the INS is not adequately responding to the criminal alien problem, the INS does not deserve all the blame. Congress has made it far too difficult for the INS and law enforcement officials to identify, deport, and exclude criminal aliens.

In response to these problems, I introduced legislation last Congress and again during this one that would simplify the task of sending criminal aliens home. I am gratified that through the work of Senator ABRAHAM and the Judiciary Committee, S. 1664 contains some of the provisions in my legislation, as well as some additional improvements. Among them are the following: First, the bill broadens the definition of aggravated felon to include more crimes punishable by deportation. Second, it prohibits the Attorney General from releasing criminal aliens from custody. Third, it requires the Attorney General to deport criminal aliens—with certain exceptions—within 30 days of the end of the aliens' prison sentence, and mandates that such criminal aliens ordered deported by taken into custody pending deportation. Finally, it gives Federal judges the ability to order deportation of a criminal alien at the time of sentencing.

To be sure, during the floor debate on this bill, many colleagues have expressed sharp differences in how they wish to go about reforming our immigration laws. However, it is my hope that all Senators would agree that deporting and excluding aliens convicted of committing serious crimes ought to be a top priority. Because fixing existing laws to accomplish this goal ought to be an equally high priority, I urge my colleagues to support this bill.

Mr. SIMON. Mr. President, I want to thank the chairman and ranking member of the Immigration Subcommittee—Senators SIMPSON and KENNEDY—for their dedication and commitment to the issue of illegal immigration. They have steered the Senate through a difficult process, and we are all appreciative of their efforts this time, as we have been on numerous occasions past.

I will vote against final passage of this bill. The bill contains much that I support. I am gratified that the Senate has voted to retain the verification pilot programs that were adopted as a compromise in committee. These pilot programs are essential to combating the job magnet that lures illegal immigrants to the United States, and will also make immigration-related job discrimination less likely.

I am also gratified that the Senate passed the Leahy asylum amendment yesterday. This amendment, by preserving our Nation's commitment to providing safe haven for victims of persecution abroad, was a substantial improvement in this legislation, and one that corrected one of the major problems with this legislation as it came out of the Judiciary Committee.

Finally, unlike the House immigration bill, the Senate bill does not contain any provision allowing States to deny undocumented alien children primary or secondary education. Adoption of such an amendment would have been an imprudent response to the problem of illegal immigration, and would have cost the Nation far more than it would have saved it.

Despite the virtues of this legislation, I am compelled to vote against it because it still suffers from some serious problems—in particular, the provisions of the bill that serve to deny legal immigrants Government assistance. While I support the idea of tightening current deeming requirements, the bill will deny legal immigrants assistance that will prevent, not encourage, legal immigrants from receiving welfare, such as higher education and job training assistance. The bill makes a sieve out of the safety net that is essential for the most vulnerable of our society—children, pregnant women, and the disabled. Finally, this bill retroactively expands deeming requirements for those immigrants who are in the country today, without the benefit of a legally binding affidavit of support. There is no question that sponsors should be primarily liable for the well-being of the immigrants they bring in. At the same time, this bill lacks the flexibility that is necessary if we are to ensure a balanced and fair approach to the issue of immigrants and public assistance.

I am concerned about much of the rhetoric about immigrants and public assistance that has accompanied this debate. While we have heard much about the pressures immigrants place on our system of public assistance, the fact is that the overwhelming majority of immigrants—over 93 percent—do not receive welfare, and that working-age nonrefugee immigrants use Government assistance at the same levels as native-born Americans. While specific programs—in particular, SSI—receive disproportionate use by immigrants, we should address such problems specifically, without cutting off access to resources that will help immigrants avoid the welfare dependency that concerns us all.

Having set out my objections to the bill, I hope that I will be able to support a conference agreement on illegal immigration. The House immigration bill has several provisions in the public assistance area preferable to the Senate bill—in particular, the exemption from deeming for higher education, and the limitation on programs that can give rise to deportation as a public charge. Adoption of these provisions in the conference will substantially improve this legislation.

On the other hand, any illegal immigration conference agreement should not include any provision allowing States to deny primary or secondary educational assistance to undocumented aliens. Such a provision, while not in the Senate bill, is in the House bill. Inclusion of such a provision in the conference agreement would cause many of those who support the Senate bill to oppose the conference report.

We are close to having an illegal immigration bill we can all be proud of, but we are not there yet.

Mr. THURMOND. Mr. President, I rise today in support of S. 1664, the Immigration Control and Financial Responsibility Act of 1996. It cannot be disputed that our immigration system is currently fraught with serious problems, including a flood of illegal immigrants, criminal aliens, undesirable burdens on public services, and many other concerns. These problems weaken our country as a whole, and erode public support for basic principles which are central to our Nation. Americans are a generous people, but they do not like to have their generosity abused. I am pleased that we have confronted these hard issues with both compassion and resolve, and that the Senate is now giving consideration to final passage of this immigration reform bill.

Among the many notable provisions in this immigration bill are those designed to increase enforcement of our borders; limit ineligible aliens' public benefits; improve deportation procedures; and reduce alien smuggling. There is no serious disagreement over the pressing need to strengthen our laws against illegal immigration, but there has been much debate over the details of how this can best be achieved. I am committed to enacting this legislation in order to sharply reduce the flow of illegal aliens into our Nation, by ensuring adequate enforcement along our borders, among other things.

Mr. President, I commend Senator SIMPSON for his leadership on immigration issues, and particularly on his role in bringing this important legislation to this point today. Although we have not agreed on every issue, the commitment and expertise of Senator SIMPSON have been invaluable in moving needed reform forward.

Immigration matters are complex and tend to be divisive. It is my belief, however, that illegal immigration is among the most serious problems confronting our Nation today. We should pass this legislation to address these problems, and I urge my colleagues to adopt this measure.

Mr. KOHL. Mr. President, I rise today in strong support of our efforts to address the problem of illegal immigration. It is shameful and, frankly, embarrassing that the strongest nation in the world has had such difficulty controlling its own borders. This bill will help us make progress in this crucial area.

The administration has already begun to make headway. Commissioner Meissner and the INS have strengthened the Border Patrol and targeted agents and equipment to the areas with the highest number of illegal entries. They've improved the asylum process, reducing asylum claims by 57 percent and clearly restoring integrity to the system. And they deported a record number of criminal and noncriminal illegal aliens in 1995.

But with almost 4 million illegal aliens residing in this country, we obviously need to do more. Mr. President, this legislation is a good start. With broad bipartisan support, S. 1664 was voted out of the Judiciary Committee. This bill is not perfect and the proposed reforms not foolproof, but the American public has sent a clear message. They want us to act against those who break our laws to come here, who take jobs at the expense of hard-working Americans, and who surreptitiously benefit from the generous safety net provided by our tax dollars.

We approved a number of good amendments during the Judiciary Committee markup, as we have done these past weeks during floor debate. We have worked together in a bipartisan manner and moved forward, recognizing that this issue is too important, and this problem too serious, for us to have let progress be indefinitely delayed by peripheral debates.

Mr. President, let me address a number of the contentious issues that arose during our debate on this bill.

First and foremost, I am pleased that we kept separate the illegal and legal immigration measures. Simply put, illegal and legal immigration are fundamentally different issues. And Congress must not let our common frustration with illegal immigrants unfairly color the circumstances of legal immigrants: The risk of injustice is too great.

Mr. President, we put our minds to it and effectively debated the provisions of S. 1664, and we can do the same with regard to the legal immigration bill. If the majority of the Senate agrees that problems exist in both areas, then combining legal and illegal reform packages would only have impeded fair and deliberative treatment of either issue.

Second, we should be pleased that we maintained the guts of this bill: The proposed verification pilot projects. Those who oppose the pilot projects have legitimate concerns about the accuracy of data, the uses to which that data is put, and whether it will really decrease employment discrimination and the employment of illegal aliens. But the response to these concerns should not be to throw out the idea altogether. I am pleased that the Senate voted to uphold the reasonable compromise adopted by the committee. That is, conduct extensive demonstration projects, see if they work and then ask Congress to take a look at the results and decide whether a national verification system is a good idea. If the verification system is ineffective or, worse, civil liberties are compromised, we can junk the system. And we should. But if pilot projects could move us down the road toward a workable approach, one which stops illegal aliens from getting jobs, then at the very least it deserves a try.

Third, with regard to the summary exclusion provisions, we all agree that the United States must uphold its obligation to provide refuge for people legitimately fleeing persecution. And obviously the challenge lies in balancing our desire to provide a safe haven with the need to protect our borders and avoid fraud.

As mentioned earlier, INS has begun to move us toward achieving this balance. And the Judiciary Committee added its help by adopting a 1-year post-entry time limit for filing defensive asylum claims. However, S. 1664's provisions establishing new grounds for the exclusion of immigrants who arrive at our borders without proper documentation and claim asylum were troubling. Senator SIMPSON's bill would have essentially left the determination of whether that claim is credible to a Border Patrol agent. These changes would have placed the United States at serious risk of sending legitimate asylees back to their persecutors. Indeed, the U.N. High Commissioner on Refugees had told us as much, all in the name of solving a problem that does not exist. Fortunately, Senator LEAHY's amendment to remove the summary exclusion provisions succeeded.

Fourth, the issue of deeming and the related obligations of an immigrant sponsor are extremely complex. Persuasive arguments can be made on both sides but, overall, this bill's provisions strengthening an immigrant sponsor's obligations are fair and prudent. It is reasonable to ask that the sponsor's affidavit of support be legally enforceable and that deeming extend to more public assistance programs. When legal immigrants come to this country they take a vow not to become a public

charge. And it is the sponsor, not the taxpayer, who should foot the bill when a legal immigrant needs help. However, I must express regret that the Senate voted down the Chafee amendment. At a minimum, the Senate should have ensured that illegal aliens are not afforded more privileges than legal immigrants and approved this provision in the interest of public health.

Finally, I am pleased that S. 1664 includes my amendment on the international matchmaking business. This amendment launches a study of international matchmaking companies, heretofore unregulated and operating in the shadows. These companies may be exploiting people in desperate situations. The study is not aimed at the men and women who use these businesses for legitimate companionship. Instead, it is a very positive and important step toward gathering the information we need so that we can determine the extent to which these companies contribute to the very troubling problems of domestic violence against immigrant women and immigration marriage fraud.

Mr. President, my own parents were immigrants. There is no doubt that our Nation has benefited immensely from the hard work and ambitions of the generations of legal immigrants that have chosen to start new lives in America. This bill, by cracking down on illegal immigration, will continue this rich tradition. I commend the hard work and commitment of the managers of the bill, Senators SIMPSON and KENNEDY.

Our current immigration policies, though not perfect, stand as strong evidence that the United States is fundamentally a generous and compassionate nation. Though we sometimes differ over the best way to continue that strong tradition, we all share a common desire to stem the tide of illegal immigration to this country. With our minds on the common goal, let us approve this legislation on behalf of the American public.

Mr. DODD. Mr. President, I rise today to speak in support of this bill to curb illegal immigration.

Since its first days as a nation, the United States has always been a refuge for those seeking to escape political and religious persecution. America has consistently provided limitless economic, political, and social opportunities for those who come to our Nation and are intent on working hard and improving their lives and those of their children.

It is this influx of immigrants from diverse cultures and distant lands that has made America a shining example to the world. That's why millions of people across the globe look to the United States as a land of opportunity. It's why they come to our borders in the hopes of entering our Nation and achieving a better life.

It was the promise of the American Dream that brought my family to this country from Ireland. And it was the desire for a better life that brought millions of other immigrants to America, whether they came over on the *Mayflower* or if they came to our land in just the past few days.

As Franklin Delano Roosevelt reminded us more than 50 years ago, with the exception of native Americans, "All of our people all over the country. * * * are immigrants or descendants of immigrants, including even those who came over here on the *Mayflower*."

Nearly every Senator in this body is a descendant of immigrants. And I believe that we should provide the same opportunities for those who come after us as our forefathers accorded to those who came before us.

However, while I strongly support continued immigration to our Nation, there are proper rules and procedures to be adhered to. If you play by the rules and follow the laws of our country than the opportunity to live in America should be available.

But, the opportunity to come to America does not give people the right to enter our Nation illegally. It does not give them the right to break the law. Nor does it give companies or businessman the right to hire illegal aliens and take away jobs from hard-working Americans who pay their taxes and play by the rules.

Let me just say that I commend this administration for all it has done in curbing illegal immigration. Since 1993, the Clinton administration increased the Immigration and Naturalization Service budget by 72 percent. More than 1,000 new Border Patrol agents have been deployed. Additionally, more than 140,000 illegal and criminal aliens have been deported since 1993.

What's more, this administration is helping more eligible immigrants become citizens. In fact, in fiscal year 1995 more than half a million citizenship applications were completed.

These are substantial gains, but there is more to be done and this bill takes important steps in the right direction.

This legislation increases the size of the Border Patrol. It authorizes voluntary pilot projects to test improved employee verification system. It forces sponsors to take greater responsibility for the immigrants they bring into the country. And it increases the penalties for alien smuggling and fraud.

These are all necessary steps and I believe they are necessary to curb illegal immigration in our country. What's more they were strongly influenced by the bipartisan Jordan Commission on Immigration Reform.

While, I do remain concerned about the benefit provisions in this legislation, there are enough positive aspects of this bill to make it worthwhile.

I am particularly pleased that this body decided to defer taking up the issue of legal immigration. It is essential that we do not confuse the two issues.

Legal immigrants play by the rules that this government has established. What's more, legal immigrants have an overwhelmingly positive benefit for this Nation.

Legal immigrants pay nearly 95 percent more in taxes then they receive in benefits. More than 93 percent do not receive welfare benefits. In fact, native-born Americans are more likely to receive welfare then poor immigrants.

Legal immigrants are not the problem. They play by the rules and they don't deserve to have their benefits or their rights cut.

I am also pleased that this bill includes the Leahy amendment, which prevents barriers from being placed in front of those who seek political and humanitarian asylum.

We must avoid putting those who come to our country seeking asylum, into a position where their political beliefs could cause them to face the possibility of imprisonment, injury, or even death if they return to their homeland.

We must never forget as a nation that America has and will continue to be seen as a beacon of hope and freedom for those who are oppressed or maltreated. We must not shirk our role as a haven for those fleeing persecution.

Unfortunately, I think those facts have sometimes been lost in our recent national debate on immigration. They should always be our core concern when discussing immigration reform measures.

Our Nation was founded on the concept of taking in the downtrodden and persecuted. And throughout our history, America has prospered because we have kept the doors open for new immigrants.

Today, we must continue to maintain our obligation to immigration as a nation and as a people. While not perfect, I believe this bill takes us in the right direction toward upholding our commitment to an inclusive and commonsense immigration policy.

Mr. HELMS. Mr. President, the U.S. Government has a duty to control immigration, and it is failing miserably. Passage of this bill will help halt the large migration of illegals into our country.

But, due in part to the service rendered by the able Senator from Wyoming [Mr. SIMPSON] on this bill, S. 1664, "The Immigration Control and Financial Responsibility Act of 1996" the Federal Government will have meaningful tools to discourage illegal immigration and better handle illegal aliens in our country. We are grateful for the enormous amount of time and expertise AL SIMPSON has devoted throughout his tenure in the Senate to the formulation of a workable, credible immigration policy. All of us have benefited from Senator SIMPSON's tireless efforts.

Mr. President, immigration is an especially important issue to the American people, and it is important that we not forget that ours is a nation of

immigrants. America has always had a very generous immigration policy. But while it is politically correct in some circles to call for an open immigration policy—allowing in all who seek admission—it would be a serious mistake of judgment to fail to assess the consequences of an out-of-control influx of immigrants, legal or illegal.

During the 1985 consideration of immigration reform, some Senators cautioned against granting amnesty to the illegal aliens pouring across our borders. I was among those who stated such an apprehension. It was envisioned that such amnesty would establish a dangerous precedent certain to encourage even more illegal immigration. Another concern in the 1985 debate was the potential for an enormous increase in Federal welfare spending. Both concerns were valid and both have come to pass.

The National Bureau of Economic Research, Inc., has compiled statistics showing that from 1984 to 1990, the percentage of welfare benefits distributed to immigrant households has risen from 9.8 to 13.8 percent. There is no indication that the percentage will decrease in the years ahead.

The abuse in the Supplemental Security Income Program alone is startling. According to the Congressional Budget Office, 25 percent of the growth in SSI between 1993 and 1996 is due to immigrants—an astounding number because of the percentage of immigrants among SSI recipients—2.9 percent of the general population are immigrants and 29 percent of the SSI-aged beneficiaries are immigrants.

Thousands of North Carolinians, and others across the Nation, have contacted me to describe their problems with the current U.S. immigration system. Most often, citizens express disgust at the numbers of noncitizens receiving welfare benefits almost from the day they slip over the borders into the United States.

Mr. President, it is impossible to suggest to my fellow North Carolinians that there is any wisdom or common sense to an immigration policy that allows noncitizens to receive welfare checks or any other Federal benefits and services. Sponsors of this bill agreed. The bill correctly changes the current system which aliens can sign up for a long list of welfare benefits including Aid to Families With Dependant Children, Supplemental Security Income, and food stamps. With mention seldom, if ever made, of the U.S. law these aliens are violating—a law which clearly states that nobody may immigrate to the United States without demonstrating that he or she is not "likely at any time to become a public charge." Hard-working taxpayers should not be required to shell out funds to aliens who have broken the promise they made when entering the country.

North Carolinians will be relieved to learn that many attempts—through the amending process—to lessen the impact of the bill's rigid enforcement of this law were soundly defeated. In addition, the bill further forbids receipt of any Federal, State, or local government benefit by noncitizens.

Mr. President, it is virtually impossible to estimate the total number of illegal immigrants in our country—in 1983, the Immigration and Nationalization Service estimated that there were 3.4 million in our country. Some have crossed our borders illegally while others have overstayed their visas and permits. The National Immigration Forum has given what is perceived as a conservative estimate that the number of illegals in the United States is about 3.2 million, pushed downward by the amnesty of 1987–88 which has resulted in a 200,000 to 300,000 addition to America's population each year.

At a time when the Federal Government is wrestling with its $5 trillion debt, it is the responsibility of Congress to find out where the taxpayers' funds are being used. It is our duty to take a position on the doling out of the taxpayers' funds to people not legally in our country and aliens who should not be in line for welfare benefits.

As of Tuesday, April 30, the debt stood at $5,102,048,827,234.22, meaning that every man, woman, and child in our Nation owes $19,271.23 on a per capita basis.

Mr. President, the bill before the Senate tightens the enforcement and improves the effectiveness of our immigration law by: First, adding additional Border Patrol and investigative personnel; second, creating additional detention facilities; third, increasing penalties for alien smuggling and document fraud; fourth, reforming asylum, exclusion and deportation law and procedures; and fifth, by ending distribution of welfare to noncitizens.

I support this measure because it will make it more difficult for immigrants to enter this country illegally. This is a bold step to protect the rights and best interests of citizens of the United States.

Mr. FEINGOLD. Mr. President, I rise to explain my opposition to S. 1664, the illegal immigration bill approved by the full Senate today.

There are several provisions in the bill that I strongly support and that I believe will significantly improve our ability to curb illegal immigration. For example, providing additional personnel and resources to the Border Patrol marks an unprecedented effort to provide law enforcement agencies with the tools to maintain the integrity of our border. And the tough new penalties authored by the Senator from Michigan, Senator ABRAHAM, and myself for those who come here legally and fail to depart when their visas expire is the first time ever anyone has proposed cracking down on the visa overstayer problem—a problem that represents up to one-half of our illegal immigration problems.

In addition, I am also pleased that we were able to ensure that this legislation does not dramatically reduce current levels of legal immigration. As I have consistently said, we should focus on those who are breaking the rules, not those who are abiding by them.

Unfortunately, the bill contains very troubling provisions relating to the establishment of a national worker verification system that I remain strongly opposed to and that I believe violate the principle I have just outlined.

Some believe that a massive new national verification system to verify the identity of all U.S. citizens and alien residents is a measured response to the illegal immigration problem. I could not disagree more. INS tells us that less than 2 percent of the U.S. population is here illegally. I do not understand why some believe it is a measured response to verify the identity of 98 percent of the population—that which is residing here legally—to root out the small percentage that is here illegally.

Moreover, the cost to employers of complying with this Federal mandate and navigating this complex new Federal bureaucracy cannot be understated. Will employers be required to buy expensive computers and the necessary software so they can communicate with a Federal bureaucrat in Washington, DC?

I do not understand how some of the same Senators who so vocally supported regulatory relief for small businesses last year can be so enthusiastic about passing yet another Federal mandate and more Federal paperwork onto our Nation's employers.

Finally, I joined the Senators from Michigan, Senator ABRAHAM, and Ohio, Senator DEWINE, in a bipartisan attempt to remove the bill's new and onerous requirements relating to birth certificates and driver's license.

S. 1664 would mark an unprecedented Federal preemption of every State's right to fashion and issue their birth certificates and driver's license. Under this bill, local and State agencies must comply with federally mandated regulations relating to the composition and issuance of these identification documents. I oppose the federalization of these documents, and am gravely concerned that such an act puts us squarely on the road to having some sort of national ID card.

Moreover, the bill does not contain one word about how the States and local governments are to pay for these changes. Again, this provision stands in direct contradiction to one of the 104th Congress' few bipartisan successes—the enactment of unfunded mandates legislation. These provisions represent an enormous unfunded mandate, and is precisely why they are opposed by the National Conference of State Legislatures and the National Association of Counties.

Mr. President, I do want to take a moment to commend the senior Senator from Wyoming, Senator SIMPSON, and the senior Senator from Massachusetts, Senator KENNEDY. They have

taken on a tremendously difficult task and they are to be recognized for their hard work and dedication to reforming our immigration laws.

I do regret that I have some fundamental disagreements over how we should go about reforming those laws, but I look forward to working with my colleagues to modify these provisions during the duration of the legislative process so as to minimalize the bill's impact on our Nation's employers, workers, legal immigrants and State and local governments.

I yield the floor.

Mr. MCCAIN. Mr. President, I applaud the hard work of the Senate Judiciary Committee on this immigration reform legislation. This bill contains many important provisions that will help stem the rising tide of illegal immigration to the United States and reduce the costs to taxpayers from any continued illegal immigration.

I take this opportunity to emphasize that I voted against an amendment offered by Senator LEAHY that would have stricken summary exclusion provisions from this bill and the recently passed antiterrorism bill because we must curtail asylum abuse in order to fully address our Nation's serious problem of illegal immigration.

I also want to address a provision in the immigration bill that would allow an employer to ask an employee or potential employee for additional documentation to establish the employee's authorization to work. This provision creates an intent standard which provides that an employer does not violate fair labor standards in requesting additional documentation from an employee unless the employer intended to discriminate on the basis of race or national origin.

Under current law, an employer may not request any documents in addition to those contained on a prescribed list of documents when verifying an employee's eligibility to work. At the same time, employers fearing sanctions for hiring an illegal alien often feel compelled to request additional documents from individuals, especially when they have constructive knowledge that an individual is not authorized to work.

I understand that some have expressed concerns that changing the law could make it more difficult to prove discrimination in document abuse cases. However, cases decided before current law was enacted show that our immigration laws protect against such discrimination even without a harsh strict liability standard. Thus, I believe this change in the law strikes a proper balance between the need to protect against discrimination and the need not to punish employer's who reasonably suspect that an employee or applicant is not authorized to work.

Again, I commend the Senate Judiciary Committee on their excellent work in crafting this immigration reform legislation.

Mr. SMITH. Mr. President, I rise in strong support of H.R. 2202, the Immigration Control and Financial Responsibility Act of 1996.

It has been said before, but it bears repeating that as a nation we must close the back door to illegal immigration if the front door of legal immigration is to remain open. This landmark legislation represents a major step toward that goal.

Mr. President, as passed by the Senate, H.R. 2202 significantly augments the Nation's Border Patrol. The bill also provides the Department of Justice with important new legal tools to fight alien smuggling and document fraud. In addition, H.R. 2202 enhances the ability of the Justice Department to secure the prompt deportation of criminal aliens.

Equally important, H.R. 2202 protects the taxpayers by taking numerous steps to assure that legal immigrants come to the United States to work, not to go on welfare.

The one major provision of H.R. 2202 with which I disagree is the one that establishes pilot programs for various systems to verify the employment eligibility of new workers. Some have called this part of this bill the beginning of an eventual "national identification system" or "national identification card." I share this concern. During the Senate's consideration of this illegal immigration bill, therefore, I voted to support the Abraham-Feingold amendment to strike the national identification pilot programs provisions from the legislation.

On balance, though, H.R. 2202 is a strong bill. It will strike a powerful blow against illegal immigration. In the majestic words of the poet Emma Lazarus, America still lifts her "lamp beside the Golden Door" for legal immigrants. With this bill, however, we are now moving to put a new padlock on the back door to keep out those who seek to violate our laws against illegal immigration.

Mr. BYRD. Mr. President, as we consider this legislation, I ask my colleagues to focus on this fact: According to the Immigration and Naturalization Service, there are approximately 4 million illegal immigrants permanently residing in this country today, and that number grows by an estimated 300,000 each and every year. Clearly, such numbers should be a siren song to this Congress.

That is why I will support this final, amended version of S. 1664, the Immigration Control and Financial Responsibility Act. It is, in my opinion, a positive step in our overall effort to improve our Nation's immigration policies. The bill makes much-needed and substantive reforms in the current law by focusing on the problem of illegal immigration without unfairly punishing law-abiding employers and those who come to this country and play by the rules.

This bill concentrates on better enforcement, both at our borders and in dealing with those who overstay their visa, by increasing the number of Border Patrol agents and investigative personnel over the next 5 fiscal years. It provides for 4,700 new Border Patrol agents, a total increase of 90 percent above current levels. It authorizes the hiring of 300 full-time INS investigators who will concentrate on alien smuggling and enforcing employer sanctions. And it authorizes 300 new INS officers to investigate aliens who entered legally on a temporary visa, but have overstayed that visa and are now in the United States illegally.

This bill also works to streamline current exclusion and deportation processes for anyone attempting to enter the United States without proper documentation, or with false documentation. No longer will such individuals be able to stay on indefinitely while their case is endlessly adjudicated. While genuine refugees are still offered important protections, abuse of the system will be largely curtailed through a new system which allows specially trained asylum officers at ports of entry to determine if refugee seekers have a credible fear of persecution. If they do, then they can go through the normal process of establishing their claim. But if they cannot establish a proper claim, then the new provisions in this bill will prevent them from simply being released into the streets.

Mr. President, S. 1664 also contains new language that will effectively deal with criminal aliens. For those individuals who come to this country and commit crimes—and there are an estimated 450,000 such criminal aliens in our jails and at large throughout the Nation—there are tough new provisions

in this bill that will keep them off our streets and deport them more quickly. For example, under this bill, criminal aliens will no longer have the luxury of deciding whether they will serve their sentence in this country or their home country. On the contrary, this bill allows for the renegotiation of prisoner-transfer treaties that will take away that decision from the criminal alien.

In addition, this bill places new restrictions—much-needed restrictions—on the use of welfare by immigrants. For the first time, self-sufficiency will be the watchword for those coming to the United States. By making noncitizens ineligible for Federal means-tested programs, and by "deeming" a sponsor's income attributable to an immigrant, the American taxpayer will no longer be financially responsible for new arrivals.

Mr. President, currently, individuals who sponsor an immigrant's entry into the United States must pledge financial support for that immigrant by signing an affidavit. But those affidavits, as it turns out, are not legally binding, and therefore not enforceable. Consequently, they are simply not worth the paper they are printed on. Under this bill, though, the sponsor's affidavit of support will be a legally binding document, thereby creating a legal claim that the Federal Government or any State government can seek to enforce. Moreover, the affidavit remains enforceable against the sponsor until the immigrant becomes a naturalized citizen, or has worked 40 qualifying quarters in this country.

Mr. President, each of the provisions that I have noted are, I believe, good provisions. Each will be effective in combating the problem of illegal immigration. But on their own, these reforms cannot stem the root of the problem. They cannot get at the underlying cause for why the United States has such a large illegal alien population, now estimated by the INS at some 4 million persons.

On the contrary, the only way to effectively halt the flow of illegal immigrants into the United States is to take away the biggest magnet of all: the magnet of jobs. Pure and simple, we must do more to deny jobs to those who are in the country unlawfully than we are presently doing. And I believe that the most realistic way to turn off the jobs magnet is through the new worker verification system provided for in this bill.

This provision, jointly crafted by Senators SIMPSON and KENNEDY, will require the President, acting through the Justice Department, to conduct several local or regional pilot programs over the next 3 years to test new and better ways of verifying employment eligibility. These pilot programs will test the feasibility of implementing electronic or telephonic verification systems that will reduce employment of illegal immigrants, while at the same time protecting the privacy of all Americans.

The verification systems that will be tested in these demonstration projects will be required to reliably determine whether the person applying for employment is actually eligible to work, and whether or not such individual is an imposter, fraudulently claiming another person's identity. Under the terms of the Simpson-Kennedy amendment, any system tested would be required to reliably verify employment authorization within 5 business days, and do so in 99 percent of all inquiries. The systems must also provide an accessible and reliable process for authorized workers to examine the contents of their records and correct errors within 10 business days. And any identification documents used in these demonstration projects must be resistant to tampering and counterfeiting.

Mr. President, as I noted at the start of my comments, I believe S. 1664 is a good bill, with many tough provisions. In my opinion, this legislation will make significant strides toward reducing the number of illegal immigrants in the United States, and in helping to lift the financial burden for these people from the shoulders of the American taxpayer.

At the same time, however, I am disappointed that the Senate did not see fit to address the entire issue of immigration, both illegal and legal. I do not believe, as I know some do, that the issues neatly separate into distinct matters. I do not believe, as some apparently do, that we can have a coherent, integrated policy in this area when we choose to ignore necessary reforms in legal immigration.

Mr. President, I believe that the time is way overdue for all of us to take a fresh, cold, hard look at our total national immigration policy and its impact on our society. It is clear to me that such an evaluation is badly needed and that a new consensus about the kind of immigration policies we need to enhance our particular goals must be formulated by the Congress. It seems indisputable to me that any nation's overall immigration policy must first and foremost seek to enhance the survival and integrity of that nation's culture as a whole by encouraging a broad consensus and shared beliefs. Simply put, our Nation must put its own citizens' concerns above the laudable goal of helping people from other nations. We must consider our own national priorities and the needs of our own citizens first.

As Alexander Hamilton said on January 12, 1802, "The safety of a republic depends essentially on the energy of a common national sentiment; on a uniformity of principles and habits; on the exemption of the citizens from foreign bias, and prejudice; and on the love of country which will almost invariably be found to be closely connected with birth, education and family."

But what we are beginning to see in our country is the fragmentation of peoples into groups who tend to put the group above the Nation. This trend toward Balkanization of America into ethnic enclaves is a slippage we need to take positive steps to curtail.

The extreme result of Balkanization of course is the ethnic bloodshed we have witnessed in the former Yugoslavia. When we think of immigration in America, I believe most of us draw an image of America as a melting pot where ethnic differences are subordinated for the benefit of the greater whole. Recent evidence throws this imagery into some question. The process of assimilation into a common language and belief system, and shared values, is no longer occurring as it has in the past with the waves of new immigrants now washing into our country. Rather than melting into one people, we seem to fragment and separate in warring groups.

The recent history of immigration into America shows that it is governed by, first, the laws which we write, and second, the implementation of those laws. Obviously when we write new law, we must then look to our own employment needs, to the effects on our welfare rolls, and to the impacts on the resources we dedicate to our schools and health system as we proceed. We obviously have an obligation to put our own people, their standard of living, and their opportunities for education, employment and health first. So we here in Congress must take responsibility for the effect of the immigration laws which we write on the continued health of our Nation. We cannot shirk or shift this responsibility.

The American people tell us in convincing polls, some 70 percent, that they think we are taking in more immigrants—legal and illegal—than we can properly absorb and assimilate. The Immigration Act of 1965 apparently triggered huge increases in immigration, and not necessarily by design. Various estimates, including those of the INS, project an average of well over 1 million immigrants per year, both legal and illegal, will settle in the United States in the current decade, with no subsidence of that flood in sight unless we in the Congress take action to do something about it.

To really get to the heart of the problem, we have to be willing to examine and debate the newly developing demographic dynamics among all cultural and ethnic groups including developing trends in regional and urban concentration, and our own national racial mix on a basis which is dispassionate, fair and not prejudicial. Perhaps this is difficult for many, but we cannot treat such practical analysis as taboo because a changing cultural mix in a locality, a city, a State or a region can have profound social, economic, and political consequences on us all which cannot be ignored. For instance, should we not be looking at the particular impacts of immigration in specific geographic concentrations and make an effort to reduce the possibilities of Balkanization and the creation

of enclaves? There is already some documentation of demographic movements of some ethnic groups away from, and in reaction to, such enclaves. We need to take steps to better understand the demographic shifts that are occurring in our country and the consequent economic and political results of those shifting tides.

There is one area of abuse which starkly highlights the need for thorough dispassionate review of certain practices which have reached near ridiculous proportions. It is time we reexamined our policy of rewarding family preferences automatically to the children of illegal-immigrant mothers. The practice of coming to the United States, illegally, solely to have a child which is then automatically an American citizen with right to preference in bringing in other family members has reached epidemic proportions in California particularly. Most of the births, according to the Los Angeles Times of January 6, 1992, in Los Angeles County are reported to have been of this variety. Something is clearly wrong with our policy in this regard and I support addressing the problem.

One fundamental issue which ought to be discussed is the primacy of our national language. There is nothing more fundamental to an integrated state and culture than a common language. The trend toward bilingualism in some areas, I contend, may not be productive at all, but instead may simply delay the mastering of English for many immigrants. Any policy or law which encourages the use of other languages at the expense of learning English naturally erodes our traditional national identity in a most direct and important way. Requiring education to be in English is the best way I know of to keep the melting pot melting.

Second, we seem to have shifted away from employment-oriented immigration, designed to fill particular gaps in our work force, and gravitated instead to an emphasis on family reunification. The Judiciary Committee has debated the numbers allowed for family reunification, but I would question the emphasis on this priority above employment tests for potential citizens. It seems to me to be simple common sense to encourage immigration to the United States among applicants who can help the United States meet certain needs that might strengthen our workforce and help us be better able to compete in a global economy.

Third, even when we review those employment-oriented visa programs which are now on the books, we find them to be wrongly implemented. The Labor Department Inspector General has recently found two key programs, the Permanent Labor Certification [PLC] program and the Temporary Labor Condition Application [LCA] program to be approaching a "sham." These programs, allowing a combined ceiling of some 200,000 worker entry visas per year, were designed to bring in workers for jobs that could not be filled by Americans, allowing us to hire the best and the brightest in the international labor market so Americans can remain competitive in the world economy. But instead of protecting American workers' jobs and wages, the real result has been to simply displace qualified American workers for essentially middle level jobs, and the Labor Department report recommends the programs be abolished.

Fourth, there is solid evidence that some immigrants come to the United States to participate in the welfare state, or do so because of a failure to find a job in their own land. This bill, S. 1664, attempts to address this issue through strict, new, deportation rules aimed at any immigrant that becomes a "public charge," and I commend the committee for that initiative. However, these new public charge regulations will have no affect unless we aggressively work to actually deport such individuals. Implementation of similar legal provisions in the past has been disappointing, and a renewed attempt is clearly needed.

The pattern of immigration since 1965 has unfortunately shifted to less skilled workers than was the case in earlier decades and, in the 1980's a large majority of immigrants came from the developing world, particularly Latin America and Asia. Surely it should not be taboo to consider whether the great numbers of developing world cultural groups can actually provide the skills needed for the current U.S. job market. Are these prevalent immigrant groups going to strengthen our Nation with their skills or weaken it because of their needs? That should be the question we ask when we write such law. The wave of immigrants is arriving as a result of policy we write in the Congress and, therefore, I suggest we are obliged to commission ongoing evaluations of the process and success of immigrant assimilation into American society. Any ethnic and national mix caused by our immigration laws should be the result of conscious, deliberate policy embodied in the laws we consider here on this floor, not of accident or politics or a disinclination to take on sensitive groups or issues.

Finally, I suggest we need to be consistent in our approach to the growing and complex problems associated with immigration. We cannot complain about the changing ethnic mix of immigrants, on the one hand, and then exploit such people for cheap labor, on the other. We need to assume responsibility for the results of our immigration policies: evaluate them on an ongoing basis, and take the legislative steps to change what we do not favor. Let us for once attempt to remove hypocrisy and political correctness from this issue, and face the realities squarely and responsibly. If we feel the ethnic mix is becoming unbalanced and the number of immigrants is too high, for the sake of our survival as a Nation, we must take the difficult but necessary steps to correct the situation. As the 1994 U.S. Commission on Immigration Reform, chaired by the late Barbara Jordan, stated in its report on page 1, "we disagree with those who would label efforts to control immigration as being inherently anti-immigrant. Rather, it is both a right and a responsibility of a democratic society to manage immigration so that it serves the national interest."

As the Jordan Commission pointed out, we need to address legal immigration as well as illegal, and we need to install an enforcement system that makes it far harder to overstay visas. I hope we can get a time certain to consider S. 1665, on legal immigration and find a way to engage the other body on that matter.

Mr. SIMPSON. Mr. President, we are ready to proceed with the regular order.

VOTE ON AMENDMENT NO. 3743, AS AMENDED

The PRESIDING OFFICER. The question now occurs on the underlying amendment as amended.

Mr. SIMPSON. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3743), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 361, S. 1664, the illegal immigration bill:

Bob Dole, Alan Simpson, Craig Thomas, Hank Brown, R.F. Bennett, Dirk Kempthorne, Judd Gregg, Bob Smith, Trent Lott, Jon Kyl, Rod Grams, Fred Thompson, John Ashcroft, Bill Frist, Orrin Hatch, Chuck Grassley.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the bill (S. 1664) shall be brought to a close? The yeas are automatic.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—100

Abraham	Biden	Breaux
Akaka	Bingaman	Brown
Ashcroft	Bond	Bryan
Baucus	Boxer	Bumpers
Bennett	Bradley	Burns

Byrd	Harkin	Moynihan
Campbell	Hatch	Murkowski
Chafee	Hatfield	Murray
Coats	Heflin	Nickles
Cochran	Helms	Nunn
Cohen	Hollings	Pell
Conrad	Hutchison	Pressler
Coverdell	Inhofe	Pryor
Craig	Inouye	Reid
D'Amato	Jeffords	Robb
Daschle	Johnston	Rockefeller
DeWine	Kassebaum	Roth
Dodd	Kempthorne	Santorum
Dole	Kennedy	Sarbanes
Domenici	Kerrey	Shelby
Dorgan	Kerry	Simon
Exon	Kohl	Simpson
Faircloth	Kyl	Smith
Feingold	Lautenberg	Snowe
Feinstein	Leahy	Specter
Ford	Levin	Stevens
Frist	Lieberman	Thomas
Glenn	Lott	Thompson
Gorton	Lugar	Thurmond
Graham	Mack	Warner
Gramm	McCain	Wellstone
Grams	McConnell	Wyden
Grassley	Mikulski	
Gregg	Moseley-Braun	

The PRESIDING OFFICER. On this vote, the yeas are 100, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the Senate will proceed to the immediate consideration of H.R. 2202. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause will be stricken. and the text of S. 1664, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 97, nays 3, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—97

Abraham	Breaux	Cohen
Akaka	Brown	Conrad
Ashcroft	Bryan	Coverdell
Baucus	Bumpers	Craig
Bennett	Burns	D'Amato
Biden	Byrd	Daschle
Bingaman	Campbell	DeWine
Bond	Chafee	Dodd
Boxer	Coats	Dole
Bradley	Cochran	Domenici
Dorgan	Kassebaum	Pell
Exon	Kempthorne	Pressler
Faircloth	Kennedy	Pryor
Feinstein	Kerrey	Reid
Ford	Kerry	Robb
Frist	Kohl	Rockefeller
Glenn	Kyl	Roth
Gorton	Lautenberg	Santorum
Gramm	Leahy	Sarbanes
Grams	Levin	Shelby
Grassley	Lieberman	Simpson
Gregg	Lott	Smith
Harkin	Lugar	Snowe
Hatch	Mack	Specter
Hatfield	McCain	Stevens
Heflin	McConnell	Thomas
Helms	Mikulski	Thompson
Hollings	Moseley-Braun	Thurmond
Hutchison	Moynihan	Warner
Inhofe	Murkowski	Wellstone
Inouye	Murray	Wyden
Jeffords	Nickles	
Johnston	Nunn	

NAYS—3

Feingold	Graham	Simon

The bill (H.R. 2202), as amended, was passed.

(The text of H.R. 2202 will be printed in a future edition of the RECORD.)

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

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 1664

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 1664 be placed back on the calendar.

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

(Mr. FAIRCLOTH assumed the Chair.)

Mr. SIMPSON. Mr. President, I will not be overly long. I just want to take a few minutes to thank my colleagues. This bill is the culmination of 17 years of work. It is interesting for me, as Senator TED KENNEDY and I were both on the Select Commission on Immigration and Refugee Policy 17 years ago. With this bill, we have brought to fruition most of the things that Father Ted Hesburgh and that commission suggested to us then. We have also taken welcome direction from the U.S. Commission on Immigration Reform, and the late Barbara Jordan, who chaired that body. I think with what we have done in this bill, the recommendations of those Commissions—instead of remaining as studies which stayed on the shelf—have become sweeping measures to control illegal immigration. This bill is truly sweeping.

I want to thank TED KENNEDY. Senator KENNEDY has worked with me and has helped me over quite a few hurdles. He chaired the Subcommittee on Immigration before I came to the Senate. After the Republicans became the majority party in 1980, I chaired it. There were times when we disagreed. but we were never disagreeable. He is a very special friend and a remarkable legislator of the first order.

I also want to thank Senator BOB DOLE, who has consistently arranged so that we could go forward with this important legislation. I personally appreciate not only his leadership, but his friendship. Serving as the assistant Republican leader—his assistant—for 10 years was one of my greatest honors and privileges.

I must also thank my staff. My staff includes Dick Day—the "Reverend" Day, I call him. He is not a Reverend, but he should have sainthood. Back in Cody, WY, I told him, I have an issue of disaster, one filled with guilt and racism, and I will be called everything in the book, but I need somebody to move to Washington to help me and love me and help me along. Well, he did that. He has lost 5 pounds within the last 13 days. I want to thank Charles Wood, who was been with me via Harvard and Berkeley and who is willing to hang in there late at night; John Ratigan, who has come to my staff from the State Department with his wealth of knowledge; John Knepper, a wonderful, bright young man from Wyoming, a very able person to assist me in these matters; Trudy Settles has been a wonderful addition to our staff; and I must also thank Kristel DeMay, Maureen McCafferty, and Uzma Ahmad—some our marvelous interns at the Subcommittee on Immigration. I also want to thank TED KENNEDY's staff, including Michael Myers; he and Dick Day work together without any kind of partisanship or things that set them apart in that way. Then there are Patty First, Bill Fleming, Ron Weich, and Tom Perez—all of whom have been a great help in moving this bill through the Senate. There have also been so many staff for so many Senators who have worked so diligently on this issue.

I must say that we have completed 51 hours and 45 minutes on this piece of legislation over 8 days—although that 51 hours 45 minutes would have been considerably shortened without the minimum wage activities of Senator KENNEDY. Nevertheless, he may have actually saved us a great deal of time because when we went into the cloture, with its parliamentary limitation of germaneness, we were saved a great deal of time on some very controversial amendments. I do not want to give him too much credit, though, because I am sure we will be trying to undo him in a few hours.

Do not go home and analyze the votes of each Senator, though, because you will never be able to explain them. Every Senator's staff is wondering why he voted this way or that. This immigration issue is about America, and America is about conflict and resolution. It is debate about these issue that pull and tear at our hearts. and that is what makes us the country we are—the most magnificent country on this bright earth.

This debate is the essence of America—passion, conflict, controversy, all the rest of it. It has been an exceedingly pleasant experience. I mean that. I love the work. I wish Senator KENNEDY well as he proceeds forward with it in the years to come. I will be observing from my future teaching post at Harvard. being assured that he is

doing it correctly. I thank my colleagues. I thank those on the floor. I thank my former co-assistant leader, Senator FORD. He helps me when he can and vexes me whenever he has the opportunity. Yet, I had come to enjoy him thoroughly in my work when we served together as assistant leaders of our parties. He did not care what I did, as long as we did not do anything with the motor voter law. That was easy to accomplish.

DAVID PRYOR, who sits here, is a friend who came with me to this place. BILL BRADLEY and I have a great friendship, and we will go on and do other things, and while the rest of you will be here to do the work. As I look around the Chamber—I do not intend to address all the Members here, but I see my colleague from Montana, who is a very special, wonderful and earthy friend. Then there is BOB DOLE, who is, I think, a most remarkable leader for this body—and perhaps other places, too.

Mr. KENNEDY. Mr. President, the vote that was just taken, 97 to 3, I think, says it all. The U.S. Senate has been debating this issue for 8 days. It has been closely divided on a number of different issues. But I feel that most of the Members, or virtually all of the Members, feel that their views were given an opportunity to be presented and to be examined and to be considered and to be voted on. And the final outcome of this is 97 to 3. It is really an extraordinary personal achievement and accomplishment by my friend and colleague, the Senator from Wyoming, Senator SIMPSON.

AL SIMPSON and I have been friends for many years. Although we have some differences, we have a deep sense of mutual respect and friendship, which has been valuable to certainly me and, I think, to him. Why a Senator from Wyoming would be willing to take on this issue on immigration has always been extraordinary and interesting to me. This is not a burning issue in his particular State.

In my State of Massachusetts, they still remember the bitter whip of the national origin quota system that divided groups and communities on the basis of where one was born. Senators from the western part of the country remember the Asian Pacific triangle that discriminated on the basis of race and discriminated against Asians up until 1965. And in many parts of the country, in between, there are communities and families who have cared very deeply about this.

Senator SIMPSON has seen the importance of this issue as a national issue and an issue for the country. This issue, as he has described it, involves so many different aspects of human emotions of passion, and discrimination, and reunification of families, and exploitation, and he has taken this on as a member of the Hesburgh Commission for Legal and Illegal Immigration, as a key figure.

We passed the Refugee Act in 1980, and then in 1986, and in 1990, and now again, to deal with something, which is of very important concern to all Americans, and that is the whole question of the illegals that come to this country.

This legislation, I think, will be extremely important and, I believe, effective in stemming the tide of illegals, not just because of the expansion of the border patrols, although that will have some effect, and not just because of the increased penalties in smuggling, as all that will have an effect; it will have an important impact in helping American workers get jobs and be able to hold them and have the enhanced opportunity for employment.

That, I think, is very, very important as well. But most of all I want to pay my respects to Senator SIMPSON for his dedication and focus on this issue. If this issue had come up over a year ago, after the 1994 campaign, when the flames of distrust and anger were being fanned in many parts of the country, we would not have had this legislation. It has only been because of the exhaustive time that the Senator has taken with each and every Member, Republican and Democrat, in the Judiciary Committee and talking to each of the various groups that have a particular interest that we have gotten to this point, and his willingness to listen to the recommendations of Barbara Jordan. I thought of Barbara Jordan when I heard that last rollcall because this was an issue which Barbara Jordan, a distinguished lady and an outstanding congresswoman, that struck the conscience of the Nation on many different occasions, and tireless in her own pursuit of justice and the elimination of forms of discrimination. She took on an enormously challenging task when few others would touch it, and in working through, made a series of recommendations. That has been the basis of this particular proposal.

So I give respect to my chairman, the chairman for the remainder of this session. I think all of us who know the importance of this issue will know that ALAN SIMPSON has played an extremely important role, addressing in a serious way, bringing judgment, conscience, consideration, and intelligence to this issue. I think this country is better served by his service.

I want to mention just briefly, Mr. President, other members of our committee: Senator SIMON. Senator SIMON, I, and Senator SIMPSON for a brief period were the only three members of the Immigration Committee. He has been a steady contributor and has an unwavering commitment to fairness which has marked his career.

Senator FEINSTEIN, for her own integrity and effectiveness in dealing with our immigration laws; Senator GRASSLEY; Senator KYL; Senator SPECTER—all active on the subcommittee.

My colleague, Senator BIDEN, Senator FEINGOLD, Senator ABRAHAM, and Senator DEWINE are deeply committed to our immigrant heritage and made major contributions to legal immigration and effectively in relation to illegal reforms.

Senator HATCH, who is chairman of our Judiciary Committee, has long been involved in the human side of immigration and has handled lengthy and contentious markups with fairness. We had very extensive markups with broad attendance—virtually unanimous attendance—and he presided over them with fairness;

Senator GRAHAM, who has presented the case for a safety net for legal immigrants and the need to avoid the unfunded mandates, as well as Senator CHAFEE and Senator LEAHY on those issues of asylum. That has been a matter of particular interest and concern to him. He has been very effective on this bill on that.

Finally, I want to mention Michael Myers, who has been of such value and help, I believe, to the Senate and to the country, as our other staff have, with Democrats and Republicans. I think all of us perhaps—maybe there are those; I do not—but there are those who underestimate the power of good will and intelligence of those who provide such assistance to all of us and make our jobs easier. Michael Myers has been there:

Patti Frist, Tom Perez, Bill Fleming, Melody Barnes, Ron Weich, Michael Mershon; and I think that we on our side have felt that the Republican staff, Dick Day, Chip Wood, John Knepper, John Ratigan, and Chuck Blahous have also been not only working for Republicans but Democrats alike.

Carlos Angulo, who has been working with Senator SIMON; Leeci Eve with Senator BIDEN, and Bruce Cohen for Senator LEAHY; all of those and others have been of great help.

Finally, I want to thank TOM DASCHLE as well, who as we were going through different times and phases of the consideration of this legislation and different aspects of it, has been a constant source of strength to me and the other members of the committee.

We look forward to the conference, and we will do our very best to bring back to the Senate a conference that carries forward the commitments of the Senate to the extent that we possibly can. This is a bill that deserves to be signed by the President of the United States.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, parliamentary inquiry. What is the order of the day?

Mr. SIMPSON. Mr. President, if I may—if the Senator will yield for a moment to let me propose a unanimous-consent request, and then the Senator from Montana may proceed.

I just want to add one note. I failed to pay tribute to Chuck Blahous. He has not been part of the immigration staff, but he is my legislative director, and was he pressed into service on this bill in a most extraordinary way.

I, too, thank my colleagues on the subcommittee: Senator KENNEDY, of course; Senator SIMON, a steady friend

for 25 years; Senator FEINSTEIN; Senator GRASSLEY, who is always there, always steady, always someone to count on; Senator KYL, who will leave a great impression and mark, along with Senator FEINSTEIN, on this subcommittee in the future; Senator SPECTER and his steadiness; BILL ROTH, my old steady friend who campaigned for me back when it was not safe to do that. I see him here. I thank him for his work.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the honorable majority leader.

Mr. DOLE. Mr. President, first, let me congratulate my colleagues, Senator SIMPSON and Senator KENNEDY, for completing action on what I consider to be a very good bipartisan immigration bill. It took 8 days. We had it scheduled for 3. So we have lost a little time. But I think the end product is probably worth it, and we hope to make up the time in the next few weeks on other matters.

Mr. President, we have before us an issue of great national importance—reform of this Nation's laws on illegal immigration. But while many Members have worked hard to move this issue forward, let's face it: The moving force has been my colleague and friend, the Senator from Wyoming—Senator SIMPSON. There are so many ways to describe how he has served America, but I believe that his work in this area will always be at the top of the list.

Illegal immigration reform is not a partisan issue. It is not a simple issue.

But make no mistake about it, this legislation is long overdue.

Mr. President, we are a nation justly proud of our heritage. That heritage is inseparable from the human experience of millions upon millions of immigrants—from every country on Earth.

That heritage is also bound up in a reverence for the rule of law—for playing by the rules.

The Immigration Control and Financial Responsibility Act combines both of these strands of our national character.

We cannot remain a great country and fail to control our borders.

We cannot evade one of the principal obligations of the Federal Government and expect the States and local communities to pick up the tab.

We cannot reward those who break our laws by picking the pockets of hardworking Americans.

In short, Mr. President, we are proud that our country is a nation of immigrants and a land of opportunity—but we will insist that everyone play by the rules.

The legislation before us provides for increases in the numbers of enforcement personnel and creates additional detention facilities. Perhaps most important, it provides for the first time some realistic hope that our Border Patrol can cope with the overwhelming nature of illegal immigration by increasing the numbers of agents.

The bill, however, also recognizes that fully half of the illegals currently in this country were once here legally under a visa, but then simply stayed. This is not a problem that can be addressed by fences along the border—this is a matter of the will to enforce our laws.

Visa overstayers are here now—when we discover who they are they should be sent on their way.

The bill also provides strong measures for perhaps the ultimate insult to our national sovereignty. This is the case when those who violate our immigration laws, the violate our criminal laws as well.

I am particularly pleased that the Senate adopted the Dole-Coverdell amendment which closed some of the loopholes that currently exist in our deportation laws.

Under the Dole-Coverdell amendment, violations of domestic violence, stalking, child abuse laws, and crimes of sexual violence have been added as deportable offenses.

It is long past time to stop the vicious acts of stalking, child abuse, and sexual abuse. We cannot prevent in every case the often justified fear that too often haunts our citizens. But we can make sure that any alien that commits such an act will no longer remain within our borders.

Mr. President, I salute my colleagues who have worked so hard on this legislation. They have rendered America a great service, and it is my hope that a strong, bipartisan vote in favor of this bill will send a message that America will no longer stand by passively—we will take control of our borders. And most of all, Mr. President, we will ensure that no one cuts in line in front of those who play by the rules.

So I salute my colleagues who have worked hard on this legislation. They have rendered America a great service. It is my hope that we can come out of the conference with a strong bipartisan bill.

I again congratulate my colleagues on both sides of the aisle for their efforts. I yield the floor.

Mr. HATFIELD. Mr. President, today the Senate passed much needed legislation to restructure our Nation's laws with respect to illegal immigration. I want to take this opportunity to commend my colleagues Senator SIMPSON and Senator KENNEDY for their diligence and leadership in crafting legislation to address this issue. As this debate has shown, the highly emotional and diverse views on the issues surrounding both legal and illegal immigration makes it very difficult to get a consensus on legislation reforming our immigration laws.

Despite previous efforts by Congress to control illegal immigration, the evidence shows that thousands of people cross the border illegally each year. Clearly, our Nation simply cannot continue to absorb this unregulated stream of illegal aliens. The costs to society of permitting a large group of people to live in an illegal, second-class status are enormous. It strains not only the financial resources of our local, State and Federal governments, but also the compassion of our people. The Immigration Control and Financial Responsibility Act will help ensure that the Federal Government meets it's responsibility to enforce our Nation's illegal immigration policies.

This legislation nearly doubles the number of Border Patrol agents over the next 5 years, authorizes an additional 300 INS investigators, increases criminal penalties for alien smuggling and document fraud, and authorizes additional detention facilities for illegal aliens. Through these increased enforcement activities, our Nation will be better equipped to stem the flow of illegal immigrants across our borders and to respond to the problems and abuses which accompany the presence of a significant illegal population. For these reasons, I voted in favor of final passage of this legislation.

I did so not without some reservations. While I believe in the underlying principles of the legislation, I have serious concerns over some of the provisions agreed to in this bill. I am concerned about the costs and administrative burdens this legislation may impose on the States by the extension of deeming to all Federal means-tested assistance programs. Additionally, by failing to exempt some minimal emergency and health services from deeming, I am fearful that we will discourage legal aliens from seeking basic treatments such as immunizations and prenatal care. As we know, this can lead to adverse effects to the public health and safety.

In addition, the original version of the bill contained provisions which imposed unwarranted new bars to an individual's ability to seek political asylum in this country. Due to my concern about these summary exclusion procedures, I joined Senator LEAHY as a cosponsor of his amendment to limit the use of summary exclusion except in emergency migration situations.

Mr. President, most persons who are fleeing persecution do not have the luxury of asking their governments for appropriate exit papers to leave their countries. Many flee without documents. Others flee with fraudulent documents. The summary exclusion provisions in the underlying bill had the potential of excluding these people if they failed to convince an INS border officer that they have a credible fear of persecution.

I can understand the concern that our asylum laws have been abused in the past. But we have taken steps to reform the asylum system. In 1995, our asylum system was tightened and adequate resources have been invested to root out these abuses. This effort has been successful; 90 percent of claims are now adjudicated within 60 days of their receipt. There has been a drastic decline in new asylum applications, from 13,000 per month at the end of 1994 to 3,000 per month currently. One reason for this is that asylum seekers are

no longer automatically eligible for work authorization. As a result of the reforms, our asylum system now works to ensure that legitimate asylum seekers are protected and those who file fraudulent claims are weeded out.

We have a tradition in this country of protecting bona fide refugees. We have an asylum system that is working well to continue this tradition. The provisions included in the underlying bill would have undermined our good efforts to the detriment of the very people we are seeking to protect. The Leahy amendment appropriately gives the Attorney General the flexibility to address emergency migration situations but retains our current asylum procedures for those who arrive in the United States and request political asylum. I am happy to say that my colleagues in the Senate recognized the importance of retaining this flexibility and voted to include this amendment in the final bill.

While I support the general principles underlying this bill, I believe we must also find new ways to address the problems of illegal immigration. I am among the first to admit that we cannot afford to absorb an unregulated flow of immigrants into our country. However, I am concerned by the shortsighted approach that is taken to address this problem. Sometimes we find ourselves so caught up in the crises of the day that we forget to look at the root causes of problems. In the case of illegal immigration, I think we have fallen into this trap.

We can continue to increase our Border Patrol and our enforcement activities in the United States. We can build a wall that stretches along the United States-Mexico border and the United States-Canadian border. While this may make it more difficult for illegal immigrants to enter the United States, I do not believe that these measures will solve the problem of illegal immigration. Similarly, we can tighten employer sanctions and cut off all public benefits for illegal aliens, in an attempt to take away the "magnets" which create the desire for people to enter our country with or without proper documentation.

I believe we must look beyond these so-called magnets to focus on creating opportunities for people within their own countries so they aren't compelled to leave in search of better opportunities to support their families. To do this, the United States must maintain it's leadership in promoting human rights, democracy, and economic stability in our neighboring countries, and around the world. Unfortunately, I fear that we have recently begun to retreat from this position. In the past few years, the United States has curtailed it's spending on foreign aid and humanitarian assistance programs. This year, we essentially demolished our international family planning program, which will severely affect maternal and child health around the world. Further, we continue to funnel arms into the poorest and most politically unstable countries across the globe.

We cannot continue along this path. It is only when we address the root causes of illegal immigration—poverty, warfare, and persecution—that the United States can truly address and eliminate this problem.

One final note, Mr. President. In this bill, we have significantly enhanced the ability of the Immigration and Naturalization Service [INS] to meet one of its primary missions, to control the entry of illegal immigrants into this country. But, I would like to take this opportunity to remind my colleagues that the enforcement mission is not the only mission of the INS. The INS also exists to serve, to meet the needs of citizens, legal residents, and visitors. It has the responsibility to provide service to millions of individuals and employers who are following the rules, and trying to bring family and employees into the United States legally.

Due to the recent national attention that has been given to illegal immigration, I fear that this part of the INS mission statement has been severely neglected. For example, many district and regional INS offices have unreliable phone service, have tremendous backlogs in paperwork, and fail to initiate community outreach. My State's district office in Portland, OR, no longer even distributes necessary forms to the public. I had planned to introduce an amendment to this bill which would have addressed this situation. It would have required all INS district and regional offices to distribute forms, and would have expressed the Senate's desire that the INS provide adequate resources to fulfill its service mission.

Unfortunately, I did not have an opportunity to bring this amendment to the floor for consideration on this bill. However, I believe this is an issue of utmost importance and will continue to pursue enhancing the INS's service mission through subsequent legislation or through communications with Commissioner Doris Meissner. Citizens, permanent residents, and visitors across the country need, and deserve, to have access to the services only the INS can provide for them.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The text of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, as passed by the Senate on May 2, 1996, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2202) entitled "An Act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Financial Responsibility Act of 1996".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—IMMIGRATION CONTROL

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.

(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal year 1996 shall increase by no less than 700, and in each of fiscal years 1997, 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1996, 1997, 1998, 1999, and 2000, may increase by not more than 300 the number of positions for personnel in support of Border Patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 102. INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1996, 1997, and 1998.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 103. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury shall increase, by approximately equal numbers in each of fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by Congress, except such low-use lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1996.

SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1996 and 1997 not more than 350 investigators

and staff to enforce existing legal sanctions against employers who violate current Federal wage and hour laws except that not more than 150 of the number of investigators authorized in this subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or based on receipt of credible material information, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and our inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 106. INCREASE IN INS DETENTION FACILITIES.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds before the end of fiscal year 1997.

SEC. 107. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Within 60 days of the enactment of this title, the Attorney General shall review all prescreening and hiring standards to be utilized by the Immigration and Naturalization Service to increase personnel pursuant to this title and, where necessary, revise those standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of the fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall certify in writing to the Congress that all personnel hired pursuant to this title for the previous fiscal year were hired pursuant to the appropriate standards.

(c) REVIEW OF TRAINING STANDARDS.—(1) Within 180 days of the date of the enactment of this Act, the Attorney General shall review the sufficiency of all training standards to be utilized by the Immigration and Naturalization Service in training all personnel hired pursuant to this title.

(2)(A) The Attorney General shall submit a report to the Congress on the results of the review conducted under paragraph (1), including—

(i) a description of the status of ongoing efforts to update and improve training throughout the Immigration and Naturalization Service, and

(ii) a statement of a timeframe for the completion of those efforts.

(B) In addition, the report shall disclose those areas of training that the Attorney General determines require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF PHYSICAL BARRIERS, DEPLOYMENT OF TECHNOLOGY AND IMPROVEMENTS TO ROADS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

There are authorized to be appropriated funds of $12,000,000 for the construction, expansion, improvement or deployment of triple-fencing in addition to that currently under construction, where such triple-fencing is determined by the Immigration and Naturalization Service (INS) to be safe and effective, and in addition, bollard style concrete columns, all weather roads, low light television systems, lighting, sensors and other technologies along the international land border between the United States and Mexico south of San Diego, California, for the purpose of detecting and deterring unlawful entry across the border. Amounts appropriated under this section are authorized to remain available until expended. The INS, while constructing the additional fencing, shall incorporate the necessary safety features into the design of the fence system to insure the well-being of Border Patrol agents deployed within or in near proximity to these additional barriers.

SEC. 109. PRESERVE LAW ENFORCEMENT FUNCTIONS AND CAPABILITIES IN INTERIOR STATES.

The Immigration and Naturalization Service shall, when deploying Border Patrol personnel from interior stations, coordinate with and act in conjunction with State and local law enforcement agencies to ensure that such redeployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior Border Patrol stations.

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project (if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the "system"), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—.

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for

Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term "business day" means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term "record" means an item, collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

(1) the alien appeared throughout the term of employment to be prima facie eligible for the employment under the requirements of section 274A(b) of such Act;

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii) and (iv), the President, acting through the Attorney General, shall begin conducting several local or regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(iv) At a minimum, at least one project of the kind described in paragraph (2)(E), at least one project of the kind described in paragraph (2)(F), and at least one project of the kind described in paragraph (2)(G), shall be conducted.

(B) For purposes of this paragraph, the term "legislative branch of the Federal Government" includes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act; except that, if the President determines that any one or more of the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—(A) If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(B) If the Attorney General makes the determination referred to in subparagraph (A), the Attorney General may require other, or all, employers in the geographical area covered by such project to participate in it during the remaining period of its operation.

(C) The Attorney General may not require any employer to participate in such a project, except as provided in subparagraph (B).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

(i) DEFINITION OF REGIONAL PROJECT.—For purposes of this section, the term "regional project" means a project conducted in a geographical area which includes more than a single locality but which is smaller than an entire State.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term "Administration" means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term "employment authorized alien" means an alien who has been provided with an "employment authorized" endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) the following new sentence: "The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.".

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end "or";

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

"(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—";

and

(v) in clause (ii) (as redesignated)—

(I) by striking "and" at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting ", and"; and

(III) by adding at the end the following new subclause:

"(III) contains appropriate security features.";

and

(B) in subparagraph (C)—

(i) by inserting "or" after the "semicolon" at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local authorized custodian of record and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Federal agency designated by the President, after consultation with such other Federal agencies as the President shall designate and with State vital statistics offices, and shall—

(i) include but not be limited to—

(I) certification by the agency issuing the birth certificate, and

(II) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, for fraudulent purposes,

(ii) not require a single design to which the official birth certificate copies issued by each State must conform; and

(iii) accommodate the differences between the States in the manner and form in which birth records are stored and in how birth certificate copies are produced from such records.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services, in consultation with other agencies designated by the President, shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—(A) Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(B) Not later than one year after the date of enactment of this Act, the agency designated by the President in paragraph (1)(B) shall submit a report setting forth, and explaining, the regulations described in such paragraph.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary for the preparation of the report described in subparagraph (A).

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth of—

(A) a person born in the United States, or

(B) a person born abroad who is a citizen or national of the United States at birth, whose birth is registered in the United States.

(6) EFFECTIVE DATES.—

(A) Except as otherwise provided in subparagraph (B) and in paragraph (4), this subsection shall take effect two years after the enactment of this Act.

(B) Paragraph (1)(A) shall take effect two years after the submission of the report described in paragraph (4)(B).

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document or license is issued by a State that requires, pursuant to a statute, regulation, or administrative policy which was, respectively, enacted, promulgated, or implemented, prior to the date of enactment of this Act, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States, but not that the number appears on the card.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATES.—

(A) Except as otherwise provided in subparagraph (B) or (C), this subsection shall take effect on October 1, 2000.

(B)(i) With respect to driver's licenses or identification documents issued by States that issue such licenses or documents for a period of validity of six years or less, paragraphs (1) and (3) shall apply beginning on October 1, 2000, but only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law.

(ii) With respect to driver's licenses or identification documents issued in States that issue such licenses or documents for a period of validity of more than six years, paragraphs (1) and (3) shall apply—

(I) during the period of October 1, 2000 through September 30, 2006, only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law, and

(II) beginning on October 1, 2006, to all driver's licenses or identification documents issued by such States.

(C) Paragraph (4) shall take effect on October 1, 2006.

SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

"(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS TO PROSECUTE CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys as may be necessary for the prosecution of actions brought under sections 274A and 274C of the Immigration and Nationality Act and sections 911, 1001, 1015 through 1018, 1028, 1030, 1541 through 1544, 1546, and 1621 of title 18, United States Code. Each such additional attorney shall be used primarily for such prosecutions.

SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) UNLAWFUL EMPLOYMENT.—Section 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(2) DOCUMENT FRAUD.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"SECRETARY OF LABOR SUBPOENA AUTHORITY

"SEC. 294. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Secretary of Labor subpoena authority.".

SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 120C. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the program "IDENT", operated by the Immigration and Naturalization Service pursuant to section 130007 of Public Law 103-322, shall be expanded into a nationwide program.

SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES TO STATE AGENCY REFERRALS OF EMPLOYMENT.

Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) STATE AGENCY REFERRALS.—A State employment agency that refers any individual for employment shall comply with the procedures specified in subsection (b). For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency.".

SEC. 120E. RETENTION OF VERIFICATION FORM.

Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting after "must retain the form" the following: "(except in any case of disaster, act of God, or other event beyond the control of the person or entity)".

PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (l);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES RELATING TO ALIEN SMUGGLING AND DOCUMENT FRAUD.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" after "law of the United States,";

(2) by inserting "or" at the end of clause (E); and

(3) by adding at the end the following: "(F) any act, or conspiracy to commit any act, in violation of—

"(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

"(ii) section 274, 277, or 278 of the Immigration and Nationality Act.".

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(v)(I) engages in any conspiracy to commit any of the preceding acts, or

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs"; and

(B) in the matter following subparagraph (B)(iii), by striking "be fined" and all that follows through the period and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned for a first or second offense, not more than 10 years, and for a third or subsequent offense, not more than 15 years."; and

(4) by adding at the end the following new paragraph:

"(3) Any person who hires for employment an alien—

"(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

"(B) knowing that such alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.".

(b) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) an offense committed with the intent, or with substantial reason to believe, that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year; or".

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a) (1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a) (1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 aliens or the defendant committed the offense other than for profit; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

Section 274 (8 U.S.C. 1324) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

(a) IN GENERAL.—Section 274(b) (8 U.S.C. 1324(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any property, real or personal, which facilitates or is intended to facilitate, or has been or is being used in or is intended to be used in the commission of, a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or which constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from a commission of a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall be subject to seizure and forfeiture, except that—

"(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the unlawful act;

"(B) no property shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of, or in conspiracy to violate, the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by such owner to have been committed or omitted without the knowledge or consent of such owner, unless such act or omission was committed by an employee or agent of such owner, and facilitated or was intended to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or was intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting "property"; and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraph (3)—

(A) by inserting "(A)" immediately after "(3)", and

(B) by adding at the end the following:

"(B) Before the seizure of any real property pursuant to this section, the Attorney General shall provide notice and an opportunity to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this subparagraph.";

(4) in paragraphs (4) and (5), by striking "a conveyance" and "conveyance" each place such phrase or word appears and inserting "property"; and

(5) in paragraph (4)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING, UNLAWFUL EMPLOYMENT OF ALIENS, OR DOCUMENT FRAUD.

Section 274 (8 U.S.C. 1324(b)) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

"(c) CRIMINAL FORFEITURE.—(1) Any person convicted of a violation of, or a conspiracy to violate, subsection (a) or section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall forfeit to the United States, regardless of any provision of State law—

"(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(B) any property real or personal—

"(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code; or

"(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

"(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) PENALTIES FOR FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended to read as follows:

"(b)(1)(A) An offense under subsection (a) that is—

"(i) the production or transfer of an identification document or false identification document that is or appears to be—

"(I) an identification document issued by or under the authority of the United States; or

"(II) a birth certificate, or a driver's license or personal identification card;

"(ii) the production or transfer of more than five identification documents or false identification documents; or

"(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

"(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

"(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

"(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

"(2) A person convicted of an offense under subsection (a) that is—

"(A) any other production or transfer of an identification document or false identification document; or

"(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

"(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

"(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

"(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

"(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.".

(2) Sections 1541 through 1544 of title 18, United States Code, are amended by striking be fined under this title, imprisoned not more than 10 years, or both." each place it appears and inserting the following:

", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(3) Section 1546(a) of title 18, United States Code, is amended by striking "be fined under this title, imprisoned not more than 10 years, or both." and inserting the following:

", except as otherwise provided in this subsection, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this subsection, the maximum term of imprisonment that may be imposed for an offense under this subsection—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(4) Sections 1425 through 1427 of title 18, United States Code, are amended by striking "be fined not more than $5,000 or imprisoned not more than five years, or both" each place it appears and inserting ", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 documents, or the defendant committed the offense other than for profit and the offense was not committed to facilitate an act of international terrorism; and

(F) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A DOCUMENT REQUIRED UNDER THE IMMIGRATION LAWS OR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth undesignated paragraph of section 1546(a) of title 18, United States Code, is amended to read as follows:

"Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—".

SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM OR FOR PREPARING CERTAIN POST-CONVICTION APPLICATIONS.

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service under section 208, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted; or

"(6) to (A) present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 129 of this Act, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) ENHANCED CIVIL PENALTIES FOR DOCUMENT FRAUD IF LABOR STANDARDS VIOLATIONS ARE PRESENT.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) CIVIL PENALTY.—(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(e) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

"(8) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates paragraph (6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

(f) EFFECTIVE DATE.—

(1) DEFINITION OF FALSELY MAKE.—Section 274C(f) of the Immigration and Nationality Act.

as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

(2) ENHANCED CIVIL PENALTIES.—The amendments made by subsection (d) apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 131. PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(1) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(2) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(3) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(A) a large number of victims;

(B) the use or threatened use of a dangerous weapon; or

(C) a prolonged period of peonage or involuntary servitude.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 132. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 212(a)(3)(B)(iii)(III) (8 U.S.C. 1182(a)(3)(B)(iii)(III)) is amended by inserting "documentation or" before "identification".

PART 4—EXCLUSION AND DEPORTATION

SEC. 141. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding after section 236 (8 U.S.C. 1226) the following new section:

"SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS

"SEC. 236A. (a) IN GENERAL.—

"(1) Notwithstanding the provisions of sections 235(b) and 236, and subject to subsection (c), if the Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation, the Attorney General may, without referral to a special inquiry officer, order the exclusion and deportation of any alien who is found to be excludable under section 212(a)(6)(C) or (7).

"(2) As used in this section, the term 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity of the inspection and examination of such aliens.

"(3) Subject to paragraph (4), the determination whether there exists an extraordinary migration situation within the meaning of paragraphs (1) and (2) is committed to the sole and exclusive discretion of the Attorney General.

"(4) The provisions of this subsection may be invoked under paragraph (1) for a period not to exceed 90 days, unless within such 90-day period or extension thereof, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in subsection (b), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

"(6) A special exclusion order entered in accordance with the provisions of this section is not subject to administrative review other than as provided in this section, except that the Attorney General shall provide by regulation for a prompt administrative review of such an order against an applicant who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been, and appears to have been, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this section shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236.

"(8) Nothing in this subsection shall be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

"(b) PROCEDURE FOR USING SPECIAL EXCLUSION.—(1) When the Attorney General has determined pursuant to this section that an extraordinary migration situation exists and an alien subject to special exclusion under such section has indicated a desire to apply for asylum or withholding of deportation under section 243(h) or has indicated a fear of persecution upon return, the immigration officer shall refer the matter to an asylum officer.

"(2) Such asylum officer shall interview the alien to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from the country of such alien's nationality, or in the case of a person having no nationality, the country in which such alien last habitually resided.

"(3) The Attorney General shall provide information concerning the procedures described in this section to any alien who is subject to such provisions. The alien may consult with or be represented by a person or persons of the alien's choosing according to regulations prescribed by the Attorney General. Such consultation and representation shall be at no expense to the Government and shall not unreasonably delay the process.

"(4) The application for asylum or withholding of deportation of an alien who has been determined under the procedure described in paragraph (2) to have a credible fear of persecution shall be determined in due course by a special inquiry officer during a hearing on the exclusion of such alien.

"(5) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in paragraph (2), the alien may be specially excluded and deported in accordance with this section.

"(6) The Attorney General shall provide by regulation for a single level of administrative appellate review of a special exclusion order entered in accordance with the provisions of this section.

"(7) As used in this section, the term 'asylum officer' means an immigration officer who—

"(A) has had extensive professional training in country conditions, asylum law, and interview techniques;

"(B) has had at least one year of experience adjudicating affirmative asylum applications of aliens who are not in special exclusion proceedings; and

"(C) is supervised by an officer who meets the qualifications described in subparagraphs (A) and (B).

"(8) As used in this section, the term 'credible fear of persecution' means that, in light of statements and evidence produced by the alien in support of the alien's claim, and of such other facts as are known to the officer about country conditions, a claim by the alien that the alien is eligible for asylum under section 208 would not be manifestly unfounded.

"(c) ALIENS FLEEING ONGOING ARMED CONFLICT, TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRIVATIONS OF HUMAN RIGHTS.—Notwithstanding any other provision of this section, the Attorney General may, in the Attorney General's discretion, proceed in accordance with section 236 with regard to any alien fleeing from a country where—

"(1) the government (or a group within the country that the government is unable or unwilling to control) engages in—

"(A) torture or other cruel, inhuman, or degrading treatment or punishment;

"(B) prolonged arbitrary detention without charges or trial;

"(C) abduction, forced disappearance or clandestine detention; or

"(D) systematic persecution; or

"(2) an ongoing armed conflict or other extraordinary conditions would pose a serious threat to the alien's personal safety.".

(b) CONFORMING AMENDMENTS.—(1)(A) Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b) is amended to read as follows:

"(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer.".

(B) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227a) is amended—

(i) in the second sentence of paragraph (1), by striking "Subject to section 235(b)(1), deportation" and inserting "Deportation"; and

(ii) in the first sentence of paragraph (2), by striking "Subject to section (b)(1), if" and inserting "If".

(2)(A) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(i) by striking subsection (e); and

(ii) by amending the section heading to read as follows: "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION".

(B) Section 235(d) (8 U.S.C. 1225d) is repealed.

(C) The item relating to section 106 in the table of contents of the Immigration and Nationality Act is amended to read as follows:

"106. Judicial review of orders of deportation and exclusion.".

(3) Section 241(d) (8 U.S.C. 1251d) is repealed.

SEC. 142. JUDICIAL REVIEW OF ORDERS OF EXCLUSION AND DEPORTATION.

(a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

"SEC. 106. (a) APPLICABLE PROVISIONS.—Except as provided in subsection (b), judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, but in no such review may a court order the taking of additional evidence pursuant to section 2347(c) of title 28, United States Code.

"(b) REQUIREMENTS.—(1)(A) A petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation, except that in the case of any specially deportable criminal alien (as defined in section 242(k)), there shall be no judicial review of any final order of deportation.

"(B) The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown. Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to exclude or deport an alien from the United States under title II of this Act shall be available only in the judicial review of a final order of exclusion or deportation under this section. If a petition filed under this section raises a Constitutional issue that the court of appeals finds presents a genuine issue of material fact that cannot be resolved on the basis of the administrative record, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides or is detained for a new hearing on the Constitutional claim as if the proceedings were originally initiated in district court. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure.

"(C) If an alien fails to file a brief in connection with a petition for judicial review within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.

"(2) A petition for judicial review shall be filed with the court of appeals for the judicial circuit in which the special inquiry officer completed the proceedings.

"(3) The respondent of a petition for judicial review shall be the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee does not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(4)(A) Except as provided in paragraph (5)(B), the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

"(B) The Attorney General's discretionary judgment whether to grant relief under section 212 (c) or (i), 244 (a) or (d), or 245 shall be conclusive and shall not be subject to review.

"(C) The Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to law and an abuse of discretion.

"(5)(A) If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

"(C) The petitioner may have the nationality claim decided only as provided in this section.

"(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) If the defendant claims in the motion to be a national of the United States and the district court finds that no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

"(C) If the defendant claims in the motion to be a national of the United States and the district court finds that a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

"(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

"(7) This subsection—

"(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

"(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

"(C) except as provided in paragraph (3), does not require the Attorney General to defer deportation of the alien.

"(8) The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of exclusion or deportation shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—

"(1) A court may review a final order of exclusion or deportation only if—

"(A) the alien has exhausted all administrative remedies available to the alien as a matter of right; and

"(B) another court has not decided the validity of the order, unless, subject to paragraph (2), the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (e), (f), or (g), or any other provision of this section.

"(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPORTATION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMINAL ALIENS.—Notwithstanding any other provision of law, any order of exclusion or deportation against an alien who is excludable or deportable by reason of having committed any criminal offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), is not subject to review by any court.

"(f) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under section 235, 236, or 242.".

(b) RESCISSION OF ORDER.—Section 242B(c)(3) (8 U.S.C. 1252b(c)(3)) is amended by striking the period at the end and inserting "by the special inquiry officer, but there shall be no stay pending further administrative or judicial review, unless ordered because of individually compelling circumstances.".

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by amending the item relating to section 106 to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and special exclusion.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all final orders of exclusion or deportation entered, and motions to reopen filed, on or after the date of the enactment of this Act.

SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting after section 274C (8 U.S.C. 1324c) the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

"(1) willfully fails or refuses to—

"(A) depart on time from the United States pursuant to the order;

"(B) make timely application in good faith for travel or other documents necessary for departure; or

"(C) present himself or herself for deportation at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

"(b) The Commissioner shall deposit amounts received under subsection (a) as offsetting collections in the appropriate appropriations account of the Service.

"(c) Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 242(e) or any other section of this Act.".

(b) VISA OVERSTAYER.—The Immigration and Nationality Act is amended in section 212 (8 U.S.C. 1182) by inserting the following new subsection:

"(p)(1) Any lawfully admitted nonimmigrant who remains in the United States for more than

60 days beyond the period authorized by the Attorney General shall be ineligible for additional nonimmigrant or immigrant visas (other than visas available for spouses of United States citizens or aliens lawfully admitted for permanent residence) until the date that is—

"(A) 3 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant not described in paragraph (2); or

"(B) 5 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the nonimmigrant's deportability.

"(2)(A) Paragraph (1) shall not apply to any lawfully admitted nonimmigrant who is described in paragraph (1)(A) and who demonstrates good cause for remaining in the United States for the entirety of the period (other than the first 60 days) during which the nonimmigrant remained in the United States without the authorization of the Attorney General.

"(B) A final order of deportation shall not be stayed on the basis of a claim of good cause made under this subsection.

"(3) The Attorney General shall by regulation establish procedures necessary to implement this section.".

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date of implementation of the automated entry-exit control system described in section 201, or on the date that is 2 years after the date of enactment of this Act, whichever is earlier.

(d) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of the Act is amended by inserting after the item relating to section 274C the following:

"Sec. 274D. Civil penalties for failure to depart.".

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) (8 U.S.C. 1252(b)) is amended by inserting at the end the following new sentences: "Nothing in this subsection precludes the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where a requirement for the alien's appearance is waived or the alien's absence is agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.".

SEC. 145. SUBPOENA AUTHORITY.

(a) EXCLUSION PROCEEDINGS.—Section 236(a) (8 U.S.C. 1226(a)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

(b) DEPORTATION PROCEEDINGS.—Section 242(b) (8 U.S.C. 1252(b)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO COUNSEL.

(a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C. 1252b) is amended in subsection (a)(3) by striking "under this subsection" and all that follows through "(B)" and inserting "under this subsection".

(b) PRIVILEGE OF COUNSEL.—(1) Section 242B(b)(1) (8 U.S.C. 1252b(b)(1)) is amended by inserting before the period at the end the following: ", except that a hearing may be scheduled as early as 3 days after the service of the order to show cause if the alien has been continued in custody subject to section 242".

(2) The parenthetical phrase in section 292 (8 U.S.C. 1362) is amended to read as follows: "(at no expense to the Government or unreasonable delay to the proceedings)".

(3) Section 242B(b) (8 U.S.C. 1252b(b)) is further amended by inserting at the end the following new paragraph:

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 242 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.".

SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF VISA DENIED FOR COUNTRIES REFUSING TO ACCEPT DEPORTED ALIENS.

(a) IN GENERAL.—Section 243(g) (8 U.S.C. 1253(g)) is amended to read as follows:

"(g)(1) If the Attorney General determines that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Attorney General shall notify the Secretary of such fact, and thereafter, subject to paragraph (2), neither the Secretary of State nor any consular officer shall issue an immigrant or nonimmigrant visa to any national, citizen, subject, or resident of such country.

"(2) The Secretary of State may waive the application of paragraph (1) if the Secretary determines that such a waiver is necessary to comply with the terms of a treaty or international agreement or is in the national interest of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to countries for which the Secretary of State gives instructions to United States consular officers on or after the date of the enactment of this Act.

SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS OF DEPORTATION.

In addition to any other funds otherwise available in any fiscal year for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service $10,000,000 for use without fiscal year limitation for the purpose of—

(1) executing final orders of deportation pursuant to sections 242 and 242A of the Immigration and Nationality Act (8 U.S.C. 1252 and 1252a); and

(2) detaining aliens prior to the execution of final orders of deportation issued under such sections.

SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) AUTHORITY.—The Attorney General shall conduct one or more pilot programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost-effectiveness of the services provided and the replicability of such programs at other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the program or programs described in subsection (a).

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as creating a right for any alien to be represented in any exclusion or deportation proceeding at the expense of the Government.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c)) is amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (5), an alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).

"(2) For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude or deport the alien from the United States.

"(3) Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b).

"(4) Paragraph (1) shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term or terms of imprisonment totalling, in the aggregate, at least 5 years.

"(5) This subsection shall apply only to an alien in proceedings under section 236.".

(b) CANCELLATION OF DEPORTATION.—Section 244 (8 U.S.C. 1254) is amended to read as follows:

"CANCELLATION OF DEPORTATION; ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE

"SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1) The Attorney General may, in the Attorney General's discretion, cancel deportation in the case of an alien who is deportable from the United States and—

"(A) is, and has been for at least 5 years, a lawful permanent resident; has resided in the United States continuously for not less than 7 years after being lawfully admitted; and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced to a term or terms of imprisonment totaling, in the aggregate, at least 5 years;

"(B) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen or national of the United States or an alien lawfully admitted for permanent residence;

"(C) has been physically present in the United States for a continuous period of not less than three years since entering the United States; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child who is a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); has been a person of good moral character during all of such period in the United States; and establishes that deportation would result in extreme hardship to the alien or the alien's parent or child; or

"(D) is deportable under paragraph (2) (A), (B), or (D), or paragraph (3) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2)(A) For purposes of paragraph (1), any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242 or 242B.

"(B) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1) (B), (C), or (D) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days.

"(C) A person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

"(D) A person who is deportable under section 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not be eligible for relief under paragraph (1) (B), or (D).

"(E) A person who has been convicted of an aggravated felony shall not be eligible for relief under paragraph (1) (B), or (C), (D).

"(F) A person who is deportable under section 241(a)(1)(G) shall not be eligible for relief under paragraph (1)(C).

"(b) CONTINUOUS PHYSICAL PRESENCE NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States specified in subsection (a)(1) (A) and (B) shall not be applicable to an alien who—

"(1) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(2) at the time of his or her enlistment or induction, was in the United States.

"(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of subsection (a)(1) (B), (C), or (D). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

"(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) shall not apply to an alien who—

"(1) entered the United States as a crewman after June 30, 1964;

"(2) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, in order to receive graduate medical education or training, without regard to whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

"(3)(A) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, other than to receive graduate medical education or training;

"(B) is subject to the two-year foreign residence requirement of section 212(e); and

"(C) has not fulfilled that requirement or received a waiver thereof, or, in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), has not fulfilled the requirements of section 214(k).

"(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense—

"(i) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); or

"(ii) after the completion of deportation proceedings under section 242, only if a special inquiry officer determines that—

"(I) the alien is, and has been for at least 5 years immediately preceding the alien's application for voluntary departure, a person of good moral character;

"(II) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

"(III) the alien establishes by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(B)(i) In the case of departure pursuant to subparagraph (A)(i), the Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(ii) If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at the alien's own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act.

"(C) In the case of departure pursuant to subparagraph (A)(ii), the alien shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with paragraph (1), the alien shall be subject to a civil penalty of not more than $500 per day and shall be ineligible for any further relief under this subsection or subsection (a).

"(3)(A) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

"(B) No court may review any regulation issued under subparagraph (A).

"(4) No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under paragraph (1), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(c) CONFORMING AMENDMENTS.—(1) Section 242(b) (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B (8 U.S.C. 1252b) is amended—

(A) in subsection (e)(2), by striking "section 244(e)(1)" and inserting "section 244(e)"; and

(B) in subsection (e)(5)—

(i) by striking "suspension of deportation" and inserting "cancellation of deportation"; and

(ii) by inserting "244," before "245".

(d) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Act is amended by amending the item relating to section 244 to read as follows:

"Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.".

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254), except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 151. ALIEN STOWAWAYS.

(a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) is amended by adding the following new paragraph:

"(47) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master, or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.".

(b) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227) is amended—

(1) in subsection (a)(1), before the period at the end of the first sentence, by inserting the following: ", or unless the alien is an excluded stowaway who has applied for asylum or withholding of deportation and whose application has not been adjudicated or whose application has been denied but who has not exhausted every appeal right"; and

(2) by inserting after the first sentence in subsection (a)(1) the following new sentences: "Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. For purposes of this section, the term 'alien' includes an excluded stowaway. The provisions of this section concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).".

(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to read as follows:

"(d)(1) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer.

"(2) Upon inspection of an alien stowaway by an immigration officer, the Attorney General may by regulation take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

"(3) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer.

"(4) Any person who fails to comply with paragraph (1) or (3), shall be subject to a fine of $5,000 for each alien for each failure to comply, payable to the Commissioner. The Commissioner shall deposit amounts received under this paragraph as offsetting collections to the applicable appropriations account of the Service. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

"(5) An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act.

"(6) The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways, and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the departure, removal, or deportation of such alien from the United States.

"(7) A stowaway may apply for asylum under section 208 or withholding of deportation under section 243(h), pursuant to such regulations as the Attorney General may establish.".

SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION AND OTHER METHODS TO DETER MULTIPLE UNLAWFUL ENTRIES.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General, after consultation with the Secretary of State, shall establish a pilot program for up to two years which provides for methods to deter multiple unlawful entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives for multiple unlawful entries into the United States.

(b) REPORT.—Not later than 35 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the pilot program under this section and whether the pilot program or any part thereof should be extended or made permanent.

SEC. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF EXCLUDABLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall jointly establish a pilot program for up to two years to determine the feasibility of the use of military bases available through the defense base realignment and closure process as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 35 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on National Security of the House of Representatives, and the Committee on Armed Services of the Senate, on the feasibility of using military bases closed through the defense base realignment and closure process as detention centers by the Immigration and Naturalization Service.

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

(a) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—(A) Any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

"(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking "(9)(A) of section 212(a)" and inserting "(10)(A) of section 212(a)".

(2) Section 212(c) is amended by striking "(9)(C)" and inserting "(10)(C)".

SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended—

(1) in subparagraph (A)—

(A) by striking "one year" and inserting "five years"; and

(B) by inserting ", or within 20 years of the date of any second or subsequent deportation," after "deportation";

(2) in subparagraph (B)—

(A) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively;

(B) by inserting after clause (i) the following new clause;

"(ii) has departed the United States while an order of deportation is outstanding,";

(C) by striking "or" after "removal,"; and

(D) by inserting "or (c) who seeks admission within 20 years of a second or subsequent deportation or removal," after "felony,".

(b) REENTRY OF DEPORTED ALIEN.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(g)(1) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien's nonimmigrant visa shall thereafter be invalid for reentry into the United States.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant subsequent to the expiration of the alien's authorized period of stay, except—

"(A) on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

(1) by striking "or" at the end of clause (i)(I);

(2) in clause (i)(II), by inserting "or" at the end; and

(3) by inserting after clause (i)(II) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorism, engaged in targeted racial vilification, or advocated the overthrow of the United States Government or death or serious bodily harm to any United States citizen or United States Government official,".

SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF DEPORTATION.

Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General may refrain from deporting any alien if the Attorney General determines that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.".

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(2) in subparagraphs (F), (G), and (O), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(3) in subparagraph (J)—

(A) by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment"; and

(B) by striking "offense described" and inserting "offense described in section 1084 of title 18 (if it is a second or subsequent offense), section 1955 of such title (relating to gambling offenses), or";

(4) in subparagraph (K)—

(A) by striking "or" at the end of clause (i);

(B) by adding "or" at the end of clause (ii); and

(C) by adding at the end the following new clause:

"(iii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution), if committed for commercial advantage.";

(5) in subparagraph (L)—

(A) by striking "or" at the end of clause (i);

(B) by inserting "or" at the end of clause (ii); and

(C) by adding at the end the following new clause:

"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents)";

(6) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(7) in subparagraph (N)—

(A) by striking "of title 18, United States Code"; and

(B) by striking "for the purpose of commercial advantage" and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(8) in subparagraph (O), by striking "which constitutes" and all that follows up to the semicolon at the end and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) by redesignating subparagraphs (P) and (Q) as subparagraphs (R) and (S), respectively;

(10) by inserting after subparagraph (O) the following new subparagraphs:

"(P) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles whose identification numbers have been altered for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;

"(Q) any offense relating to perjury or subornation of perjury for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;" and

(11) in subparagraph (R) (as redesignated), by striking "15" and inserting "5".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph, except that, for purposes of section 242(f)(2), the term has the same meaning as was in effect under this paragraph on the date the offense was committed.".

(c) APPLICATION TO WITHHOLDING OF DEPORTATION.—Section 243(h) (8 U.S.C. 1253(h)), as amended by section 159 of this Act, is further amended in paragraph (2) by striking the last sentence and inserting the following: "For purposes of subparagraph (B), an alien shall be considered to have committed a particularly serious crime if such alien has been convicted of one or more of the following:

"(1) An aggravated felony, or attempt or conspiracy to commit an aggravated felony, for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

"(2) An offense described in subparagraph (A), (B), (C), (E), (H), (I), (J), (L), or subparagraph (K)(ii), of section 101(a)(43), or an attempt or conspiracy to commit an offense described in one or more of such subparagraphs.".

SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR ADJUSTMENT OF STATUS.

Section 244(c) (8 U.S.C. 1254(c)), as amended by section 150 of this Act, is further amended by adding at the end the following new sentence: "No person who has been convicted of an aggravated felony shall be eligible for relief under this subsection.".

SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO ENFORCEABLE RIGHT FOR AGGRAVATED FELONS.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking "section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i))" and inserting "sections 242(i) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)".

SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended in subsection (e)(2) by inserting after "unless" the following: "(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and that after such release the alien would not be a threat to the community, or (B)".

(b) CUSTODY UPON RELEASE FROM INCARCERATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended to read as follows:

"(2)(A) The Attorney General shall take into custody any specially deportable criminal alien upon release of the alien from incarceration and shall deport the alien as expeditiously as possible. Notwithstanding any other provision of law, the Attorney General shall not release such felon from custody.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

(c) PERIOD IN WHICH TO EFFECT ALIEN'S DEPARTURE.—Section 242(c) is amended—

(1) in the first sentence—

(A) by striking "(c)" and inserting "(c)(1)"; and

(B) by inserting "(other than an alien described in paragraph (2))"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) When a final order of deportation is made against any specially deportable criminal alien, the Attorney General shall have a period of 30 days from the later of—

"(i) the date of such order, or

"(ii) the alien's release from incarceration,

within which to effect the alien's departure from the United States.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with

law enforcement authorities or for purposes of national security.

"(3) Nothing in this subsection shall be construed as providing a right enforceable by or on behalf of any alien to be released from custody or to challenge the alien's deportation.".

(d) CRIMINAL PENALTY FOR UNLAWFUL REENTRY.—Section 242(f) of the Immigration and Nationality Act (8 U.S.C. 1252(f)) is amended—

(1) by inserting "(1)" immediately after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) Any alien who has unlawfully reentered or is found in the United States after having previously been deported subsequent to a conviction for any criminal offense covered in section 241(a)(2)(A)(iii), (B), (C), or (D), or two or more offenses described in clause (ii) of section 241(a)(2)(A), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years.".

(e) DEFINITION.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(k) For purposes of this section, the term 'specially deportable criminal alien' means any alien convicted of an offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II).".

SEC. 165. JUDICIAL DEPORTATION.

(a) IN GENERAL.—Section 242A (8 U.S.C. 1252a(d)) is amended—

(1) by redesignating subsection (d) as subsection (c); and

(2) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien—

"(A) whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony);

"(B) who has at any time been convicted of a violation of section 276 (a) or (b) (relating to reentry of a deported alien);

"(C) who has at any time been convicted of a violation of section 275 (relating to entry of an alien at an improper time or place and to misrepresentation and concealment of facts); or

"(D) who is otherwise deportable pursuant to any of the paragraphs (1) through (5) of section 241(a).

A United States Magistrate shall have jurisdiction to enter a judicial order of deportation at the time of sentencing where the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act."; and

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

"(5) STATE COURT FINDING OF DEPORTABILITY.—(A) On motion of the prosecution or on the court's own motion, any State court with jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a specially deportable criminal alien (as defined in section 242(k)).

"(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment of conviction, shall for all purposes be conclusive on the alien and may not be reexamined by any agency or court, whether by habeas corpus or otherwise. The court shall notify the Attorney General of any finding of deportability.

"(6) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States District Court, in both felony and misdemeanor cases, and the United States Magistrate Court in misdemeanors cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) CONFORMING AMENDMENTS.—(1) Section 512 of the Immigration Act of 1990 is amended by striking "242A(d)" and inserting "242A(c)".

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "242A(d)" and inserting "242A(c)".

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(f) The Attorney General shall provide by regulation for the entry by a special inquiry officer of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.".

(b) APPREHENSION AND DEPORTATION.—Section 242 (8 U.S.C. 1252) is amended in subsection (b)—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting "(1)" immediately after "(b)";

(3) by striking the sentence beginning with "Except as provided in section 242A(d)" and inserting the following:

"(2) The Attorney General shall further provide by regulation for the entry by a special inquiry officer of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States.

"(3) The procedures prescribed in this subsection and in section 242A(c) shall be the sole and exclusive procedures for determining the deportability of an alien."; and

(4) by redesignating the tenth sentence as paragraph (4); and

(5) by redesignating the eleventh and twelfth sentences as paragraph (5).

(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(2) Section 212(a)(6)(B)(iv) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(3) Section 242(a)(1) is amended by striking "subsection (b)" and inserting "subsection (b)(1)".

(4) Section 242A(b)(1) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(5) Section 242A(c)(2)(D)(ii), as redesignated by section 165 of this Act, is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(6) Section 4113(a) of title 18, United States Code, is amended by striking "section 1252(b)" and inserting "section 1252(b)(1)".

(7) Section 1821(e) of title 28, United States Code, is amended by striking "section 242(b) of such Act (8 U.S.C. 1252(b))" and inserting "section 242(b)(1) of such Act (8 U.S.C. 1252(b)(1))".

(8) Section 242B(c)(1) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(9) Section 242B(e)(2)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(10) Section 242B(e)(5)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(23) be ordered deported by a United States District Court, or United States Magistrate Court, pursuant to a stipulation entered into by the defendant and the United States under section 242A(c) of the Immigration and Nationality Act (8 U.S.C. 1252a(c)), except that, in the absence of a stipulation, the United States District Court or the United States Magistrate Court, may order deportation as a condition of probation, if, after notice and hearing pursuant to section 242A(c) of the Immigration and Nationality Act, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable.".

SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted for felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.

(a) AUTHORITIES.—(1) In order to conduct any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States, the Service is authorized—

(A) to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(B) to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to

the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(D) to use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

(2) The authorization set forth in paragraph (1) may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1) (A), (B), (C), or (D) is necessary for the conduct of such undercover operation.

(b) UNUSED FUNDS.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraph (1) (C) or (D) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) REPORT.—If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(1)(B) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General of the United States. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—The Immigration and Naturalization Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.

SEC. 170. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act,

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) prevention of drug smuggling and other cross-border criminal activity;

(B) preventing illegal immigration; and

(C) preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or which have not paid the appropriate duty or tariff).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 170A. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,";

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10"; and

(4) in subsection (b), before the period at the end of the second sentence, by inserting ", or for enforcement of the provisions of section 274A of the Immigration and Nationality Act".

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a) IN GENERAL.—The second subsection (i) of section 245 (as added by section 130003(c)(1) of the Violent Crime Control and Law Enforcement

Act of 1994; Public Law 103-322) is redesignated as subsection (j) of such section.

(b) CONFORMING AMENDMENT.—Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by striking "section 245(i)" and inserting "section 245(j)".

(c) DENIAL OF JUDICIAL ORDER.—(1) Section 242A(c)(4), as redesignated by section 165 of this Act, is amended by striking "without a decision on the merits".

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General is authorized to conduct a project demonstrating the feasibility of identifying illegal aliens among those individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include the detail to the city of Anaheim, California, of an employee of the Immigration and Naturalization Service having expertise in the identification of illegal aliens for the purpose of training local officials in the identification of such aliens.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of the enactment of this Act.

(d) DEFINITION.—As used in this section, the term "illegal alien" means an alien in the United States who is not within any of the following classes of aliens:

(1) Aliens lawfully admitted for permanent residence.

(2) Nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act.

(3) Refugees.

(4) Asylees.

(5) Parolees.

(6) Aliens having deportation withheld under section 243(h) of the Immigration and Nationality Act.

(7) Aliens having temporary residence status.

PART 6—MISCELLANEOUS

SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1)—

(A) after "paragraph (2)" by striking "and" and inserting a comma,

(B) by striking "State" and inserting "other Federal agencies and States",

(C) by inserting ", and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States" before "except", and

(D) by adding at the end the following new sentence: "The fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists."; and

(2) in paragraph (2)(A)—

(A) by inserting "to Federal agencies providing support to the Department of Justice or" after "available"; and

(B) by inserting a comma before "whenever".

(b) VESSEL MOVEMENT CONTROLS.—Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by adding at the end of subsection (a) the following new sentence: "In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any specially designated State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NONDISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of this joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking "except that the Attorney General" and inserting the following: "except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) and".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following:

"except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).".

SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) (8 U.S.C. 1256(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new sentence: "Nothing in this subsection requires the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 or 242A, and an order of deportation issued by a special inquiry officer shall be sufficient to rescind the alien's status.".

SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to, or receiving from, the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of any person.

SEC. 178. AUTHORITY TO USE VOLUNTEERS.

(a) ACCEPTANCE OF DONATED SERVICES.—Notwithstanding any other provision of law, but subject to subsection (b), the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this section requires the Attorney General to accept the services of any person.

(b) LIMITATION.—Such person may not administer or score tests and may not adjudicate.

SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT FOR BORDER.

In order to facilitate or improve the detection, interdiction, and reduction by the Immigration and Naturalization Service of illegal immigration into the United States, the Attorney General is authorized to acquire and utilize any Federal equipment (including, but not limited to, fixed-wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer to the Department of Justice by any other agency of the Federal Government upon request of the Attorney General.

SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Immigration and Naturalization Service but had the application and fee refused by that officer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period at the end the following: "; (6) any alien who seeks adjustment of status as an employment-based immigrant and is not in a lawful nonimmigrant status; or (7) any alien who was employed while

the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa".

SEC. 182. REPORT ON DETENTION SPACE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress estimating the amount of detention space that would be required on the date of enactment of this Act, in 5 years, and in 10 years, under various policies on the detention of aliens, including but not limited to—

(1) detaining all excludable or deportable aliens who may lawfully be detained;

(2) detaining all excludable or deportable aliens who previously have been excluded, been deported, departed while an order of exclusion or deportation was outstanding, voluntarily departed under section 244, or voluntarily returned after being apprehended while violating an immigration law of the United States; and

(3) the current policy.

(b) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—Such report shall also estimate the number of excludable or deportable aliens who have been released into the community in each of the 3 years prior to the date of enactment of this Act under circumstances that the Attorney General believes justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings), but a lack of detention facilities required release.

SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.

(a) COMPENSATION.—

(1) IN GENERAL.—There shall be four levels of pay for special inquiry officers of the Department of Justice (in this section referred to as "immigration judges") under the Immigration Judge Schedule (designated as IJ–1, IJ–2, IJ–3, and IJ–4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ–1	70 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–4	92 percent of the next to highest rate of basic pay for the Senior Executive Service.

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—(A) Upon appointment, an immigration judge shall be paid at IJ–1, and shall be advanced to IJ–2 upon completion of 104 weeks of service, to IJ–3 upon completion of 104 weeks of service in the next lower rate, and to IJ–4 upon completion of 52 weeks of service in the next lower rate.

(B) The Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Judges serving on the Immigration Court as of the effective date of this subsection shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the arrest or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

"(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

"(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

"(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

"(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

"(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

"(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

"(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

"(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

"(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

"(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.".

SEC. 185. ALIEN WITNESS COOPERATION.

Section 214(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations on the number of aliens that may be provided visas as nonimmigrants under section 101(a)(15)(5)(ii) of such Act) is amended—

(1) by striking "100" and inserting "200"; and

(2) by striking "25" and inserting "50".

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

(2) by adding at the end the following new paragraphs:

"(4) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(5) If any alien described in paragraph (4) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

(b) INCLUSION OF PAROLED ALIENS.—Section 202 (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

"(f)(1) For purposes of subsection (a)(2), an immigrant visa shall be considereu to have been made available in a fiscal year to any alien who is not an alien lawfully admitted for permanent residence but who was paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(2) If any alien described in paragraph (1) is subsequently admitted as an alien lawfully admitted for permanent residence, an immigrant visa shall not again be considered to have been made available for purposes of subsection (a)(2).".

PART 2—ASYLUM

SEC. 193. TIME LIMITATION ON ASYLUM CLAIMS.

(a) Section 208(a) (8 U.S.C. 1158(a)) is amended—

(1) by striking "The" and inserting the following: "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following:

"(2)(A) An application for asylum filed for the first time during an exclusion or deportation proceeding shall not be considered if the proceeding was commenced more than one year after the alien's entry or admission into the United States.

"(B) An application for asylum may be considered, notwithstanding subparagraph (A), if the applicant shows good cause for not having filed within the specified period of time.".

(b) As used in this section, "good cause" may include, but is not limited to, circumstances that changed after the applicant entered the United States and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; attempts to file affirmatively that were successful because of technical defects; efforts to seek asylum that were delayed

by the temporary unavailability of professional assistance; the illness or death of the applicant's legal representative; or other extenuating circumstances as determined by the Attorney General.

SEC. 194. LIMITATION ON WORK AUTHORIZATION FOR ASYLUM APPLICANTS.

Section 208 (8 U.S.C. 1158), as amended by this Act, is further amended by adding at the end the following new subsection:

"(f)(1) An applicant for asylum may not engage in employment in the United States unless such applicant has submitted an application for employment authorization to the Attorney General and, subject to paragraph (2), the Attorney General has granted such authorization.

"(2) The Attorney General may deny any application for, or suspend or place conditions on any grant of, authorization for any applicant for asylum to engage in employment in the United States.".

SEC. 195. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) PURPOSE AND PERIOD OF AUTHORIZATION.—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1253) as of the date of the enactment of this Act, the Attorney General shall have the authority described in subsection (b) for a period of two years, beginning 90 days after the date of the enactment of this Act.

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a).

PART 3—CUBAN ADJUSTMENT ACT

SEC. 196. REPEAL AND EXCEPTION.

(a) REPEAL.—Subject to subsection (b), Public Law 89–732, as amended, is hereby repealed.

(b) Notwithstanding any other provision of this Act, the repeal of Public Law 89–732 made by this Act shall become effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 that a democratically elected government in Cuba is in power.

Subtitle C—Effective Dates

SEC. 197. EFFECTIVE DATES.

Except as otherwise provided in this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under—

(I) the National School Lunch Act (42 U.S.C. 1751 et seq.),

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.),

(III) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note),

(IV) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note),

(V) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note), and

(VI) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)),

(v) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vi) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except—

"(i) if the alien is a nonimmigrant alien authorized to work in the United States—

"(I) any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license; or

"(II) any contract provided or funded by such an agency or entity; or

"(ii) if the alien is an alien who is outside of the United States, any contract provided or funded by such an agency or entity.".

(2) BENEFITS OF RESIDENCE.—Notwithstanding any other provision of law, no State or local government entity shall consider any ineligible alien as a resident when to do so would place such alien in a more favorable position, regarding access to, or the cost of, any benefit or government service, except elementary or secondary education, than a United States citizen who is not regarded as such a resident.

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES:—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y)(1) Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.

"(2) Paragraph (1) shall not apply in any case where entitlement to such benefit is based on an application filed before the date of the enactment of this subsection.".

(2) Nothing in this subsection (c) shall affect any obligation or liability of any individual or employer under title 21 of subtitle C of the Internal Revenue Code.

(3) No more than eighteen months following enactment of this Act, the Comptroller General is directed to conduct and complete a study of whether, and to what extent, individuals who are not authorized to work in the United States are qualifying for Old Age, Survivors, and Disability Insurance (OASDI) benefits based on their earnings record.

(d) HOUSING ASSISTANCE PROGRAMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance

program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act,

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, or

(F) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for means-tested government assistance under SSI, AFDC, social services block grants; Medicaid, food stamps, or housing assistance) for—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Immigration and Nationality Act, or of a petition filed for classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(G) an alien whose child—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for assistance from a means-tested government assistance program) for—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Immigration and Nationality Act, or of a petition filed for classification.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except—

(i) if the alien is a nonimmigrant alien authorized to work in the United States—

(I) any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license; or

(II) any contract provided or funded by such an agency or entity; or

(ii) if the alien is an alien who is outside of the United States, any contract provided or funded by such an agency or entity.

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (E), any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable for a period of five years after the immigrant last receives a benefit during the public charge period under any of the programs described in subparagraph (D).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996 or any student assistance received or approved for receipt under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted until the matriculation of their education.

"(E) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—(i) For purposes of any determination under subparagraph (A), and except as provided under clause (ii), the aggregate period shall be 48 months within the first 7 years of entry if the alien can demonstrate that (I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the need for the public benefits received has a connection to the battery or cruelty described in subclause (I) or (II).

"(ii) For the purposes of a determination under subparagraph (A), the aggregate period may exceed 48 months within the first 7 years of entry if the alien can demonstrate that any battery or cruelty under clause (ii) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that such battery or cruelty has a causal relationship to the need for the benefits received pursuant to clause (i) of section 204(a)(1)(B) of such Act.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is deportable under section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is deportable under section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—(1) No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(A) which is legally enforceable against the sponsor by the sponsored individual, by the Federal Government, and by any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) which provides any benefit described in section 241(a)(5)(D), but not later than 10 years after the sponsored individual last receives any such benefit;

(B) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters; and

(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d) or (e).

(2) In determining the number of qualifying quarters for which a sponsored individual has worked for purposes of paragraph (1)(B), an individual not meeting the requirements of subparagraphs (A) or (C) of subsection (f)(3) for any quarter shall be treated as meeting such requirements if—

(A) their spouse met such requirements for such quarter and they filed a joint income tax return covering such quarter; or

(B) the individual who claimed such individual as a dependent on an income tax return covering such quarter met such requirements for such quarter.

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

(A) not less than $250 or more than $2,000, or

(B) if such failure occurs with knowledge that the sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no appropriate court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

(A) is a United States citizen or national or an alien who is lawfully admitted to the United States for permanent residence;

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

(4) APPROPRIATE COURT.—The term "appropriate court" means—

(A) a Federal court, in the case of an action for reimbursement of benefits provided or funded, in whole or in part, by the Federal Government; and

(B) a State court, in the case of an action for reimbursement of benefits provided under a State or local program of assistance.

(g) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) Each affidavit of support shall include the social security account number of the sponsor.

(2) The Attorney General shall develop an automated system to maintain the data of social security account numbers provided under paragraph (1).

(3) The Attorney General shall submit an annual report to the Congress setting forth for the most recent fiscal year for which data are available—

(A) the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

(B) a comparison of the data set forth under subparagraph (A) with similar data for the preceding fiscal year.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any Federal program of assistance, or any program of assistance funded in whole or in part by the Federal Government, for which eligibility for benefits is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, except as provided in section 204(f), be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in clause (iv) or (vi) of section 201(a)(1)(A).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a

State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(f) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of law, subsection (a) shall not apply—

(1) for up to 48 months if the alien can demonstrate that (A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (B) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) has a causal relationship to the need for the public benefits applied; and

(2) for more than 48 months if the alien can demonstrate that such battery or cruelty under paragraph (1) is ongoing, has led to the issuance of an order of a judge or administrative law judge or a prior determination of the Service and that such battery or cruelty has a causal relationship to the need for the benefits received.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 208. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by adding after paragraph (62) the following new paragraph:

"(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.".

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

(3) by adding at the end the following new paragraph:

"(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 209. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Refugee Resettlement in a manner that ensures that each qualifying county receives the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not earlier than 60 months before the beginning of such fiscal year.".

Subtitle B—Miscellaneous Provisions

SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the availability of appropriations, fully reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency ambulance service provided to any alien who—

(1) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(2) is under the custody of a State or a political subdivision of a State as a result of transfer or other action by Federal authorities; and

(3) is being treated for an injury suffered while crossing the international border between the United States and Mexico or between the United States and Canada.

(b) STATUTORY CONSTRUCTION.—Nothing in this section requires that the alien be arrested by Federal authorities before entering into the custody of the State or political subdivision.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out the provisions of this section.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to prevent the Attorney General from seeking reimbursement from an alien described in subsection (a) for the costs of the emergency medical services provided to the alien.

SEC. 212. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or local government that provides emergency medical services through a public hospital, other public facility, or other facility (including a hospital that is eligible for an additional payment adjustment under section 1886(d)(5)(F) or section 1923 of the Social Security Act), or through contract with another hospital or facility, to an individual who is an alien not lawfully present in the United States, is entitled to receive payment from the Federal Government for its costs of providing such services, but only to the extent that the costs of the State or local government are not fully reimbursed through any other Federal program and cannot be recovered from the alien or other entity.

(b) CONFIRMATION OF IMMIGRATION STATUS.—No payment shall be made under this section with respect to services furnished to aliens described in subsection (a) unless the State or local government establishes that it has provided services to such aliens in accordance with procedures established by the Secretary of Health and Human Services, after consultation with the Attorney General and State and local officials.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—This section shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 213. PILOT PROGRAMS.

(a) ADDITIONAL COMMUTER BORDER CROSSING FEES PILOT PROJECTS.—In addition to the land border fee pilot projects extended by the fourth proviso under the heading " Immigration and Naturalization Service, Salaries and Expenses" of Public Law 103-121, the Attorney General may establish another such pilot project on the northern land border and another such pilot project on the southern land border of the United States.

(b) AUTOMATED PERMIT PILOT PROJECTS.—The Attorney General and the Commissioner of Customs are authorized to conduct pilot projects to demonstrate—

(1) the feasibility of expanding port of entry hours at designated ports of entry on the United States-Canada border; or

(2) the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i) by striking "academic high school, elementary school, or other academic institution or in a language training program" and inserting in lieu thereof "public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program"; and

(2) by inserting before the semicolon at the end of clause (ii) the following: ": Provided, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified";

(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement) is excludable.".

(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursing such a course of study, or (II) the school waives such reimbursement), is deportable.".

(d) EFFECTIVE DATE.—This section shall become effective 1 day after the date of enactment.

SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those 'J' visa holders whose presence in the United States is sponsored by the United States Government.

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those 'J' visa holders whose presence in the United States is sponsored by the United States Government.

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively.".

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General

and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SEC. 216. FALSE CLAIMS OF UNITED STATES CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.".

SEC. 217. VOTING BY ALIENS.

(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

"§611. Voting by aliens

"(a) It shall by unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

"(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.".

(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.".

(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.".

SEC. 218. EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) EFFECTIVE DATE.—This section will become effective one day after the date of enactment of the Act.

Subtitle C—Housing Assistance

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 222. PRORATING OF FINANCIAL ASSISTANCE.

Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.".

SEC. 223. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by adding at the end the following: "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section."; and

(3) in subparagraph (B)—

(A) by striking "6-month period" and all that follows through the end of the subparagraph and inserting "single 3-month period.";

(B) by inserting "(i)" after "(B)";

(C) by striking "Any deferral" and inserting the following:

"(ii) Except as provided in clause (iii) and subject to clause (iv), any deferral"; and

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

"(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

"(iv) The time period described in clause (ii) shall be extended for a period of 1 month in the case of any individual who is provided, upon request, with a hearing under this section.".

SEC. 224. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or to be" after "being";

(2) in paragraph (1)(A), by adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary of Housing and Urban Development, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date"; and

(B) by adding at the end the following:

"In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, the Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following:

"(ii) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

"(iii) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and"; and

(C) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

"(II) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, deny the application for such assistance on the basis of the immigration status of that individual; and";

(5) in paragraph (5), by striking "status—" and all that follows through the end of the paragraph and inserting the following: "status, the Secretary shall—

"(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable; and

"(B) provide to the individual written notice of the determination under this paragraph and the right to a fair hearing process."; and

(6) by striking paragraph (6) and inserting the following:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.".

SEC. 225. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by adding "or" at the end;

(2) in paragraph (3), by adding at the end the following: "the response from the Immigration and Naturalization Service to the appeal of that individual."; and

(3) by striking paragraph (4).

SEC. 226. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsection:

"(h) VERIFICATION OF ELIGIBILITY.—

"(1) IN GENERAL.—Except in the case of an election under paragraph (2)(A), no individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of that individual or family under this section by the Secretary or other appropriate entity.

"(2) RULES APPLICABLE TO PUBLIC HOUSING AGENCIES.—A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937)—

"(A) may elect not to comply with this section; and

"(B) in complying with this section—

"(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

"(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"(3) ELIGIBILITY OF FAMILIES.—For purposes of this subsection, with respect to a family, the term 'eligibility' means the eligibility of each family member.".

SEC. 227. REGULATIONS.

(a) ISSUANCE.—Not later than the 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN-2501-AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824-14861), shall not apply after that date.

Subtitle D—Effective Dates

SEC. 231. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of sections 201 and 204 shall apply to benefits and to applications for benefits received on or after the date of the enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CHANGES REGARDING VISA APPLICATION PROCESS.

(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—

(1) by striking all that follows after "United States;" through "marital status;"; and

(2) by adding at the end thereof the following: "At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.".

(b) DISPOSITION OF APPLICATIONS.—Section 222(e) (8 U.S.C. 1202(e)) is amended—

(1) in the first sentence, by striking "required by this section" and inserting "for an immigrant visa"; and

(2) in the third sentence—

(A) by inserting "or other document" after "stamp,"; and

(B) by striking "by the consular officer".

SEC. 302. VISA WAIVER PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1996" and inserting "1998".

(b) REPEAL OF PROBATIONARY PROGRAM.—(1) Section 217(g) (8 U.S.C. 1187(g)) is repealed.

(2) A country designated as a pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act (as in effect prior to the date of enactment of this Act) shall be subject to paragraphs (3) and (4) of that subsection as if such paragraphs were not repealed.

(c) DURATION AND TERMINATION OF DESIGNATION OF PILOT PROGRAM COUNTRIES.—Section 217, as amended by this section, is further amended by adding at the end the following:

"(g) DURATION AND TERMINATION OF DESIGNATION.—

"(1) PROGRAM COUNTRIES.—(A) Upon determination by the Attorney General that a visa waiver program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

"(B) If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General and the Secretary of State shall place the program country in probationary status for a period not to exceed 3 full fiscal years following the year in which the designation of the country as a pilot program country is made.

"(C) If the program country's disqualification rate is 3.5 percent or more, the Attorney General and the Secretary of State, acting jointly, shall terminate the country's designation effective at the beginning of the second fiscal year following the fiscal year in which the determination is made.

"(2) END OF PROBATIONARY STATUS.—(A) If the Attorney General and the Secretary of State, acting jointly, determine at the end of the probationary period described in subparagraph (B) that the program country's disqualification rate is less than 2 percent, they shall redesignate the country as a program country.

"(B) If the Attorney General and the Secretary of State, acting jointly, determine at the end of the probationary period described in subparagraph (B) that a visa waiver country has—

"(i) failed to develop a machine readable passport program as required by subparagraph (C) of subsection (c)(2), or

"(ii) has a disqualification rate of 2 percent or more,

then the Attorney General and the Secretary of State shall jointly terminate the designation of the country as a visa waiver program country, effective at the beginning of the first fiscal year following the fiscal year in which in the determination is made.

"(3) DISCRETIONARY TERMINATION.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security or failure to meet any other requirement of this section), at any time, rescind any waiver under subsection (a) or terminate any designation under subsection (c), effective upon such date as they shall jointly determine.

"(4) EFFECTIVE DATE OF TERMINATION.—Nationals of a country whose eligibility for the program is terminated by the Attorney General and the Secretary of State, acting jointly, may continue to have paragraph (7)(B)(i)(II) of section 212(a) waived, as authorized by subsection (a), until the country's termination of designation becomes effective as provided in this subsection.

"(5) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraphs (1)(C) and (3) shall not apply unless the total number of nationals of a designated country, as described in paragraph (6)(A), is in excess of 100.

"(6) DEFINITION.—For purposes of this subsection, the term 'disqualification rate' means the ratio of—

"(A) the total number of nationals of the visa waiver program country—

"(i) who were excluded from admission or withdrew their application for admission during the most recent fiscal year for which data is available, and

"(ii) who were admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission, to

"(B) the total number of nationals of that country who applied for admission as nonimmigrant visitors during such fiscal year.".

SEC. 303. TECHNICAL AMENDMENT.

Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by inserting a "comma" after "(4) thereof)".

SEC. 304. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM IMMIGRATION CHECKPOINTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGHT FROM BORDER CHECKPOINTS.—Chapter 35 of title 18, United States Code, is amended by inserting the following new section:

"§758. High speed flight from immigration checkpoint

"(a) Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service or any other Federal law enforcement agency in a motor vehicle after entering the United States and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be imprisoned not more than five years.".

(c) GROUNDS FOR DEPORTATION.—Section 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) of title 8, United States Code, is amended by inserting the following new subsection:

"(v) HIGH SPEED FLIGHT.—Any alien who is convicted of high speed flight from a checkpoint (as defined by section 758(a) of chapter 35) is deportable.".

SEC. 305. CHILDREN BORN ABROAD TO UNITED STATES CITIZEN MOTHERS; TRANSMISSION REQUIREMENTS.

(a) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT TECHNICAL CORRECTIONS ACT OF 1994.—Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended to read as follows:

"(d) APPLICABILITY OF TRANSMISSION REQUIREMENTS.—Notwithstanding this section and the amendments made by this section, any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States citizenship shall apply to any person whose claim of citizenship is based on the amendment made by subsection (a), and to any person through whom such a claim of citizenship is derived.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be deemed to have become effective as of the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 306. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each immigrant issued a visa under subsection (c) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(c)). Such fee may be set at a level so as to cover the full cost to the Department of State of administering that subsection, including the cost of processing all applications thereunder. All such fees collected shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available for obligation until expended. The provisions of the Act of August 18, 1856 (Rev. Stat. 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees, shall not apply to fees collected pursuant to this section.

SEC. 307. SUPPORT OF DEMONSTRATION PROJECTS FOR NATURALIZATION CEREMONIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) American democracy performs best when the maximum number of people subject to its laws participate in the political process, at all levels of government.

(2) Citizenship actively exercised will better assure that individuals both assert their rights and fulfill their responsibilities of membership within our political community, thereby benefiting all citizens and residents of the United States.

(3) A number of private and charitable organizations assist in promoting citizenship, and the Senate urges them to continue to do so.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make available funds under this section, in each of 5 consecutive years (beginning with 1996), to the Immigration and Naturalization Service or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance (under section 337(a) of the Immigration and Nationality Act) on a business day around the 4th of July for approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(c) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and on the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General should consider changing the sites selected from year to year.

(d) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount that may be made available under this section with respect to any single site for a year shall not exceed $5,000.

(2) USE.—Funds provided under this section may only be used to cover expenses incurred carrying out symbolic swearing-in ceremonies at the demonstration sites, including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses),

(B) local outreach,

(C) rental of space, and

(D) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities (including funds in the Immigration Examinations Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(e) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

SEC. 308. REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

SEC. 309. DESIGNATION OF A UNITED STATES CUSTOMS ADMINISTRATIVE BUILDING.

(a) DESIGNATION.—The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the "Timothy C. McCaghren Customs Administrative Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

SEC. 310. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by

the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

SEC. 311. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND PETITIONS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5) is amended by adding at the end the following:

"(D) PROFESSIONAL ATHLETES.—The labor certification received for a professional athlete shall remain valid for that athlete after the athlete changes employer if the new employer is a team in the same sport as the team which employed the athlete when he first applied for labor certification hereunder. For purposes of this subparagraph, the term 'professional athlete' means an individual who is employed as an athlete by a team that belongs to the National Hockey League, the National Football League, the National Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the forgoing leagues.".

(b) PETITIONS.—Section 204(a)(1)(D) is amended by adding at the end the following new sentences: "A petition for a professional athlete will remain valid for that athlete after the athlete changes employers provided that the new employer is a team in the same sport as the team which employed the athlete when he first applied for labor certification hereunder. For purposes of the preceding sentence, the term 'professional athlete' means an individual who is employed as an athlete by a team that belongs to the National Hockey League, the National Football League, the National Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.".

SEC. 312. MAIL-ORDER BRIDE BUSINESS.

(a) CONGRESSIONAL FINDINGS.—The Congress makes the following findings:

(1) There is a substantial "mail-order bride" business in the United States. With approximately 200 companies in the United States, an estimated 2,000 to 3,500 American men find wives through mail-order bride catalogs each year. However, there are no official statistics available on the number of mail-order brides entering the United States each year.

(2) The companies engaged in the mail-order bride business earn substantial profits from their businesses.

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides often find themselves in abusive relationships: There is also evidence to suggest that a substantial number of mail-order marriages constitute marriage fraud under United States law.

(4) Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered spouses often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates the rate of marriage fraud between foreign nationals and United States citizens or legal permanent residents as eight percent. It is unclear what percent of those marriage fraud cases originated as mail-order marriages.

(b) INFORMATION DISSEMINATION.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status, permanent resident status, the battered spouse waiver of conditional permanent resident status requirement, marriage fraud penalties, immigrants' rights, the unregulated nature of the business, and the study mandated in subsection (c).

(c) STUDY.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization and the Violence Against Women Office of the Department of Justice, shall conduct a study to determine, among other things—

(1) the number of mail-order marriages;

(2) the extent of marriage fraud arising as a result of the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act providing for waiver of deportation in the event of abuse, or section 204(a)(1)(A)(iii) of such Act providing for self-petitioning for permanent resident status;

(4) the extent of domestic abuse in mail-order marriages; and

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 in this area.

(d) REPORT.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit a report to the Congress setting forth the results of the study conducted under subsection (c).

(e) CIVIL PENALTY.—(1) The Attorney General shall impose a civil penalty of not to exceed $20,000 for each violation of subsection (b).

(2) Any penalty under paragraph (1) may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(f) DEFINITIONS.—As used in this section:

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or permanent resident aliens, dating, matrimonial, or social referral services to nonresident, noncitizens, by—

(A) an exchange of names, telephone numbers, addresses, or statistics;

(B) selection of photographs; or

(C) a social environment provided by the organization in a country other than the United States.

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or permanent resident aliens.

SEC. 313. APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the end period and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

SEC. 314. BORDER PATROL MUSEUM

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service, as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 315. PILOT PROGRAMS TO PERMIT BONDING.

(a) IN GENERAL.—The Attorney General of the United States shall establish a pilot program in 5 INS district offices (at least 2 of which are in States selected for a demonstration project under section 112 of this Act) to require aliens to post a bond in lieu of the affidavit requirements in section 203 of the Immigration Control and Financial Responsibility Act of 1996 and the deeming requirements in section 204 of such Act. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's dependents under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain in effect until the alien and all members of the alien's family permanently depart from the United States, are naturalized, or die. Suit on any such bonds may be brought under the terms and conditions set forth in section 213 of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—The Attorney General shall report annually to Congress on the effectiveness of the pilot program, once within 9 months and again within 1 year and 9 months after the pilot program begins operating.

(e) SUNSET.—The pilot program shall sunset after 2 years of operation.

SEC. 316. MINIMUM STATE INS PRESENCE.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(e) The Attorney General shall ensure that no State is allocated fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the enforcement, examinations, and inspections functions of the Service for the purposes of effective enforcement of the Immigration and Nationality Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act.

SEC. 317. DISQUALIFICATION FROM ATTAINING NONIMMIGRANT OR PERMANENT RESIDENCE STATUS.

(a) DISAPPROVAL OF PETITIONS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(i) Restrictions on future entry of aliens apprehended for violating immigration laws.

"(1) The Attorney General may not approve any petition for lawful permanent residence status filed by an alien or any person on behalf of an alien (other than petitions filed by or on behalf of spouses of United States citizens or of aliens lawfully admitted for permanent residence) who has at any time been apprehended in the United States for (A) entry without inspection, or (B) failing to depart from the United States within one year of the expiration of any nonimmigrant visa, until the date that is ten years after the alien's departure or removal from the United States.".

(b) VIOLATION OF IMMIGRATION LAW AS GROUNDS FOR EXCLUSION.—Section 212(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subparagraph:

"(G) Any alien who (i) has at any time been apprehended in the United States for entry without inspection, or (ii) has failed to depart from the United States within one year of the expiration date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending, is excludable until the date that is ten years after the alien's departure or removal from the United States.".

(c) DENIAL OF ADJUSTMENT OF STATUS.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period the following: "or (6) any alien who (A) has at any time been apprehended in the United States for entry without inspection, or (B) has failed to depart from the United States within one year of the expiration under section 208 date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending".

(d) EXCEPTIONS.—Section 245 (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(k) The following periods of time shall be excluded from the determination of periods of unauthorized stay under subsection (c)(6)(B) and section 204(i):

(1) Any period of time in which an alien is under 18 years of age.

(2) Any period of time in which an alien has a bona fide application for asylum pending under section 208.

(3) Any period of time during which an alien is provided authorization to engage in employment in the United States (including such an authorization under section 244A(a)(1)(B)), or in which the alien is the spouse of such an alien.

(4) Any period of time during which the alien is a beneficiary of family unity protection pursuant to section 301 on the Immigration Act of 1990.

(5) Any period of time for which the alien demonstrates good cause for remaining in the United States without the authorization of the Attorney General.

SEC. 318. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and insert "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of enactment of this Act.

SEC. 319. EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

"(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for a new grant or extension of benefits of this section if the Attorney General finds that the alien—

"(1) has been convicted of a felony or 3 or more misdemeanors in the United States,

"(2) is described in section 243(h)(2) of the Immigration and Nationality Act, or

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against the person of another; or

"(B) a felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.".

SEC. 320. TO ENSURE APPROPRIATELY STRINGENT PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Not later than 6 months following enactment of this Act, the United States Sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with, or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

(b) Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

SEC. 321. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the enactment of this Act may impact the future availability of an adequate work force for the producers of our Nation's labor intensive agricultural commodities and livestock.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the program to determine—

(1) that the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) that the program ensures that there is timely approval of applications for temporary foreign workers under the H-2A nonimmigrant worker program in the event of shortages of United States workers after the date of enactment of this Act;

(3) that the program ensures that implementation of the H-2A nonimmigrant worker program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers; and

(4) if and to what extent the H-2A nonimmigrant worker program is contributing to the problem of illegal immigration.

(c) REPORT.—Not later than December 31, 1996, or three months after the date of enactment of this Act, whichever is sooner, the Comptroller General shall submit a report to Congress setting forth the findings of the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section—

(1) the term "Comptroller General" means the Comptroller General of the United States; and

(2) the term "H-2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

SEC. 322. FINDINGS RELATED TO THE ROLE OF INTERIOR BORDER PATROL STATIONS.

The Congress makes the following findings:

(1) The Immigration and Naturalization Service has drafted a preliminary plan for the removal of 200 Border Patrol agents from interior stations and the transfer of these agents to the Southwest border.

(2) The INS has stated that it intends to carry out this transfer without disrupting service and support to the communities in which interior stations are located.

(3) Briefings conducted by INS personnel in communities with interior Border Patrol stations have revealed that Border Patrol agents at interior stations, particularly those located in Southwest border States, perform valuable law enforcement functions that cannot be performed by other INS personnel.

(4) The transfer of 200 Border Patrol agents from interior stations to the Southwest border, which would not increase the total number of law enforcement personnel at INS, would cost the Federal Government approximately $12,000,000.

(5) The cost to the Federal Government of hiring new criminal investigators and other personnel for interior stations is likely to be greater than the cost of retaining Border Patrol agents at interior stations.

(6) The first recommendation of the report by the National Task Force on Immigration was to increase the number of Border Patrol agents at the interior stations.

(7) Therefore, it is the sense of the Congress that—

(A) the United States Border Patrol plays a key role in apprehending and deporting undocumented aliens throughout the United States;

(B) interior Border Patrol stations play a unique and critical role in the agency's enforcement mission and serve as an invaluable second line of defense in controlling illegal immigration and its penetration to the interior of our country;

(C) a permanent redeployment of Border Patrol agents from interior stations is not the most

cost-effective way to meet enforcement needs along the Southwest border, and should only be done where new Border Patrol agents cannot practicably be assigned to meet enforcement needs along the Southwest border; and

(D) the INS should hire, train and assign new staff based on a strong Border Patrol presence both on the Southwest border and in interior stations that support border enforcement.

SEC. 323. ADMINISTRATIVE REVIEW OF ORDERS.

(a) Section 274A(e)(7) is amended by striking the phrase ", within 30 days,".

(b) Section 274C(d)(4) is amended by striking the phrase ", within 30 days,".

SEC. 324. SOCIAL SECURITY ACT.

Section 1173(d)(4)(B)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 325. HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980.

Section 214(d)(4)(B) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 326. HIGHER EDUCATION ACT OF 1965.

Section 484(g)(B) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 327. LAND ACQUISITION AUTHORITY.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e) accordingly, and inserting the following new subsection (b):

"(b)(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to subsection (a) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to subsection (a) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to section 257 of title 40, United States Code.

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to subsection (a).".

SEC. 328. SERVICES TO FAMILY MEMBERS OF INS OFFICERS KILLED IN THE LINE OF DUTY.

SEC. 294. [8 U.S.C. 1364]—TRANSPORTATION OF THE REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE OF DUTY.

(a) Nothwithstanding any other provision of law, the Attorney General may expend appropriated funds to pay for—

(1) the transportation of the remains of any Immigration Officer or Border Patrol agent killed in the line of duty to a place of burial located in the United States, the Commonwealth of Puerto Rico, or the territories and possessions of the United States;

(2) the transportation of the decedent's spouse and minor children to and from the same site at rates no greater than those established for official government travel; and

(3) any other memorial service sanctioned by the Department of Justice.

(b) The Department of Justice may prepay the costs of any transportation authorized by this section.

SEC. 329. POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended in subsection (a) by adding the following after the last sentence of that subsection:

"The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under intergovernmental service agreements with State or local units of government. The Attorney General, in support of persons in administrative detention in non-Federal institutions, is further authorized to enter into cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for persons detained by the Immigration and Naturalization Service.".

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended in subsection (b) by adding the following:

"The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws of the United States.".

SEC. 330. PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.".

SEC. 331. CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—With respect to information provided pursuant to section 150(b)(C) of this Act and except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using only information furnished solely by—

(A) a spouse or parent who has battered the alien or the alien's children or subjected the alien or the alien's children to extreme cruelty, or

(B) a member of the alien's spouse's or parent's family who has battered the alien or the alien's child or subjected the alien or alien's child to extreme cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act;

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) permit anyone other than the sworn officers and employees of the Department, bureau or agency, who needs to examine such information for legitimate Department, bureau, or agency purposes, to examine any publication of any individual who files for relief as a person who has been battered or subjected to extreme cruelty.

(b) EXCEPTIONS.—(1) The Attorney General may provide for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide for the furnishing of information furnished under this section to law enforcement officials to be used solely for legitimate law enforcement purposes.

SEC. 332. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated and are appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

SEC. 333. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—(1) Not later than 30 days after the enactment of this Act, the Commissioner of the United States Customs Service

shall initiate a study of allegations of harassment by Canadian Customs agents for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment with the discriminatory imposition of the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, and with any other activities taken by the Canadian provincial and Federal Governments to deter cross-border commercial activities.

(2) In conducting the study in subparagraph (1), the Commissioner shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons that the Commissioner deems important to the completion of the study.

(b) REPORT.—Not later than 120 days after enactment of this Act, the Commissioner of the United States Customs Service shall submit to Congress a report of the study and review detailed in subsection (a). The report shall also include recommendations for steps that the United States Government can take to help end harassment by Canadian Customs agents found to have occurred.

SEC. 334. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds that—

(1) in July 1993, Canadian Customs officers began collecting an 11 percent New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to United States businesses located in proximity to the border with New Brunswick;

(2) this impediment to cross-border trade compounds the damage already done from the Canadian government's imposition of a 7 percent tax on all goods bought by Canadians in the United States;

(3) collection of the New Brunswick Provincial Sales Tax on goods purchased outside of New Brunswick is collected only along the United States-Canadian border—not along New Brunswick's borders with other Canadian provinces—thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States;

(4) in February 1994, the United States Trade Representative (USTR) publicly stated an intention to seek redress from the discriminatory application of the PST under the dispute resolution process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures; and

(5) initially, the USTR argued that filing a PST claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the PST claim has still not been put forward by the USTR.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Provincial Sales Tax levied by the Canadian Province of New Brunswick on Canadian citizens of that province who purchase goods in the United States raises questions about the possible violation of the North American Free Trade Agreement in its discriminatory application to cross-border trade with the United States and damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the discriminatory application of the New Brunswick Provincial Sales Tax on United States-Canada cross-border trade.

SEC. 335. FEMALE GENITAL MUTILATION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the Fourteenth Amendment, as well as under the treaty clause of the Constitution to enact such legislation.

(b) CRIMINAL CONDUCT.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

APPOINTMENT OF CONFEREES—
H.R. 2202

Mr. LOTT. Mr. President, I ask unanimous consent that with respect to H.R. 2202, the immigration bill, the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

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

The PRESIDING OFFICER (Mr. COVERDELL) appointed Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. KYL, Mr. SPECTER, Mr. THURMOND, Mr. KENNEDY, Mr. LEAHY, Mr. SIMON, Mr. KOHL, and Mrs. FEINSTEIN conferees on the part of the Senate.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1996

Mr. SMITH of Texas. Mr. Speaker, pursuant to clause 1 of rule XX, and by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Does the gentleman from Texas wish to debate the motion to go to conference?

Mr. SMITH of Texas. Mr. Speaker, this is the customary request which will enable us to go to conference on this important bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SMITH].

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2202 be instructed to recede to the provisions contained in section 105 (relating to increased personnel levels for the Labor Department).

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognzied for 30 minutes, and the gentleman from Texas [Mr. SMITH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, the motion I am offering would instruct conferees to retain the provisions in the Senate-passed bill that provides for 350 additional Department of Labor wage and hour inspectors and staff to enforce violations of the Federal wage and hour laws. It is no more complicated and no less simple than that.

The reason is that the cornerstone of our efforts to control immigration must be to shut off the job magnet that draws so many undocumented aliens into the country. Increasing border patrols is of course important, but that can be done through the appropriations process, as we have been doing for the last 2 years. But it is imperative that we enhance the authority to prosecute those employers who knowingly hire illegal workers instead of American workers.

For example, we know that each year more than 100,000 foreign workers enter the work force by overstaying their visas. No amount of border enforcement will deter this, since they enter legally with passports and visas. No amount of border enforcement will deter the desire, the magnet that draws people into this country, and that is to seek jobs. The only way to deter this form of illegal immigration is in the workplace, by denying them jobs.

Case in point: In the 14-month-old Detroit newspaper dispute we have reports of illegal immigrants, not replacement workers from within the United States, but people without a valid passport, no right in this country, are coming in and they have been investigated, INS is conducting investigations on them. It is a serious incursion and a serious charge and it is being investigated by INS now, but this gives reason for the instruction motion that I would urge that we adopt in as large a number as possible.

We must enhance the authority to prosecute employers who knowingly hire illegal workers instead of American workers, and there can be no doubt that an increased number of Labor Department inspectors will reduce the possibility that employers will hire illegal workers. The Jordan Commission, remembering the late Barbara Jordan, recommended this increase, since studies show that most employers who hire illegal workers also violate labor standards.

This goes together. We want to deal with this problem and the only way is to move to the Senate-passed version that authorizes 350 additional inspectors to enforce these violations or alleged violations of Federal Wage and hour laws.

The report of the Jordan Commission concluded with this statement: The commission believes that an effective work site strategy for deterring illegal immigration requires enhancement of

labor standards enforcement. Now, I expect that the 350 additional inspectors would be used to enhance enforcement of labor standards in those areas where high concentrations of illegals are employed.

In fiscal years 1993 through 1995, the Department of Labor recovered nearly $60 million in unpaid minimum wages for more than a quarter of a million workers and another $300 million in unpaid overtime for more than a half million additional workers.

More can be accomplished with these additional personnel. And just as importantly, increased enforcement will help level the playing field for those honest employers who play by the rules and hire American workers and pay them a fair wage.

So all of the Members who like to talk about preventing illegal immigration, please, let us all repair to this motion to instruct. It is an important one, it is critical for maintaining good labor standards in this country, and I ask my colleagues to join with me in voting yes on a more tough and effective workplace enforcement.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume, and I rise in opposition to the motion to instruct conferees.

The appointment of House conferees for H.R. 2202 marks another important juncture on the road to immigration reform. Hopefully it also means that the final destination is very close.

The Immigration in the National Interest Act is just what it says, an effort to fundamentally reorient national immigration policy so that it protects first and foremost the needs of American workers, taxpayers, and families.

We worked long and hard within the Committee on the Judiciary to bring this bill to the House floor where it passed by a margin of 333 to 87. Other Senate colleagues also labored intensely to bring forth a slightly different version of this legislation, passed by a vote of 97 to 3. These lopsided majorities clearly reflect the will of the American people, that Congress get serious about immigration reform. Not tomorrow. Not next session. But now.

Illegal immigration has reached a crisis. One million permanent illegal aliens enter the country every 2.5 years. Half of these illegal aliens use fraudulent documents to wrongly obtain jobs and government benefits, and one quarter of all Federal prisoners are illegal aliens.

Think of the human cost in pain and suffering to innocent victims. Think of the financial cost to taxpayers of incarceration in the criminal justice system.

H.R. 2202 will better secure our borders by doubling the number of border patrol agents and cracking down on repeat illegal border crossings. It will increase interior enforcement and make it more difficult for illegal aliens to take jobs away from American citizens.

□ 1400

And it will reduce the number of criminal aliens and the flow of illegal drugs into our country.

The bill adopts the most comprehensive overhaul of our deportation system in this century. Deportation procedures are streamlined, and opportunities for illegal aliens and criminal aliens to "game the system" in order to stay in the United States disappear. Aliens who show up with no documents to legitimately enter the United States will be quickly turned back, rather than be given lengthy immigration hearings to which a vast majority new show up.

H.R. 2202 also tackles the pressing problem of immigration and welfare. Our official national policy for almost a century has been that aliens should not be admitted to or remain in the United States if they become a "public charge"—dependent on welfare.

Today, that presumption is turned upside down. Noncitizens receive a disproportionate share of welfare benefits in large States such as California. When all types of benefits are included, immigrants receive $25 billion more in benefits than they pay in taxes. The number of immigrants on Supplemental Security Income increases by 50 percent each year. We cannot continue down this road.

America's generosity towards those immigrants who want to work and produce and contribute will continue. But we should not admit immigrants who will live off the American taxpayers.

H.R. 2202 ensures that sponsors of immigrants will be legally responsible for those they bring into the country. The bill also ensures that sponsors first have the means to meet this financial commitment. It makes no sense, as current law allows, for sponsor who are themselves on welfare to promise that they will keep the new immigrants they sponsor off of welfare. Obviously, this is a promise that cannot be kept, and the taxpayer foots the bill.

This is truly landmark legislation. And it is long overdue. It's time to put the interests of American workers, taxpayers, and families first. It's time to push through to the finish, and complete passage of the Immigration in the National Interest Act.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT], ranking member on the Subcommittee on Immigration, who more than any other member on the committee fought to protect American workers, who started out with the Smith-Bryant bill, got cut out by the leadership and we now meet here at this juncture before we go to conference.

Mr. BRYANT of Texas. Mr. Speaker, I thank the chairman for yielding me the time and for his kind words.

Mr. Speaker, a bill that began as a bipartisan effort to address a very difficult problem for our country, the problem being immigration and illegal immigration, has at this stage, I think it is fair to say, degenerated into a bill that is now going to be a partisan contrivance designed to somehow isolate certain Members and make them subject to political attacks and maybe try to do the same thing to the President.

I heard the comments of the gentleman from Texas [Mr. SMITH] a moment ago about the difficulties this country faces with immigration. I agree with every one of the things he said. But the problem is that the bill, apparently, the conference committee proposal that will be taken up tomorrow, the provisions within it do not address the problems. It is just that simple.

Consider this: Much has been made of the Jordan commission report because of the enormous credibility Barbara Jordan has in this country and in this institution. This bill was advertised over and over, both by me back when I was proud to cosponsor it because at that time I think it was a constructive action, Mr. SMITH and others, as a bill designed to implement the bipartisan recommendations of the Jordan commission. Yet on point after point after point, the bill has abandoned those important provisions and yet kept the name and the implied sponsorship of a great woman who led a commission that did a very good job.

The most recent apparent abandonment of those provisions is the fact that the Jordan commission observed that studies show that most employers hiring illegal workers also violate labor standards. Accordingly, the Jordan commission recommended that we increase the number of Labor Department wage and hour inspectors to help us stop that and directly help us stop illegal immigration. What happened?

We came out of the committee with 150 additional inspectors, just as the Jordan commission reported, but before it came to the floor, the Speaker, Mr. GINGRICH, the gentleman from new York, Mr. SOLOMON, the chairman of the Committee on Rules, the powers that be, while listening to the whisperings in their ears of lobbyists for employers, said we are not going to let that stay in the bill.

So by the time the bill got to the floor, the 150 new inspectors designed to help us deal with the problem Mr. SMITH was talking about were gone. The U.S. Senate passed the bill. When the U.S. Senate passed the bill, there were 350 additional Labor Department wage and hour inspectors. But we saw the draft of the Republican conference committee proposal that will be taken up tomorrow. What does it have? Zero.

The question is whether we are going to legislate here in the interest of the American people, write legislation that really deals with the problem that we are facing, and it is a big problem, with regard to illegal immigration and the displacement of American workers or whether we are going to do what the lobbyists tell us to do.

I urge the Members of the House to come to this floor and vote in favor of the Conyers motion to instruct and to tell whoever it is that is calling the shots behind the scenes, we want 350 wage and hour workers back in this bill. We want them to be able to augment the efforts of our other Government agencies in trying to fight illegal immigration. We want a bill that does what the advertisers and the sponsors of this bill say they are trying to do. And that is stop people who do not live in this country, who are not supposed to be in this country from taking the jobs of working Americans. Vote for the motion to instruct.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. GALLEGLY], chairman of the House task force on illegal immigration.

Mr. GALLEGLY. Mr. Speaker, one of the most critical challenges facing the 104th Congress is the passage of comprehensive and effective immigration reform legislation. For many years the American people have expressed frustration that its leaders in Congress have failed to enact policies to eliminate the unacceptable high levels of illegal entry into our country.

Under the able leadership of the gentleman from Texas, Mr. LAMAR SMITH, chairman of the House Subcommittee on Immigration and Claims, the House of Representatives will soon consider a conference report which finally addresses the public concern over this problem in a serious and comprehensive manner.

One of the most important elements of this conference report is the so-called Gallegly amendment. This provision is really quite straightforward. It simply eliminates the ability of the Federal Government to force States to provide a free public education to illegal immigrants.

This unfunded mandate is especially disturbing considering that 95 percent of the cost of providing a public education is born by State taxpayers. In addition, my amendment has been modified to make absolutely sure that illegal immigrant children who are already enrolled in public schools will not be removed from those schools. This compromise provides that illegal immigrants who are currently enrolled in a public school will continue to receive a free public education through the highest grade either in elementary or secondary school.

For example, an illegal immigrant student in 2d grade could get a free education until the 6th grade or an illegal student in the 7th grade could continue through the 12th grade, provided they remained within the same school district.

It is important to keep in mind that all these provisions dealing with illegal immigrants currently enrolled in public schools apply only to the States that choose to deny illegal immigrants a free public education. If a State, be it New York, Oregon, or any other State, wants to continue to provide a free public education to illegal immigrants as they currently do, they would be perfectly entitled to continue that policy.

Mr. Speaker, California alone spends over $2 billion per year to educate illegal immigrants, and our Nation spends over $4 billion in this unfunded mandate. It is time that we at least give the States this important tool for reducing incentives for illegal immigrants to stay in our country.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK], ranking member of the Committee on the Judiciary, a member of the Subcommittee on Immigration.

Mr. FRANK of Massachusetts. Mr. Speaker, I agree that this is a very important subject. I agree that we should be acting to try to diminish illegal immigration. It is for that reason that I deplore as seriously as I can both the method by which this bill has been considered and the substances.

I am a member of the Subcommittee on Immigration as I have been since coming to Congress. I am very proud of the bipartisan efforts in which I participated in 1986 and in 1990 and at other times to deal with immigration legislation. For the first time in the 16 years I have been a Member of Congress, gross partisanship has run this process. Those of us who participated in good faith have assurances from the chairman of the subcommittee that this would be done in a bipartisan way in the deliberations at the committee stage. Those of us who were Democrats were completely excluded from the process to the point where, despite our repeated requests, we could not even see a copy of this complex legislation until 9:30 last night.

My colleagues will remember that the Republican leadership was ready to push this bill through before the recess, and only our objection stopped it. They were going to put it through without our having a chance to see it. Then, despite the fact that it was ready to be passed in August, they withheld it from us, despite our requests to be able to look at it until last night.

This substitution of partisan exclusion for a bipartisan process is the reason why we may very well not have a bill. The fault will lie at the feet of those who changed a tradition of bipartisanship. I believe the chairman of the subcommittee when he said, do not worry, we are just talking among ourselves. We will have a participatory process.

That apparently consists of us seeing the bill last night and then trying to run it through conference tomorrow. That is their participatory process. Now, I understand why they did it that way. There are in this bill several provisions which do not deal with illegal immigration, they deal with discrimination. They make it easier for people to discriminate against American citizens of Hispanic or Asian origin in particular.

In 1986, back in the bipartisan days, now long over with us, we adopted legislation that said, if you hire people who are here illegally, you will be punished. We feared that that would lead to discrimination. People would say, I better not hire anybody who is Hispanic or Asian who might be foreign because they might be here illegally. We had a variety of safeguards in there including antidiscrimination provisions which were unanimously agreed to finally by the conference.

We put provisions in there that said, if you are denied work by someone who is motivated by fear of sanctions, despite your having done the right things, we are going to protect you. And we said to businesses, you cannot use the rules against hiring people illegally as a justification for saying, Mexicans are too much trouble, Asians are too much trouble.

This bill weakens that. This bill deliberately, clearly and intentionally, to use the word this bill likes, weakens those protections for Hispanics. By the way, we had a study by the General Accounting Office. They said the provisions were not strong enough. The General Accounting Office said, yes, the sanctions have led to discrimination. Understand, we are not here talking about keeping out people who are here illegally. We are talking about Mexican-American citizens, Asian-American citizens. And some employers say, I do not want to mess with you guys because you might be here illegally. We said, you cannot do that. You cannot simply refuse. You have to give them a chance to prove that they are here legally.

We had provisions there that protected people. They now changed that law. Those provisions are not before us. This sanction proposal, we are not dealing with that. What they did in this bill is gratuitously go back to the 1986 law and weaken the antidiscrimination provisions by saying that you will be found guilty to discriminating only if the Government proves intent. In other words, if you are by now dumb enough to use bigoted words, we can do it. but if it is overwhelmingly clear from the way you have behaved, from your work force, et cetera, that you are discriminating, we will not be able to protect you.

We also have problems from people who apply and are illegally turned down because the Government makes a mistake. We said, what if somebody said, I will hire you if you are here legally and the Government makes a mistake. My friends on the other side talk frequently of the fact that the Government makes mistakes. We know the Government makes mistakes. So we said, if you are in fact someone who is here legally and you are refused a job because the Government made an error, we will allow you to recover damages from the Government.

Do my colleagues know what they did? They knocked that out. What does

that have to do with illegal immigration? We put provisions in there to protect people who are lawfully here, American citizens, people who may have been born here. We put in provisions to protect them from harmful error. My colleagues knocked it out.

□ 1415

No wonder they did not want to let us see it until last night. They weakened anti-discrimination provisions that have been in the law for 10 years, that the GAO said should have been strengthened. They weakened out ability to have Americans get money back from the Government.

We passed the Taxpayers Bill of Rights for the IRS. But if the IRS and the Social Security Administration, somebody else, makes a mistake about one's eligibility to work, and they lose a job because of it, they do not get any help, and do my colleagues know what the Republican answer was? "Oh, well, there's a reciprocal problem there because you, if you were illegally turned down for the job, you lost the job, but the employer has also been hurt because the employer didn't get to hire you." That is the kind of equivalence we get here.

We have legislation that addresses an important subject, and up until the committee process we dealt with it in a bipartisan way, and once it got out of committee somebody made a decision, and I do not know; we could not find out who. Everybody I talked to thought it was a terrible decision. Apparently the decision was made by the ether. But the decision was to withhold from the Democratic members of this subcommittee and full committee and others in the House, and I am told this happened on the other side as well, any chance to look at this complicated bill.

We got it at 9:30 last night, and they plan to pass it tomorrow, quite contrary to the assurances I received from the chairman of the subcommittee and others, and they also, having let us play games, having apparently made us feel good, pretending they were paying attention to us, it seems to me, during the committee process, they then systematically weakened or took out of that bill everything that would protect American citizens against discrimination, American citizens against government error.

Mr. Speaker, we do not stop illegal immigration by diminishing the rights of Americans citizens, but that is what this bill does. I do not like the amendment offered by the gentleman from California regarding education. The right of children to go to school the second to the sixth grade does not seem to me a great right, and if my colleagues believe that education stops at the sixth grade, I guess it does to my colleagues, too.

But I want to say that that is not the only provision of this bill that bothers me and there are provisions of the bill that systematically reduce rights that are now available to American citizens who, if they happen to be Hispanic or Asian, might get caught up in the web. I am very disappointed that the Republican leadership choose a partisan method and choose to give in to these kinds of fears because they will be responsible for the likely result: no legislation.

We pass immigration legislation when we do it in a bipartisan and cooperative way. We defeat it when we use these kinds of partisan methods, particularly when they are used to diminish rights that already exist among American citizens.

Mr. SMITH of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN] who has been a member of the Committee on the Judiciary for a considerable period of time and is widely reputed to be an expert on immigration.

Mr. BERMAN. Mr. Speaker, I thank the ranking member of our Committee on the Judiciary for yielding me this time.

I rise in support of the motion to instruct the conferees. It is a funny situation when we deal with a provision in the bill that is the critical increase in the number of wage and hour inspectors in order to make immigration reform meaningful by giving us the resources to go to the work site where the big problem is, and the Senate bill provided, I believe, 200, 300. The House bill provided 150. It was taken out by a floor amendment that had nothing to do with the issue of wage and hour inspectors. It dealt with collapsing from a meaningful verification program to a weak verification program, and that was taken out, and now we come back with a proposed draft, the rumors are, and it is more than rumors. The proposed conference committee document that has very kindly been shown to outside of the aisle before the conference indicates there will be no increase in wage and hour inspectors.

If my colleagues want to get a handle on the issue of illegal immigration, putting all of the rhetoric aside, there are some key steps. At the border, meaningful verification; right now employer sanctions are a joke, and a systematic effort to take those industries and employers who systematically recruit and hire illegal immigrants because of their desire to violate wage and hour standards and take a very exploitable work force and utilize them in order to produce their product at below average scale and capture the market in that fashion.

This bill goes along with the Clinton administration's effort to increase the border patrol, does a whole bunch of other things which in some cases are very incendiary, dilutes its initial attempts to provide meaningful verification, thereby rendering fairly ineffective, to my way of thinking, all of the efforts to deal with denial of employment or public benefits to illegal immigrants and strips away any serious increase in wage and hour supporters, wage and hour division inspectors, which could provide the kind of policing of those employers who want to hire illegal immigrants in order to exploit them in callous disregard of Federal law knowing that those people will never utilize the remedies available to them.

So the motion to instruct is a very important one.

The other larger question which I think the majority has to consider is do they want the bill? They are insisting. The Governor from California came out yesterday and joined the Speaker of the House in a press conference, insisting on including a provision in this bill, an amended form of the Gallegly amendment that all law enforcement tells us is crazy, that all educators tell us is bad, which requires that the children of people who came here illegally at one point or another be refused admission or kicked out of the public schools.

The President has made it quite clear that that will result in a veto.

When I read that the Governor of California came back to Washington, came back to Washington to insist on a provision which he knows will require a veto, I tried to think why, since he ballyhoos himself as somebody who is trying to do something about illegal immigration. I think Ron Prince, who was the chairman; he was the chairman of the committee to pass proposition 187, probably put it most accurately when he indicated that there are some Republicans in this House and in the Senate and in the Republican campaign who want to veto a bill. They do not want to do anything about illegal immigration. They want an issue. So they take the one provision that has drawn a clear statement of a veto and insist that that provision be kept in the bill even though it is bad public policy, even though all of law enforcement says that it will make their job much more difficult. All educators, nearly all educators oppose the provision. I wonder what the agenda is of the people who would make that the condition for this conference report.

Mr. GALLEGLY. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Speaker, I cannot let the statement pass, and I thank the gentleman for yielding, that all law enforcement opposes it when I know my good friend, the gentleman from California [Mr. BERMAN], knows that not to be true. In fact, just 3 days ago one of the largest law enforcement agencies in the country, the California Sheriffs Association, strongly endorsed it. The National Alliance endorsed it. A large portion of the rank and file of the Fraternal Order of Police endorsed it. So I would say to the gentleman the cops on the street support it.

Mr. BERMAN. Reclaiming my time, Mr. Speaker, I should amend my statement. The vast majority of leadership

and individual chiefs of police of jurisdictions most affected by this provision think it would be a terrible idea.

Now I am trying to understand what the motivation is for someone like Governor Wilson to come to Washington, hold a press conference, urge passage of a bill with a provision that he knows will draw a veto. There is two cynical, but perhaps accurate; interpretations of the motivations for this action.

One is again to have an issue rather than a law. All the time and effort spent by the chairman of the subcommittee and Senator SIMPSON to try and improve our ability to deal with illegal immigration will be a waste of time if this bill is vetoed. Those people want an issue.

The other even more cynical interpretation of the motivations of the Governor is what happened on both the House and Senate floors. Actually the Senate did not even take it up. The large growers in California hate anything which makes efforts to enforce our laws against illegal immigration tougher because they have historically relied on bringing in undocumented workers to pick the crops. They came in with a rather brazen effort on the House floor to try and create a new 500,000 farm worker-guest worker amendment to bring in these people. That amendment got trounced on a bipartisan basis. My view is that those same growers do not want to see this bill pass, but no one can be against this kind of a bill from that community. So instead they and the Governor, as their representative, comes here and insists on a provision he knows will result in a veto.

It is a pretty cynical story. It is a pretty sad story. It means a lot of important provisions in this bill, provisions providing for reimbursement for health care institutions, provisions that at least go down the road toward some meaningful verification, hopefully all of those will go down the drain because of an insistence on this one provision.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the chairman for yielding me the time.

With all due respect to my friend, the gentleman from California [Mr. BERMAN], I just could not let some of these statements stand without some form of rebuttal, as he referred to the element of farm worker issue being drowned.

I have to remind the gentleman that it was only 3 months ago that this very body passed the bill that we are discussing, only a much tougher bill, 333 to 87, including the education issue, and in fact on a stand-alone vote, whether we should give the States the rights to make the decision for themselves, it passed by almost a hundred votes, stand-alone.

The people of California have been crying for this support, and the issue, the issue of where we were 3 months ago with a 333 to 87 vote; how many votes do we have in this body that we get that many folks to agree on? Just let me finish this, and I will be happy to yield. Three hundred thirty-three to eighty-seven this body voted to support this immigration bill including a provision, unmodified provision, that would allow the States to deny a free public education to those that have no legal right to be in this country. Since that time we have modified it to the point of giving a grandfather clause to all of those in K through 6 and those in 7 through 12, watered it down considerably, and now even with a much more modified version the President of the United States is saying he would veto something that almost a 4 to 1 margin in the House supported, a strong bipartisan vote, and the people of California in an initiative 2 years ago voted by almost a 2 to 1 margin. It appears to me the President of the United States, if in fact he really is talking seriously about a veto, is not listening to the people of California.

And further I would just like to add that with all the due respect that I have for our President, he has talked about vetoes in the past. Sometimes he does what he says; sometimes he does not. I am just saying that I do not believe that he would veto this bill, I do not think that it is the right thing for him to do, he knows it is not what the people of California want.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. GALLEGLY. I am happy to yield to my friend, the gentleman from California.

□ 1430

Mr. BERMAN. The gentleman misunderstood me. First of all, the 333 votes the gentleman referred to included a number of us who made it very clear that we want a great part of what is in this bill, we do not want, with all due respect, the gentleman's amendment in the bill, and that we would move it on to conference in the hope that a conference committee would convene and decide to pull that amendment out, since it was not in the Senate.

The second point I wanted to make was my point about the growers had nothing to do with the 333 vote. It was why would the Governor of California do that, with a chance to get meaningful provisions.

Mr. GALLEGLY. Reclaiming my time, Mr. Speaker, I would say to the gentleman from California [Mr. BERMAN], this issue is very clearly I think an issue that the gentleman, my good friend, would agree is something that I have worked on for many years.

I have 20-some provisions in this bill that I strongly believe in. We have modified, we have cut back. We have made compromises that quite frankly I do not think we should have made, but for the sake of moving the bill ahead, I have supported it. I think we have come to the point where we cannot continue to chisel away and have a real bill.

The people of California can no longer afford to provide a free public education to everyone. It has a demigrating effect on the citizens of our States in providing an education to the children of legal residents and citizens. I think that issue has been sorely missed in this debate.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I in no way question the sincerity of the gentleman's commitment to his amendment. I think he is wrong, but I think he is sincere. He has always had this position. He has pushed for it for a long time.

I just wish that, given that he had two strong efforts in this bill, major efforts, one for a meaningful verification system that could give some meaning to employer sanctions, and what I think is a somewhat crazy scheme on how to try and help deal with the problem of illegal immigration by kicking kids out of schools, he had been able to prevail on the first and yielded on the second, rather than yielding on meaningful verification and insisting on his provision.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute and 30 seconds to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for this leadership, and the leadership of the members of the Subcommittee on Immigration and Claims of the Committee on the Judiciary. I certainly want to acknowledge the bipartisan approach of my colleague, the gentleman from Texas, in the effort to distinguish and separate illegal immigration from legal immigration.

However, it is important to note that we still have an open question. Even now there is just a GAO study about taking rights away from citizen children. It is a study with the intent, of course, that we ultimately may deny the children born in the United States their rights.

Then I might say, as I rise to support the motion to instruct of my ranking member, the gentleman from Michigan, [Mr. CONYERS], how can we eliminate the Labor Department inspectors that would in fact be able to eliminate some of the very problems that the Honorable Barbara Jordan from Texas, as leader of the President's commission, indicated we had to do to protect workers, and to avoid the paying of wages below the minimum wage and unsafe working conditions?

We have already determined that the Labor Department and its inspector division has found some millions of dollars of situations where minimum wages were not paid, or unsafe conditions. It seems if we are truly sincere about reform in immigration that we will have those inspectors.

Last, let me say how unfortunate it is that if some of our citizens who have to be verified, particularly Hispanic citizens with Hispanic surnames, find out that they are legal and then they have no remedy, no way to address their grievances, I would say we need to look at making this a better reform and do a better job. I rise to support the motion to instruct.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to my friend, the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities.

(Mr. GOODLING asked and was give permission to revise and extent his remarks.)

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when we get carried away in this body, we really get carried away. If ever I heard overkill, we are talking about overkill today.

In the conference agreement you have agreed to 900 new people in INS over a 3-year period, 900. I know what the Members are going to say, but they do no check on wage and hour. No, but if they do their job, there is no necessity for anybody to be checking on wage and hour. We are giving them 900 new people over a 3-year period.

Second, in the conference agreement you have agreed to the new workplace verification rule. Let us give them a chance. Let us give the 900 a chance, and let us give the new workplace verification system an opportunity to work. Then we can determine whether we need anything else.

I do not know how much experience you have with wage and hour people, but I have had a lot of experience in the school business. In fact, I had to threaten them, to tell them never, ever to step in again to my business manager's office, that they will come through the superintendent. Why? Because he was very, very valuable to me and to that school system. I could not have him have a stroke over the insensitivity of the gentleman who appeared there and said, do not tell me you are not doing anything wrong. I will stay here until I find it. He went all over my district doing the same, until I got him transferred to the district of the gentleman from Pennsylvania [Mr. MCDADE]. I figured he would have a tougher time up there.

Now, let us get back again to the point: 900 new people in INS. If they do their job, and we are giving them the opportunity by giving them more people, then we are getting to the root of the problem we are talking about, and we have eliminated that problem. That is what we have done. Also you have done it if our new verification system works the way we hope it will work.

So let us not get carried away and add 350 more here and another thousand some other place. Let us, as a matter of fact, see whether we have not gotten to the root of the problem, and solved the problem with the 900 and with the new verification system.

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Pennsylvania is understandably confused, because he thought we were using regular procedures. He kept saying, you have agreed in the conference report. No, there is not any conference report. There was an internal Republican discussion, and they produced something that they intend to ram through the conference in a day. But in fact the gentleman mistook the current situation for regular legislative procedure.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California, Mr. XAVIER BECERRA, who I have asked to conclude this discussion by saving him for last to use the remaining time on our side.

The SPEAKER pro tempore. the gentleman from California [Mr. BECERRA] is recognized for 2 minutes and 45 seconds.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, there are a number of problems with this so-called conference report, not least of which is the backroom deals that occurred on the majority side of the aisle in both Houses which did not allow anyone from the Democratic side of the aisle to participate in any of the negotiations that took place over the last 3 to 4 months.

Now we are going to try to pass out a bill in about 48 hours, never having seen or had a chance to discuss any of these so-called changes. It is upsetting to see that the Republicans have decided to weaken protections against discrimination for U.S. citizens. They are gutting even a compromise that was reached in the light of day in committee, and the backrooms deals were cut, and that language that protected people from discrimination was removed.

It is sad to see that this Congress has now reached the stage where it is going to blame children and punish children for the acts of adults. I have never seen that happen in a court of law, but here we go, not punishing adults for the acts of children, but punishing children for the acts of adults. That is what this Congress wishes to do by denying kids the access to education.

By the way, talking about unfunded mandates, doing what they want to do in this bill will cost hundreds of millions of dollars to the schools throughout this Nation. That is not my statement, that is the statement of the California School Board Association, which is opposing the Gallegly amendment.

What is worst about all of this is jobs. The reason people come into this country, whether with or without documents, is to get a better paying job for their family. This bill, unfortunately, does little, if anything, to try to preserve and protect American jobs. We had a provision in the Senate bill that said, let us provide 350 investigators to make sure we inspect the workplaces in this country to make sure jobs are held for American citizens.

We have right now a total of 750 investigators nationwide to cover 6 million places of employment. That is about 8,000 places of employment per investigator, to investigate to find out if someone is hired with the authorization to work in this country.

The Senate, including the Republicans in the Senate, said let us give the Department of Labor the opportunity to do a better job of investigating. Why? Because we have found we have been able to recoup money for a lot of American citizens that would have otherwise not been employed, and those people who are not employed and are in jobs that are not authorized, to get them out and leave the jobs for the American citizens.

What we find is that that was all gutted. This so-called conference report that Democrats have never even seen until today does not include any funding for that. Why? If we are really out to protect jobs for Americans, if we are really out to reform our immigration laws, then let us do the thing that most Americans wish to see most, jobs, jobs for Americans, or those entitled to work in this country. This bill does not provide that type of protection.

I am amazed, we found somehow the capacity in this Congress to give moneys, funds for 300 additional border patrol agents more than even what the administration, the Clinton administration, requested. The President requested about 700 new border patrol officers. This Congress said, we are going to give you 1,000. When the administration said we need more investigators to make sure people are employed because they are authorized to work, this Congress said no, you cannot do it. So there we have.

We are going to find a situation, unlike what the chairman of the Committee on Economic and Educational Opportunities said, that you can stop them all at the border. I wish it was true but it is not, because almost half of the people undocumented in this country come legally through a visa, a student visa or a work visa. Then they overstay and become illegal after that. They are the ones you will never catch. Half of the people, they will continue to be employed and you will not have the investigators to spot them. Bad bill. Vote against this.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Speaker pro tempore (Mr. DREIER) announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent members.

The vote was taken by electronic device, and there were—yeas 181, nays 236, not voting 16, as follows:

[Roll No. 408]

YEAS—181

Abercrombie	Gilman	Nadler
Ackerman	Gonzalez	Neal
Allard	Gordon	Oberstar
Andrews	Green (TX)	Obey
Baldacci	Gutierrez	Olver
Barcia	Hall (OH)	Ortiz
Barrett (WI)	Hamilton	Owens
Becerra	Harman	Pallone
Beilenson	Hastings (FL)	Payne (NJ)
Berman	Hefner	Payne (VA)
Bevill	Hilliard	Pelosi
Blumenauer	Hinchey	Peterson (FL)
Bonior	Holden	Pomeroy
Borski	Horn	Poshard
Boucher	Hoyer	Rahall
Brown (CA)	Jackson (IL)	Rangel
Brown (OH)	Jackson-Lee	Reed
Bryant (TX)	(TX)	Richardson
Campbell	Jefferson	Rivers
Cardin	Johnson (SD)	Ros-Lehtinen
Chapman	Johnson, E. B.	Rose
Clay	Johnston	Roth
Clayton	Kanjorski	Roybal-Allard
Clement	Kaptur	Rush
Clyburn	Kennedy (MA)	Sabo
Coleman	Kennedy (RI)	Sanders
Collins (MI)	Kennelly	Sawyer
Conyers	Kildee	Schroeder
Costello	Kleczka	Schumer
Coyne	Klink	Serrano
Cummings	LaFalce	Skaggs
Danner	Lantos	Slaughter
DeFazio	Levin	Smith (NJ)
DeLauro	Lewis (GA)	Spratt
Dellums	Lipinski	Stark
Deutsch	Lofgren	Stokes
Diaz-Balart	Longley	Studds
Dicks	Lowey	Stupak
Dingell	Luther	Tejeda
Dixon	Maloney	Thompson
Doggett	Manton	Thornton
Doyle	Markey	Thurman
Durbin	Mascara	Torres
Edwards	Matsui	Torricelli
Engel	McCarthy	Towns
Eshoo	McDade	Traficant
Evans	McDermott	Velazquez
Farr	McHale	Vento
Fattah	McInnis	Visclosky
Fazio	McKinney	Volkmer
Fields (LA)	Meehan	Ward
Filner	Meek	Waters
Flake	Menendez	Watt (NC)
Foglietta	Millender-	Waxman
Ford	McDonald	Weller
Frank (MA)	Miller (CA)	Williams
Frost	Minge	Wilson
Furse	Mink	Wise
Gejdenson	Moakley	Woolsey
Gephardt	Moran	Wynn
Gibbons	Murtha	Yates

NAYS—236

Archer	Bateman	Brewster
Armey	Bentsen	Browder
Bachus	Bereuter	Brownback
Baesler	Bilbray	Bryant (TN)
Baker (CA)	Bilirakis	Bunn
Baker (LA)	Bishop	Bunning
Ballenger	Bliley	Burr
Barr	Blute	Burton
Barrett (NE)	Boehlert	Callahan
Bartlett	Boehner	Calvert
Barton	Bonilla	Camp
Bass	Bono	Canady
Castle	Hefley	Peterson (MN)
Chabot	Herger	Petri
Chambliss	Hilleary	Pickett
Chenoweth	Hobson	Pombo
Christensen	Hoekstra	Porter
Chrysler	Hoke	Pryce
Clinger	Hostettler	Quillen
Coble	Houghton	Quinn
Coburn	Hunter	Radanovich
Collins (GA)	Hutchinson	Ramstad
Combest	Hyde	Regula
Condit	Inglis	Roberts
Cooley	Istook	Roemer
Cox	Jacobs	Rogers
Cramer	Johnson (CT)	Rohrabacher
Crane	Johnson, Sam	Roukema
Crapo	Jones	Royce
Cremeans	Kasich	Salmon
Cubin	Kelly	Sanford
Cunningham	Kim	Saxton
Davis	King	Scarborough
Deal	Kingston	Schaefer
DeLay	Klug	Schiff
Dickey	Knollenberg	Seastrand
Dooley	Kolbe	Sensenbrenner
Doolittle	LaHood	Shadegg
Dornan	Largent	Shaw
Dreier	Latham	Shays
Duncan	LaTourette	Shuster
Dunn	Laughlin	Sisisky
Ehlers	Lazio	Skeen
Ehrlich	Leach	Skelton
English	Lewis (CA)	Smith (MI)
Ensign	Lewis (KY)	Smith (TX)
Everett	Lightfoot	Smith (WA)
Ewing	Lincoln	Solomon
Fawell	Linder	Souder
Fields (TX)	Livingston	Spence
Flanagan	LoBiondo	Stearns
Foley	Lucas	Stenholm
Forbes	Manzullo	Stockman
Fowler	Martinez	Stump
Fox	Martini	Talent
Franks (CT)	McCollum	Tanner
Franks (NJ)	McCrery	Tate
Frelinghuysen	McHugh	Tauzin
Frisa	McIntosh	Taylor (MS)
Funderburk	McKeon	Taylor (NC)
Gallegly	Metcalf	Thomas
Gekas	Meyers	Thornberry
Geren	Mica	Tiahrt
Gilchrest	Miller (FL)	Upton
Gillmor	Molinari	Vucanovich
Goodlatte	Montgomery	Walker
Goodling	Moorhead	Walsh
Goss	Morella	Wamp
Graham	Myers	Watts (OK)
Greene (UT)	Myrick	Weldon (FL)
Greenwood	Nethercutt	Weldon (PA)
Gunderson	Neumann	White
Gutknecht	Ney	Whitfield
Hall (TX)	Nussle	Wicker
Hancock	Orton	Wolf
Hansen	Oxley	Young (AK)
Hastert	Packard	Young (FL)
Hastings (WA)	Parker	Zimmer
Hayworth	Paxon	

NOT VOTING—16

Brown (FL)	Heineman	Riggs
Buyer	McNulty	Scott
Collins (IL)	Mollohan	Torkildsen
de la Garza	Norwood	Zeliff
Ganske	Pastor	
Hayes	Portman	

□ 1503

Mr. TANNER, Mr. BAESLER, and Mrs. MORELLA changed their vote from "yea" to "nay."

Messrs. ALLARD, McINNIS, and LUTHER changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DREIER). Without objection, the Chair appoints the following conferees:

Messrs. HYDE, SMITH of Texas, GALLEGLY, MCCOLLUM, GOODLATTE, BRYANT of Tennessee, BONO, CONYERS, FRANK of Massachusetts, BERMAN, BRYANT of Texas, BECERRA, GOODLING, CUNNINGHAM, MCKEON, MARTINEZ, GENE GREEN of Texas, SHAW, and JACOBS.

There was no objection.

MESSAGES FROM THE HOUSE

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HYDE, Mr. SMITH of Texas, Mr. GALLEGLY, Mr. MCCOLLUM, Mr. GOODLATTE, Mr. BRYANT of Tennessee, Mr. BONO, Mr. GOODLING, Mr. CUNNINGHAM, Mr. MCKEON, Mr. SHAW, Mr. CONYERS Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. BRYANT of Texas, Mr. BECERRA, Mr. MARTINEZ, Mr. GREEN of Texas, and Mr. JACOBS as the managers of the conference on the part of the House.

CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. SMITH of Texas submitted the following conference report and statement on the bill (H.R. 2202) to amend the Immigration and Nationality Act

to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-828)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for the eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE.—This Act may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this Act.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this Act, for purposes of titles I and VI of this Act, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

104TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
104–828

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

SEPTEMBER 24, 1996.—Ordered to be printed

Mr. HYDE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2202]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for the eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE.—This Act may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this Act.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this Act, for purposes of titles I and VI of this Act, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(e) SEVERABILITY.—If any provision of this Act or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this Act and the application of the provisions of this Act to any person or circumstance shall not be affected thereby.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority.".

Subtitle B—Deterrence of Document Fraud

SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(B) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (5); and

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and".

(2) Sections 1425 through 1427, sections 1541 through 1544, and section 1546(a) of title 18, United States Code, are each amended by striking "imprisoned not more" and all that follows through "years" each place it appears and inserting the following: "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category; and

(E) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 212. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted, or

"(6)(A) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 213, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates subsection (a)(6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

(e) EFFECTIVE DATE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 made and in effect no later than 1 year after the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a)) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A); and

(3) of the machine-readable-document pilot program (described in section 403(c)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2).

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only

to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a)) to provide that the election applies to its hiring

(or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b)) or the machine-readable-document pilot program (described in section 403(c)) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2), respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section

274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I–9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I–9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a)) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any

reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1), using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under section 404(b), the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b), the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c), the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer ter-

minate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification

document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's iden-

tity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation

system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have

complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as

establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by sub-

section (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 500. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

(a) STATEMENTS OF CONGRESSIONAL POLICY.—The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite this principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved incapable of assuring that individual aliens do not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens are self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—With respect to the authority of a State to make determinations concerning the eligibility of aliens for public benefits, it is the sense of the Congress that a court should apply the same standard of review to an applicable State law as that court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits meets constitutional scrutiny.

(2) STRICT SCRUTINY.—In cases where a court holds that a State law determining the eligibility of aliens for public benefits must be the least restrictive means available for achieving a compelling government interest, a State that chooses to follow the Federal classification in determining the eligibility of aliens for public benefits, pursuant to the authorization contained in this title, shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens are self-reliant in accordance with national immigration policy.

Subtitle A—Ineligibility of Excludable Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

SEC. 501. MEANS-TESTED PUBLIC BENEFITS.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, an ineligible alien (as defined in subsection (d)) shall not be eligible to receive any means-tested public benefits (as defined in subsection (e)).

(b) EXCEPTIONS.—Subsection (a) shall not apply to any of the following benefits:

(1)(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(B) For purposes of this paragraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(i) placing the patient's health in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part.

(2) Short-term noncash emergency disaster relief.

(3) Assistance or benefits under any of the following (including any successor program to any of the following as identified by the Attorney General in consultation with other appropriate officials):

(A) The National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) Section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note).

(D) The Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

(E) Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note).

(F) The food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(4) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for any such diseases (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(5) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole

and unreviewable discretion, after consultation with appropriate government agencies, if—

(A) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(B) such service or assistance is necessary for the protection of life, safety, or public health; and

(C) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(6) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

(c) ELIGIBLE ALIEN DEFINED.—For the purposes of this section—

(1) IN GENERAL.—The term "eligible alien" means an alien—

(A) who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) who is an alien granted asylum under section 208 of such Act,

(C) who is an alien admitted as a refugee under section 207 of such Act,

(D) whose deportation has been withheld under section 241(b)(3) of such Act (as amended by section 305(a)(3)), or

(E) who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, but only for the first year of such parole.

(2) INCLUSION OF CERTAIN BATTERED ALIENS.—Such term includes—

(A) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) has been approved or has a petition pending which sets forth a prima facie case for—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(IV) status as a spouse or child of a United States citizen pursuant to clause (i) of section

204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(B) an alien—

(i) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) who meets the requirement of clause (ii) of subparagraph (A).

Such term shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

(d) INELIGIBLE ALIEN DEFINED.—For purposes of this section, the term "ineligible alien" means an individual who is not—

(1) a citizen or national of the United States; or

(2) an eligible alien.

(e) MEANS-TESTED PUBLIC BENEFIT.—For purposes of this section, the term "means-tested public benefit" means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or by a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for the benefit or the amount of the benefit, or both, are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to benefits provided on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 502. GRANTS, CONTRACTS, AND LICENSES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, an ineligible alien (as defined in section 501(d)) shall not be eligible for any grant, contract,

loan, professional license, driver's license, or commercial license provided or funded by any agency of the United States or any State or political subdivision of a State.

(b) EXCEPTIONS.—

(1) NONIMMIGRANT ALIEN AUTHORIZED TO WORK IN THE UNITED STATES.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status who is authorized to work in the United States with respect to the following:

(A) Any professional or commercial license required to engage in such work.

(B) Any contract.

(C) A driver's license.

(2) NONIMMIGRANT ALIEN.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status with respect to a driver's license.

(3) ALIEN OUTSIDE THE UNITED STATES.—Subsection (a) shall not apply to an alien who is outside of the United States with respect to any contract.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to contracts or loan agreements entered into, and professional, commercial, and driver's licenses issued (or renewed), on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 503. UNEMPLOYMENT BENEFITS.

(a) ELIMINATION OF CREDITING EMPLOYMENT MERELY ON BASIS OF PRUCOL STATUS.—Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ", was lawfully" and inserting "or was lawfully", and

(2) by striking ", or was permanently" and all that follows up to the comma at the end.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to certifications of States for 1998 and subsequent years, or for 1999 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1997.

(c) REPORT.—The Secretary of Labor, in consultation with the Attorney General, shall provide for a study of the impact of limiting eligibility for unemployment compensation only to individuals who are citizens or nationals of the United States or eligible aliens (as defined in section 501(c)). Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on

such study to the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate and the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives.

SEC. 504. SOCIAL SECURITY BENEFITS.

(a) INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

(b) NO CREDITING FOR UNAUTHORIZED EMPLOYMENT.—

(1) IN GENERAL.—Section 210 of such Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(s) For purposes of this title, service performed by an individual in the United States shall constitute 'employment' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such service was performed by such individual while such individual was a citizen, a national, a permanent resident, or otherwise authorized to be employed in the United States in such service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services performed after December 31, 1996.

(c) TRADE OR BUSINESS.—

(1) IN GENERAL.—Section 211 of such Act (42 U.S.C. 411) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(j) For purposes of this title, a trade or business (as defined in subsection (c)) carried on in the United States by any individual shall constitute a 'trade or business' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such trade or business (as so defined) was carried on by such individual while such individual was a citizen, a national, a permanent resident, or otherwise lawfully present in the United States carrying on such trade or business.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any trade or business carried on after December 31, 1996.

(d) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to affect the application of chapter 2 or chapter 21 of the Internal Revenue Code of 1986.

SEC. 505. REQUIRING PROOF OF IDENTITY FOR CERTAIN PUBLIC ASSISTANCE.

(a) REVISION OF SAVE PROGRAM.—

(1) IN GENERAL.—Paragraph (2) of section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) is amended to read as follows:

"(2) There must be presented the item (or items) described in one of the following subparagraphs for that individual:

"(A) A United States passport (either current or expired if issued both within the previous 12 years and after the individual attained 18 years of age).

"(B) A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

"(C) A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.

"(D) If the individual attests to being a citizen or national of the United States and that the individual does not have other documentation under this paragraph (under penalty of perjury), such other documents or evidence that identify the individual as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship or nationality.".

(2) TEMPORARY ELIGIBILITY FOR BENEFITS.—Section 1137(d) of such Act is further amended by adding after paragraph (5) the following new paragraph (6):

"(6) If at the time of application for benefits, the documentation under paragraph (2) is not presented or verified, such benefits may be provided to the applicant for not more than 2 months, if—

"(A) the applicant provides a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States, or

"(B) the applicant provides documentation certified by the Department of State or the Department of Justice, which the Attorney General determines constitutes reasonable evidence indicating satisfactory immigration status.".

(3) CONFORMING AMENDMENTS.—Section 1137(d) of such Act is further amended in paragraph (3), by striking "(2)(A) is presented" and inserting "(2)(B) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)".

(b) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)(7)) is amended by adding at the end the following new paragraph:

"(8) The Commissioner of Social Security shall provide for the application under this title of rules similar to the requirements of section 1137(d), insofar as they apply to the verification of immigration or citizenship status for eligibility for supplemental security income benefits under this title.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section (and the amendments made by this section) not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 506. AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.

(a) IN GENERAL.—In carrying out this title (and the amendments made by this title), subject to section 510, a State or political subdivision is authorized to require an applicant for benefits under a program of a State or political subdivision to provide proof of eligibility consistent with the provisions of this title.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 507. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 508. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) IN GENERAL.—No student shall be eligible for postsecondary Federal student financial assistance unless—

(1) the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence, and

(2) the Secretary of Education has verified such certification.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(3) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this subsection the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 509. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

> *"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".*

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

> *"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".*

SEC. 510. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding any other provision of this title, a nonprofit charitable organization, in providing any means-tested public benefit (as defined in section 501(e), but not including any hospital benefit, as defined by the Attorney General in consultation with Secretary of Health and Human Services) is not required to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

(b) REQUIREMENT OF STATE OR FEDERAL DETERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), in order for a nonprofit charitable organization to provide to an applicant any means-tested public benefit, the organization shall obtain the following:

(A) In the case of a citizen or national of the United States, a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States.

(B) In the case of an alien and subject to paragraph (2), written verification, from an appropriate State or Federal agency, of the applicant's eligibility for assistance or benefits and the amount of assistance or benefits for which the applicant is eligible.

(2) NO NOTIFICATION WITHIN 10 DAYS.—If the organization is not notified within 10 business days after a request of an appropriate State or Federal agency for verification under paragraph (1)(B), the requirement under paragraph (1) shall not apply to any means-tested public benefit provided to such applicant by the organization until 30 calendar days after such notification is received.

(3) LIMITATIONS.—

(A) PRIVATE FUNDS.—The requirement under paragraph (1) shall not apply to assistance or benefits provided through private funds.

(B) SECTION 501 EXCEPTED BENEFITS.—The requirement under paragraph (1) shall not apply to assistance or benefits described in section 501(b) which are not subject to the limitations of section 501(a).

(4) ADMINISTRATION.—

(A) IN GENERAL.—The Attorney General shall through regulation provide for an appropriate procedure for the verification required under paragraph (1)(B).

(B) TIME PERIOD FOR RESPONSE.—The appropriate State or Federal agencies shall provide for a response to a request for verification under paragraph (1)(B) of an applicant's eligibility under section 501(a) of this title and the amount of eligibility under section 552 (or comparable provisions of State law as authorized under section 553 or 554) not later than 10 business days after the date the request is made.

(C) RECORDKEEPING.—If the Attorney General determines that recordkeeping is required for the purposes of this section, the Attorney General may require that such a record be maintained for not more than 90 days.

SEC. 511. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO INELIGIBLE ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to ineligible aliens in order to provide such benefits to individuals who are United States citizens or eligible aliens. Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

(b) DEFINITIONS.—The terms "eligible alien", "ineligible alien", and "means-tested public benefits" have the meanings given such terms in section 501.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(g)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(e) a standard form for an affidavit of support, as the Attorney General shall specify, but

subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

SEC. 532. GROUND FOR DEPORTATION.

(a) IMMIGRANTS.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—

"(i) Except as provided in subparagraph (B), an immigrant who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(ii) The immigrant shall be subject to deportation under this paragraph only if the deportation proceeding is initiated not later than the end of the 7-year period beginning on the last date the immigrant receives a benefit described in subparagraph (D) during the public charge period.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to an alien granted asylum under section 208;

"(ii) to an alien admitted as a refugee under section 207; or

"(iii) if the cause of the alien's becoming a public charge—

"(I) arose after entry in the case of an alien who entered as an immigrant or after adjustment to lawful permanent resident status in the case of an alien who entered as a nonimmigrant, and

"(II) was a physical illness or physical injury so serious the alien could not work at any job, or was a mental disability that required continuous institutionalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period ending 7 years after the date on which the alien attains the status of an alien lawfully admitted for permanent residence (or attains such status on a conditional basis).

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits described in subparagraph (D) for an aggregate period of at least 12 months or 36 months in the case of an alien described in subparagraph (E).

"(D) BENEFITS DESCRIBED.—

"(i) IN GENERAL.—Subject to clause (ii), the benefits described in this subparagraph are means-tested public benefits defined under section 213A(e)(1).

"(ii) EXCEPTIONS.—Benefits described in this subparagraph shall not include the following:

"(I) Any benefits to which the exceptions described in section 213A(e)(2) apply.

"(II) Emergency medical assistance (as defined in subparagraph (F)).

"(III) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act made on the child's behalf under such part.

"(IV) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

"(V) Benefits under the Head Start Act.

"(VI) Benefits under the Job Training Partnership Act.

"(VII) Benefits under any English as a second language program.

"(iii) SUCCESSOR PROGRAMS.—Benefits described in this subparagraph shall include any benefits provided under any successor program as identified by the Attorney General in consultation with other appropriate officials.

"(E) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—Subject to the second sentence of this subparagraph, an alien is described under this subparagraph if the alien demonstrates that—

"(i)(I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty;

"(ii) the need for benefits described in subparagraph (D) beyond an aggregate period of 12 months has a substantial connection to the battery or cruelty described in clause (i); and

"(iii) any battery or cruelty under clause (i) has been recognized in an order of a judge or an administrative law judge or a prior determination of the Service.

An alien shall not be considered to be described under this subparagraph during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

"(F) EMERGENCY MEDICAL ASSISTANCE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(II), the term 'emergency medical assistance'

means medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

"(ii) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subparagraph, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part.".

(b) EXCLUSION AND DEPORTATION OF NONIMMIGRANTS COMMITTING FRAUD OR MISREPRESENTATION IN OBTAINING BENEFITS.—

(1) EXCLUSION.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)), as amended by section 344(a), is amended—

(A) by redesignating clause (iii) as clause (iv), and

(B) by inserting after clause (ii) the following clause (iii):

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained benefits for which the alien was ineligible, through fraud or misrepresentation, under Federal law is excludable for a period of 5 years from the date of the alien's departure from the United States.".

(2) DEPORTATION.—Section 241(a)(1)(C) (8 U.S.C. 1251(a)(1)(C)) is amended by adding after clause (ii) the following:

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained through fraud or misrepresentation benefits for which the alien was ineligible under Federal law is deportable.".

(c) INELIGIBILITY TO NATURALIZATION FOR ALIENS DEPORTABLE AS PUBLIC CHARGE.—

(1) IN GENERAL.—Chapter 2 of title III of the Act is amended by inserting after section 315 the following new section:"

INELIGIBILITY TO NATURALIZATION FOR PERSONS DEPORTABLE AS PUBLIC CHARGE

"SEC. 315A. (a) A person shall not be naturalized if the person is deportable as a public charge under section 241(a)(5).

"(b) An applicant for naturalization shall provide a written attestation, under penalty of perjury, as part of the application for naturalization that the applicant is not deportable as a public charge under section 241(a)(5) to the best of the applicant's knowledge.

"(c) The Attorney General shall make a determination that each applicant for naturalization is not deportable as a public charge under section 241(a)(5).".

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 315 the following:

"Sec. 315A. Ineligibility to naturalization for persons deportable as public charge".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in this paragraph, the amendment made by subsection (a) shall apply only to aliens who obtain the status of an alien lawfully admitted for permanent residence more than 30 days after the date of the enactment of this Act.

(B) APPLICATION TO CURRENT ALIENS.—Such amendments shall apply also to aliens who obtained the status of an alien lawfully admitted for permanent residence less than 30 days after the date of the enactment of this Act, but only with respect to benefits received after the 1-year period beginning on the date of enactment and benefits received before such period shall not be taken into account.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply to fraud or misrepresentation committed before, on, or after such date.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply to applications submitted on or after 30 days after the date of the enactment of this Act.

Subtitle C—Affidavits of Support and Attribution of Income

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than the appropriate percentage (applicable to the sponsor under subsection (g)) of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other en-

tity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable on or after the first day of a year if it is demonstrated to the satisfaction of the Attorney General that the sponsored alien may be credited with an aggregate of 40 qualifying quarters under this paragraph for previous years.

"(B) QUALIFYING QUARTER DEFINED.—For purposes this paragraph, the term 'qualifying quarter' means a qualifying quarter of coverage under title II of the Social Security Act in which the sponsored alien—

"(i) has earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits; and

"(ii) has not received any means-tested public benefit.

"(C) CREDITING FOR DEPENDENTS AND SPOUSES.—For purposes of this paragraph, in determining the number of qualifying quarters for which a sponsored alien has worked for purposes of subparagraph (A), a sponsored alien not meeting the requirement of subparagraph (B)(i) for any quarter shall be treated as meeting such requirements if—

"(i) their spouse met such requirement for such quarter and they filed a joint income tax return covering such quarter; or

"(ii) the individual who claimed such sponsored alien as a dependent on an income tax return covering such quarter met such requirement for such quarter.

"(D) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State

shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit described in section 241(a)(5)(D) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) MEANS-TESTED PUBLIC BENEFIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'means-tested public benefit' means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or of a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for such benefit or the amount of such benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

"(2) EXCEPTIONS.—Such term does not include the following benefits:

"(A) Short-term noncash emergency disaster relief.

"(B) Assistance or benefits under—

"(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

"(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

"(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

"(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

"(C) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

"(D) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

"(E) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

"(F) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

"(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

"(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

"(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

"(f) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(g) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case

of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line), or

"(ii) does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended by striking "and" before "(3)", and by inserting before the period at the end the following: ", and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (e) of section 213A) and with respect to which amounts are owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that are owing pursuant to such affidavit by any sponsor who executed such affidavit".

(d) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

SEC. 552. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL MEANS-TESTED PUBLIC BENEFITS.—Subject to subsections (d) and (h), for purposes of determining the eligibility of an alien for any Federal means-tested public benefit, and the amount of such benefit, income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection shall include the income and resources of—

(1) each sponsor under section 213A of the Immigration and Nationality Act;

(2) each person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement other than under section 213A with respect to such alien, and

(3) each sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—

(1) IN GENERAL.—Subject to paragraph (3), for an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, the requirement of subsection (a) shall apply until the alien is naturalized as a citizen of the United States.

(2) SPECIAL RULE FOR OUTDATED AFFIDAVIT OF SUPPORT.—Subject to paragraph (3), for an alien for whom an affidavit of support has been executed other than as required under section 213A of the Immigration and Nationality Act, the requirement of subsection (a) shall apply for a period of 5 years beginning on the day such alien was provided lawful permanent resident status after the execution of such affidavit or agreement, but in no case after the date of naturalization of the alien.

(3) EXCEPTION TO GENERAL RULE.—Subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection with respect to an alien shall terminate at such time as an affidavit of support of such sponsor with respect to the alien becomes no longer enforceable under section 213A(a)(3) of the Immigration and Nationality Act.

(4) PROVISION OF INFORMATION TO SAVE.—The Attorney General shall ensure that appropriate information regarding sponsorship and the operation of this section is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

(2) EXCEPTED BENEFITS.—The requirements of subsection (a) shall not apply to the following:

(A)(i) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an

emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(ii) For purposes of this subparagraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(I) placing the patient's health in serious jeopardy,

(II) serious impairment to bodily functions, or

(III) serious dysfunction of any bodily organ or part.

(B) Short-term noncash emergency disaster relief.

(C) Assistance or benefits under—

(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(D) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(E) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(F) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

(G) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(e) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—The term "Federal means-tested public benefit" means any public benefit (including cash, medical, housing, and food assistance and social services) provided or funded in whole or in part by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for the benefit, or the amount of the benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.

(g) APPLICATION.—

(1) IN GENERAL.—The provisions of this section shall apply with respect to determinations of eligibility and amount of benefits for individuals for whom an application is filed on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

(2) REDETERMINATIONS.—This section shall apply with respect to any redetermination of eligibility and amount of benefits occurring on or after the date determined under paragraph (1).

(h) NO DEEMING REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—A nonprofit charitable organization operating any Federal means-tested public benefit program is not required to deem that the income or assets of any applicant for any benefit or assistance under such program include the income or assets described in subsection (b).

SEC. 553. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES AUTHORITY FOR STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized, for purposes of determining the eligibility of an alien for benefits and the amount of benefits, under any means-based public benefit program of a State or a political subdivision of a State (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), to require that the income and resources of any individual under section 552(b) be deemed to be the income and resources of such alien.

(b) LIMITATIONS.—

(1) EXCEPTIONS.—Any attribution of income and resources pursuant to the authority of subsection (a) shall be subject to exceptions comparable to the exceptions of section 552(d).

(2) PERIOD OF DEEMING.—Any period of attribution of income and resources pursuant to the authority of subsection (a) shall not exceed the period of attribution under section 552(c).

SEC. 554. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 552(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 562. COMPUTATION OF TARGETED ASSISTANCE.

(a) IN GENERAL.—Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) All grants made available under this paragraph for a fiscal year (other than the Targeted Assistance Ten Percent Discretionary Program) shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal years after fiscal year 1996.

SEC. 563. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined for purposes of section 501(b)(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after October 1, 1996.

SEC. 564. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

(1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

SEC. 565. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addi-

tion to the affidavit requirements under section 551 and the deeming requirements under section 552. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's dependents under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 of the Immigration and Nationality Act (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 566. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 552(d)(1) of this Act (relating to indigent sponsors) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

(4) VERIFICATIONS OF ELIGIBILITY.—The number of situations in which a Federal or State agency fails to respond within 10 days to a request for verification of eligibility under section 510(b), including the reasons for, and the circumstances of, each such failure.

Subtitle D—Other Provisions

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years

after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in

proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect begin-

ning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype

cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking "this section" and inserting "such section".

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left; and

(B) in subsection (g), by striking "(g)" and all that follows through "shall" and inserting "(g) Subsections (d) and (e) shall".

And the Senate agree to the same.

HENRY HYDE,
LAMAR SMITH,
ELTON GALLEGLY,
BILL MCCOLLUM,
BOB GOODLATTE,
ED BRYANT,
SONNY BONO,
BILL GOODLING,
RANDY "DUKE" CUNNINGHAM,
HOWARD P. "BUCK" MCKEON,
E. CLAY SHAW, Jr.,
Managers on the Part of the House.

ORRIN HATCH,
AL SIMPSON,
CHUCK GRASSLEY,
JON KYL,
ARLEN SPECTER,
STROM THURMOND,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

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TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING AND DOCUMENT FRAUD

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SUBTITLE B—ENHANCED ENFORCEMENT AND PENALTIES AGAINST DOCUMENT FRAUD

Section 211—Senate amendment section 127(a)(1) recedes to House section 211(a). This provision increases the maximum term of imprisonment for fraud and misuse of government-issued identification documents from 5 years to 15 years. The sentence is in-

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creased to 20 years if the offense is committed to facilitate a drug-trafficking crime, and to 25 years if committed to facilitate an act of international terrorism. House recedes to Senate amendment section 127(a) (2)–(4), as modified. These provisions will increase penalties for document fraud crimes under sections 1541–1544, 1546(a), and 1425–1427 of title 18 to 10 years for a first or second offense, 15 years for a third or subsequent offense, with the same enhancements for crimes committed to facilitate drug trafficking (20 years) or international terrorism (25 years). House section 211(b) recedes to Senate section 127 (b)–(d). These provisions require the United States Sentencing Commission to promulgate or amend guidelines for offenders convicted of document fraud offenses, provide emergency authority to the Sentencing Commission to complete this task, and make section 211 (and the amendments made thereby) applicable to offenses occurring on or after the date of enactment.

Section 212—House sections 212 and 213 recede to Senate amendment section 130, as modified. This section amends INA section 274C, regarding civil penalties for document fraud, to expand liability to those who engage in document fraud for the purpose of obtaining a benefit under the INA. New liability is established for those who prepare, file, or assist another person in preparing or filing an application for benefits with knowledge or in reckless disregard of the fact that such application or document was falsely made. New liability also is established for aliens who destroy travel documents en route to the United States after having presented such documents to board a common carrier to the United States. A waiver from civil document fraud penalties may be granted to an alien who is granted asylum or withholding of deportation. The amendments made by this section shall apply to offenses occurring on or after the date of enactment.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SUBTITLE A—PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

Sections 401 through 405—Senate amendment sections 111–115 recede to House section 401, with modifications. Subtitle A sets up three pilot programs of employment eligibility confirmation which will last four years each. These programs generally will be operated according to the pilot program procedures set out in House section 401. Participation in the pilot programs will be voluntary on the part of employers, except with regard to the executive and legislative branches of the Federal Government and certain employers who have been found to be in violation of certain sections of the Immigration and Nationality Act. Volunteer employers may have their elections apply to all hiring in all State(s) in which a pilot program is operating, or to their hiring in only one or more pilot program States or places of hiring within any such States. The Attorney General may reject elections or limit their applicability where the pilot program would have insufficient resources available to allow the company to participate in the pilot to the extent desired. The Attorney General may permit a participating employer to have its election apply to hiring in States in which the chosen pilot program is not otherwise operating (if the State meets the requirements of the pilot program). If an electing employer fails to comply with its obligations under a pilot program, such as by not complying with the program requirements for all new employees covered by its election, the Attorney General may terminate the employer's participation in the pilot program. An employer may also choose to terminate its participation (in such form and manner as the Attorney General may specify). If an employer required to participate in a pilot program fails to comply, such failure will be treated as a paperwork violation of the Immigration and Nationality Act's employment verification requirement, and a rebuttable presumption will arise that the employer has hired aliens knowing that they are unauthorized to work in the United States.

An employer participating in a pilot program who receives confirmation of an employee's identity and employment eligibility under the program will benefit from a rebuttable presumption that the employer has not hired an alien knowing the alien is unauthorized to work. Also, the Attorney General shall designate one or more individuals in each INS District Office for a Service District in which a pilot program is being implemented to assist employers in electing and participating in the program, and in more generally complying with INA section 274A.

The first pilot program, the basic pilot program, originates in House section 401. Employers in (at a minimum) five of the seven States with the highest number of illegal aliens may elect to participate. As under current law, the employer will have to complete the document review process described in INA section 274A(b) (as modified to increase the reliability of identification documents). However, if the Attorney General determines that an employer participating in this (or either of the other two) pilot program(s) can reliably determine a new employee's identity and authorization to

work in the United States relying only on the pilot program procedures (discussed below) and a document review process including only documents confirming identity, the Attorney General can exempt participating employers from having to review documents confirming employment authorization.

Under the basic pilot program, employers would then make inquiries (within three days of hire) to the Attorney General (or a designee) by means of toll-free telephone line or other toll-free electronic media to seek confirmation of the identity and employment eligibility of new employees. Employers would be given additional time to make inquiries in situations where the confirmation system did not receive their initial inquiry, for instance because the system's phone lines were overloaded or out of operation. While the pilot program could not require that participating employers pay any fee to participate, employers would be responsible for providing the equipment needed to make inquiries. In most cases, this would simply be a telephone. However, if an employer wanted to use, for instance, a computer and modem to make large numbers of inquiries at once, the employer would have to provide such equipment. When making an inquiry, an employer would provide a new employee's name and social security number (and, if the employee had not attested to being a citizen, the employee's INS-issued number).

Through the confirmation system, this information provided in the inquiry will be checked against existing Federal Government records in order to provide (or not provide) confirmation of identity and work authorization. No new types of records will be added to government databases. The confirmation system will respond within three days of an inquiry—either by providing confirmation of the employee's identity and authorization to work or by providing a tentative nonconfirmation (in both cases, an appropriate code will be provided the employer by the system). After being notified of the tentative nonconfirmation, the employee can chose to contest or not contest the finding. If the employee does not contest the finding, the non-confirmation is considered final. If the employee does contest the finding, he or she—within a 10-day secondary verification period—will communicate with the Commissioner of Social Security and/or the Commissioner of the Immigration and Naturalization Service to resolve those issues preventing the confirmation system from confirming the employee's identity and work authorization. By the end of the secondary verification period, the confirmation system must provide either a final confirmation or a final nonconfirmation (and appropriate code) to the employer. An employer shall not terminate employment of an employee because of a failure to have identity and work authorization confirmed under the pilot program until a nonconfirmation becomes final. However, the employer can terminate the employee for other reasons (as consistent with applicable law), such as the failure of the employee to show up for work following a tentative nonconfirmation.

An employer, once provided with final nonconfirmation with regard to an employee, may either terminate the individual or continue his or her employment. If the employer continues to employ the individual, the employer must notify the Attorney General of this decision. Failure to notify will be deemed to be a paperwork violation and will be subject to enhanced paperwork violation pen-

alties. Also, if the employer continues employment, a rebuttable presumption is created that the employer has hired the employee knowing the employee is unauthorized to work in the United States. The option of continued employment is only intended for the rare circumstance where an employer has knowledge independent of the confirmation process that the employee is eligible to work in the United States—such as knowing the employee since childhood.

The second pilot program, the citizenship-attestation pilot program, originated in Senate amendment section 112(a)(2)(G). It will operate in at least 5 States or, if fewer, all of the States that issue driver's licenses and identification cards with enhanced security features and procedures. However, employers can only participate in this pilot program in the sole discretion of the Attorney General. It will operate like the basic pilot program, with one important modification. If an employee attests to being a citizen, the employer is not required to (1) review documents confirming employment authorization when completing the 274A(b) document review process, or (2) make an inquiry through the confirmation system. This pilot program is designed to make the hiring process as easy and pitfall-free as possible for citizens and their employers. Its success depends in part on the effectiveness of this Act's heightened penalties for falsely attesting to U.S. citizenship.

A variation of the citizen-attestation pilot project will be open to election by a maximum of 1,000 employers chosen by the Attorney General. Under this program, employers do not have to comply with any part of the 274A(b) document review process with regard to new employees who attest to being citizens. Otherwise, the program is identical in nature to the citizen-attestation pilot program.

The third pilot program, the machine-readable document pilot program, originates in Senate section 112(a)(2)(F). It will operate as does the basic pilot program, except that if the new employee presents a State-issued identification document or driver's license that includes a machine-readable social security number, the employer will make an inquiry through the confirmation system by using a machine-readable feature of such document. The employer would have to procure the device needed to read the machine-readable document and to supply the information needed for the inquiry through the machine-readable feature of the document. Since the Social Security Administration does not keep up-to-date records of the employment eligibility of aliens, those employees who do not attest to citizenship will also have to provide their INS-issued numbers, which the employers will pass on when making inquiries through the confirmation system. Employees not possessing machine-readable documents will be confirmed as under the basic pilot program.

The machine-readable document pilot program is of course limited by the number of States which issue such enhanced documents and the fact that even in such States, not all individuals will have the machine-readable documents. Thus, it will only operate in at least 5 of the States (or, if fewer, all of the States) which issue driver's licenses and other identification documents with a machine-readable social security number (which need not be visible on the card). States are encouraged to issue such documents since use of

machine-readable documents makes the confirmation process simpler and provides additional assurance that the documents are genuine.

Employers participating in any of the pilot programs are shielded from civil or criminal liability for actions taken in good faith reliance on information provided through the confirmation system—such as firing a new employee after receiving a final nonconfirmation of identity and/or work authorization through the confirmation system or continuing to employ an employee after receiving final confirmation.

Nothing in Subtitle A shall be construed to permit the Federal Government to utilize any information, data base, or other records assembled under the subtitle for any purpose other than as provided for under one of the three pilot programs. In addition, nothing in the subtitle shall be construed to authorize the issuance or use of national identification cards or the establishment of a national identification card. The confirmation system shall be designed and operated to, among other things, maximize its reliability and ease of use consistent with insulating and protecting the privacy and security of the underlying information, prevent the unauthorized disclosure of personal information, and ensure that the system not result in unlawful discriminatory practices based on national origin or citizenship status. Finally, the INS and Social Security Administration shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

SUBTITLE B—OTHER PROVISIONS RELATING TO EMPLOYER SANCTIONS

Section 411—Senate recedes to House section 402, with modifications. This section provides those employers who in good faith make technical or procedural errors in complying with INA section 274A(b) an opportunity to correct those errors without penalty.

Section 412(a)—House section 403(a) recedes to Senate amendment section 116(b), with modifications. This provision reduces the number of documents that can be used to establish an individual's employment authorization and/or identity under section 274A(b) of the Immigration and Nationality Act. To establish both employment authorization and identity, an individual may present a (1) a U.S. passport, or (2) a resident alien card, alien registration card, or other document designated by the Attorney General, all of which must meet certain standards (including having certain security features). The other documents designated by the Attorney General may include an unexpired foreign passport which has an appropriate, unexpired endorsement of the Attorney General or an appropriate unexpired visa authorizing the individual's employment in the United States. To establish employment authorization, an individual may present a social security account number card or certain other documentation found acceptable by the Attorney General. No change has been made from current law as to the documents which may be presented to establish identity. Finally, the Attorney General may prohibit or place conditions on the use of any documents for purposes of section 274A(b) if they are found to not reliably establish employment authorization or identity or are being used fraudulently to an unacceptable degree.

Section 412(b)—Senate recedes to House section 403(b), with modifications. This provision provides a streamlined confirmation process under INA section 274A(b) for a new employee who is beginning work for a member of an employer association that has concluded a collective bargaining agreement with an organization representing the employee and the employee has within a specified period worked for another member of the association who has complied with the requirements of section 274A(b) with respect to the employee. If these conditions are met, the current employer is deemed to have complied with the requirements of section 274A(b) with respect to the employee.

Section 412(c)—Senate recedes to House section 403(c). This provision eliminates obsolete provisions of the Immigration and Nationality Act.

Section 412(d)—Senate recedes to House section 403(d). This provision clarifies that the Federal government must comply with section 274A of the Immigration and Nationality Act, which makes unlawful the knowing employment of aliens not authorized to work in the United States and requires employers to confirm the identity and employment authorization of new employees.

Section 413—Senate recedes to House section 404(c)(2). This provision requires the Attorney General to submit to Congress a report on additional authority or resources needed to enforce section 274A of the Immigration and Nationality Act and the Executive Order of February 13, 1996 (prohibiting Federal contractors from knowingly hiring aliens not authorized to work in the United States).

Section 414—Senate recedes to House section 405, with modifications. This provision requires the Commissioner of Social Security to prepare annual reports regarding social security account numbers issued to aliens not authorized to be employed, with respect to which, in a fiscal year, earnings were reported to the Social Security Administration, and a single report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

Section 415—Senate recedes to House section 406. This section authorizes the Attorney General to require aliens to provide their social security account numbers.

Section 416—House recedes to Senate amendment section 120A(a)(1). This section provides that certain immigration officers may compel by subpoena the attendance of witnesses and the production of documents while conducting investigations of potential violations by employers of section 274A(a) of the Immigration and Nationality Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Section 500—Senate recedes to House section 600 with modifications to divide this section into two parts: subsection (a), setting forth a series of statements of congressional policy regarding aliens and public benefits; and subsection (b), stating the sense of Congress that: (1) courts should apply the same standard of review to States choosing to restrict their public benefits programs pursuant to the authorizations contained in this Act as the court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits is constitutional; and (2) if a court applies the strict scrutiny standard of constitutional review, the court shall consider the State law to be the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy. The purpose of the congressional grants of authority to States regarding eligibility for public benefits contained in this Act is to encourage States to implement the national immigration policy of assuring that aliens be self-reliant and not become public charges—a fundamental part of U.S. immigration policy since 1882.

SUBTITLE A—ELIGIBILITY OF EXCLUDABLE, DEPORTABLE, NONIMMIGRANT ALIENS FOR PUBLIC ASSISTANCE AND BENEFITS

Sections 501 and 502—House section 601 recedes to Senate amendment section 201(a)(1) with modifications. These sections bar ineligible aliens (as defined herein) from Federal, State, and local public benefits programs, contracts, grants, loans, and licenses, with specified exemptions (as defined herein).

In general, ineligible aliens should not take advantage of taxpayers by accessing public benefits. However, the managers believe that certain public health, nutrition, and in-kind community service programs should be exempted from the general prohibition on ineligible aliens accessing public benefits. The exemption for public health assistance for immunizations is not intended to be limited to immunizations under the Public Health Service Act, but refers to all immunizations. In the subparagraph treating certain battered aliens (or certain aliens subjected to extreme cruelty) as eligible aliens, the managers believe that the phrase "an alien whose child has been battered or subjected to extreme cruelty" includes children who have been sexually molested.

The managers intend that the inclusion of parolees who are paroled into the United States for a period of at least one year in the definition of eligible alien refers only to the period for which such aliens are authorized to remain in the United States after their parole. The statement contained in the Committee Report accompanying the Senate Amendment, that such reference referred to parolees who had been present in the United States for one year or more, does not reflect the intention of the managers as stated herein.

In defining "means-tested public benefit," (for purposes of sections 501, 551, 552), the managers do not intend to include pro-

grams which do not consider an applicant's income in the disbursement of assistance. For example, Title I grants under the Elementary and Secondary Education Act of 1965 are provided to school districts with significant numbers of needy students. Since all students in that district will receive assistance from these funds—regardless of each student's financial status—neither "deeming" (see section 552) nor the prohibition on receipt by illegal aliens are applicable. ESEA is exempted under sections 551 and 552 only because certain means-tested benefits (such as Elleander Fellowships) are authorized under that Act as well.

Many States use Federal block grant monies to provide services to the poor which are not within the scope of what the managers consider "means-tested." For example, soup kitchens and homeless shelters serve needy individuals, but the operators do not require each applicant to demonstrate financial need. Similarly, if a State chose to use money from the Social Service Block Grant to fund the administrative costs of a youth soccer league in a poor area of that State, such a benefit would not be considered "means-tested" under this Act.

The exception for treatment of communicable diseases is very narrow. The managers intend that it only apply where absolutely necessary to prevent the spread of such diseases. The managers do not intend that the exception for testing and treatment for communicable diseases should include treatment for the HIV virus or acquired immune deficiency syndrome. This exception is only intended to cover short-term measures that would be taken prior to the departure of the alien from the United States. It does not provide authority for long-term treatment of such diseases or a means for illegal aliens to delay their removal from the country.

The allowance for emergency medical services also is very narrow. The managers intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment for emergency treatment administered in an emergency room, critical care unit, or intensive care unit. Emergency medical services do not include pre-natal or delivery care, or post-partum assistance, that is not strictly of an emergency nature as specified herein—including State-funded or administered pre-natal and post-partum care. The managers intend that any provision of services under this exception for mental health disorders be limited to circumstances in which the alien's condition is such that he is a danger to himself or to others and has therefore been judged incompetent by a court of appropriate jurisdiction.

Section 503—House section 602 recedes to Senate amendment section 201(b) with modifications to eliminate the crediting of employment for purposes of unemployment benefits for individuals in PRUCOL status.

Section 504—House recedes to Senate amendment section 201(c) with modifications. This section amends section 202 of the Social Security Act to provide that no Social Security benefits may be paid to an alien not lawfully present in the United States. This section also amends section 210 of the Social Security Act to provide that periods of unauthorized employment shall not count towards an alien's eligibility for Social Security retirement benefits. The managers intend to allow sufficient time for the Social Security

Administration to comply with this provision in order for SSA field offices to develop appropriate screening procedures.

Section 505—Senate recedes to House section 601(c) with modifications to amend the SAVE program. This section requires proof of identity for all applicants in addition to the verification requirements for non-citizens under section 1137(d) of the Social Security Act.

Section 506—Senate recedes to House section 601(d). This section authorizes State and local governments to require proof of eligibility (including identity) from applicants for State and local public benefits programs.

Section 507—House recedes to Senate amendment section 201(a)(2) with modifications. This section provides that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education.

Section 508—Senate recedes to House section 606. House recedes to Senate amendment section 205. This section requires that applicants for post-secondary financial assistance be subject to verification of their eligibility prior to receiving such assistance. The managers believe that House section 606 reflects the current practice of the Department of Education regarding the verification of student eligibility for postsecondary financial assistance.

Section 509—House recedes to Senate amendment sections 324 and 326. These sections amend the Social Security Act, and the Higher Education Act of 1986 to require the submission of photostatic or similar copies of documents or information specified by the INS for verification of an alien's immigration status.

Section 510—House recedes to Senate amendment section 201(e) with modifications. This section requires Federal, State, and local public benefits agencies to verify an applicant's eligibility (including the amount of eligibility) prior to the administration of public benefits by a non-profit charitable organization. The managers believe that non-profit charitable organizations themselves should not have to verify immigration status or determine the eligibility of aliens for public benefits, e.g., by "deeming" the income of sponsors to immigrant applicants for assistance (see section 552). The managers also believe, however, that the appropriate Federal or State agency must verify and determine the amount of eligibility of aliens for public benefits before a non-profit charitable organization may distribute means-tested benefits to such aliens.

Section 511—Senate recedes to House section 607, with modifications. This section requires the Comptroller General to submit a report to the Committees on the Judiciary of the House of Representatives and the Senate regarding the receipt of means-tested public benefits by ineligible aliens on behalf of U.S. citizens and eligible aliens. The managers note that illegal aliens often access public benefits, such as AFDC and Food Stamps, for which they themselves are ineligible, by applying for such benefits on behalf of their U.S. citizen or legal immigrant children.

SUBTITLE B—EXPANSION OF DISQUALIFICATION FROM IMMIGRATION BENEFITS ON THE BASIS OF PUBLIC CHARGE

Section 531—Senate recedes to House section 621 with modifications. This section amends INA section 212(a)(4) to expand the

public charge ground of inadmissibility. Aliens have been excludable if likely to become public charges since 1882. Self-reliance is one of the most fundamental principles of immigration law. The managers believe that all family-sponsored immigrants, and certain employment-based immigrants, should have affidavits of support executed on their behalf as a condition of admission.

Section 532—House recedes to Senate amendment section 202 with modifications. This section amends INA section 241(a)(5) to expand the public charge ground of deportation. Aliens who access welfare have been deportable as public charges since 1917. However, only a negligible number of aliens who become public charges have been deported in the last decade. The managers believe that aliens who become public charges within 7 years of their admission to the United States should promptly be removed from the country. Just as with the definition of "eligible alien" in section 501, the exception in section 532 for battered children includes children who are victims of sexual molestation.

SUBTITLE C—AFFIDAVITS OF SUPPORT AND ATTRIBUTION OF INCOME

Section 551—House recedes to Senate amendment section 203 with modifications. This section creates a new, legally-binding affidavit of support in order to seek reimbursement from sponsors for the costs of providing public benefits. The managers intend that the affidavit of support be a legally-binding contract between an alien's sponsor, the sponsored alien, and the government. The managers also intend that public hospitals, private hospitals, and community health centers be allowed to seek reimbursement from sponsors for the costs of providing emergency medical services to the extent such services would, in the absence of the deeming requirements of section 552, be reimbursed by means-tested public benefit programs. The managers further intend that the new, legally enforceable, affidavit of support be used in all cases where an affidavit of support is required (including for nonimmigrants and aliens granted parole under section 212(d)(5) of the INA), either by statute, regulation, or administrative practice. Exceptions to the definition of "means-tested public benefit" include public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease. However, the exception applies in the case of HIV infection to testing only.

The provision is designed to encourage immigrants to be self-reliant in accordance with national immigration policy. The managers intend to establish a process that will authorize visas only for those applicants whose sponsors (both the petitioning sponsor as defined in subsection (g)(1), (g)(2), (g)(3), or (g)(4)) and any non-petitioning sponsor as defined in subsection (g)(5) demonstrate the means to meet the applicable income requirements (as set forth in subsection (g)). It is expected that an applicant whose sponsors fail to demonstrate the means to meet the applicable income requirements will be denied a visa, and that the next applicant in the queue will then be given an opportunity to qualify. The managers further intend that an applicant whose petitioning sponsor or non-petitioning sponsor (or both) is unable to meet the applicable in-

come requirements in the initial interview may be afforded one additional opportunity to meet such requirements. If such applicant has already utilized a non-petitioning sponsor at the initial interview, and such non-petitioning sponsor was unable to meet the applicable income requirements, such applicant may be provided one additional opportunity to demonstrate that the non-petitioning sponsor meets the applicable income requirements, but may not be authorized in the second interview to substitute a new or different non-petitioning sponsor. The managers intend that applicants shall have no more than two opportunities to demonstrate that their sponsor (or sponsors) meets the applicable income requirements.

Section 552—House recedes to Senate amendment section 204 with modifications. This section deems that a sponsor's income is to be counted with a sponsored alien's in determining the alien's eligibility for public benefits. In subsection (c)(4), the managers intend for the Attorney General to enter information regarding the eligibility (including the amount of eligibility) of aliens for public benefits into the SAVE system as a means for all public benefits agencies to access such information for purposes of determining eligibility and seeking reimbursement. In subsection (d)(1), the managers believe that the scope of the exception to deeming in cases of indigence is very narrow, and only applies to situations where a sponsor and the sponsor's spouse cannot or will not provide needed support, and the sponsored alien could not obtain food or shelter without assistance from a public benefits agency. In determining whether a sponsored alien could obtain food or shelter in such a situation, the agency making the determination shall take into account whether the sponsored alien could obtain assistance for food or shelter from a privately-funded organization, and if so, shall refer the alien to such organization in lieu of providing benefits. The agency must notify the Attorney General when exercising this exception.

Under current law, all three programs which "deem" sponsor income exclude a portion of the sponsor's income in their calculations. This legislation rejects this approach. At entry, a sponsor and the sponsored alien are considered to be part of one family unit (living under the same roof), and all of the sponsor's income is considered to be available—just as would be available to the sponsor's spouse or child. The same approach should be used at adjudication for benefits. All of the income of the sponsor and the sponsor's spouse should be deemed to be available to the sponsored alien, as though the sponsored alien is a member of the same family unit (and lives under the same roof) as the sponsor.

Subsection (d) provides that the deeming rules shall not apply to Medicaid assistance used for emergency medical services. Under subsection 552(f), just as in the case of the definition of "eligible alien" in section 501, the exception to deeming rules for battered children includes children who are victims of sexual molestation.

Section 553—House recedes to Senate amendment section 204(e). This section authorizes State and local government to follow the Federal Government in deeming a sponsor's income to a sponsored alien who applies for public benefits. The managers intend to authorize States to enact sponsor-to-alien deeming laws as part of the national immigration policy that aliens be self-reliant. If a

State deeming law, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review described in section 500(b)(1) of this Act.

Section 554—House recedes to Senate amendment section 206. This section authorizes State and local governments to enact alienage restrictions in State and local cash public assistance programs. The managers intend to authorize States to prohibit or otherwise limit eligibility of aliens for general cash assistance as part of the national immigration policy that aliens be self-reliant, but only to the extent that such limit is not more restrictive than under comparable Federal programs. If a State restriction, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review contained in section 500(b)(1) of this Act.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Section 561—House recedes to Senate amendment section 207 with modifications. This provision increases the maximum criminal penalties for forging or counterfeiting a Federal seal or facilitating the fraudulent obtaining of public benefits by aliens.

Section 562—Senate recedes to House section 812, with modification. This section amends INA section 412(c)(2) to specify that in the computation of targeted refugee resettlement assistance, each county shall receive the same amount of assistance for each refugee and entrant residing in the county at the beginning of each fiscal year (counting those refugees and entrants who arrived within 60 months prior to that fiscal year).

Section 563—Senate recedes to House section 604 with modifications. This provision allows public hospitals to seek reimbursement for costs incurred from providing emergency medical services to illegal aliens if the immigration status of individuals for whom reimbursement is sought has been verified, but is not intended to create an entitlement for such reimbursement.

Section 564—House recedes to Senate amendment section 211 with modifications. This provision allows States to be reimbursed for emergency ambulance service costs provided to certain illegal aliens who are injured while attempting to enter the U.S., but is not intended to create an entitlement for such reimbursement.

Section 565—House recedes to Senate amendment section 315 with modifications. This section establishes a pilot program to require bonds in addition to sponsorship and deeming requirements for the purposes of overcoming excludability as a public charge under INA section 212(a)(4). The managers believe that where bonds are used to overcome the grounds for exclusion as a public charge, whether in this pilot program or in current INA section 213, the bonds should be required in addition to, not in lieu of, the new sponsorship and deeming requirements created in this Act.

Section 566—The managers agree to require a series of reports by the Attorney General regarding the affidavit of support, attribution of sponsor income, public charge deportation, and non-profit charitable organization exemption provisions of this Act.

TITLE VI—MISCELLANEOUS PROVISIONS

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SUBTITLE D—OTHER PROVISIONS

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Section 656—House sections 831 and 832 recede to Senate amendment section 118, with modifications. Without placing mandates on states, this section establishes grant programs to encourage states to develop more counterfeit-resistant birth certificates and driver's licenses. After October 1, 2000, Federal agencies may only accept as proof of identity driver's licenses that conform to standards developed by the Secretary of the Treasury after consultation with state motor vehicle officials through the American Association of Motor Vehicle Administrators. Beginning 4 years after the date of enactment, Federal agencies may only accept birth certificates issued after such date that conform to standards developed by the Secretary of Health and Human Services after consultation with appropriate State officials. The managers intend that the new standards developed in consultation with state officials apply only to licenses issued or renewed after October 1, 2000, and only to birth certificates issued more than 4 years after the date of enactment.

Section 657—House recedes to Senate amendment section 332, with modifications. This section requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card, and requires the Comptroller General to conduct a study and issue a report to Congress that examines different methods of improving the social security card application process.

OTHER PROVISIONS

The House recedes to the Senate on the following provisions: House sections 222, 300, 801.

The Senate recedes to the House on the following provisions: Senate amendment sections 120B, 120D, 120E, 305, 318.

HENRY HYDE,
LAMAR SMITH,
ELTON GALLEGLY,
BILL MCCOLLUM,

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BOB GOODLATTE,
ED BRYANT,
SONNY BONO,
BILL GOODLING,
RANDY "DUKE" CUNNINGHAM,
HOWARD P. "BUCK" MCKEON,
E. CLAY SHAW, Jr.,
Managers on the Part of the House.

ORRIN HATCH,
AL SIMPSON,
CHUCK GRASSLEY,
JON KYL,
ARLEN SPECTER,
STROM THURMOND,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

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H.RES. 528 As reported by House Committee, September 24, 1996, House Report No. 104-829

IV

House Calendar No. 281

104th CONGRESS
2d Session

H. RES. 528
[Report No. 104-829]

Waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
September 24, 1996

Mr. Dreier, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

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RESOLUTION

Waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the

Calendar No. 589

104TH CONGRESS
2D SESSION

H.R. 3755

[Report No. 104–368]

IN THE SENATE OF THE UNITED STATES

JULY 12, 1996

Received; read twice and referred to the Committee on Appropriations

SEPTEMBER 12, 1996

Reported by Mr. SPECTER, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1997, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1997, and for other purposes, namely:

legal immigration system and facilitate legal entries into the United States, and for other purposes.

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

104TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
104–829

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT TO ACCOMPANY THE BILL (H.R. 2202) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

SEPTEMBER 24, 1996.—Referred to the House Calendar and ordered to be printed

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Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 528]

The Committee on Rules, having had under consideration House Resolution 528, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution waives all points of order against the conference report to accompany H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and against its consideration. The rule provides that the conference report will be considered as read.

○

CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 528 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 528

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Woodland Hills, CA [Mr. BEILENSON], pending which, I yield myself such time as I may consume. All time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous materials.)

Mr. DREIER. Mr. Speaker, illegal immigration is a major problem that exists in this country, and nearly every one of us knows it. In my State of California, this may be the single most important law and order issue we have faced in a generation. Three million illegal immigrants enter the country each year, 300,000 to stay here permanently. More live in California than in any other State. In 3 years, that is enough people, Mr. Speaker, to create a city the size of San Francisco.

Mr. Speaker, it is increasingly clear that this Congress is dedicated to results. I believe results are what the American people want from their representatives here in Washington, both in Congress and at the White House. When there is a national problem like illegal immigration, they want action. Today, with this bill that we are considering that was crafted so expertly by chairman of the subcommittee, the gentleman from Texas, [Mr. LAMAR SMITH], we are giving them a response.

□ 1200

Mr. Speaker, back in the 19th century, the German practitioner of politics Otto von Bismarck made a very famous statement, with which we are all very familiar, that people should not watch sausage or laws being made.

That dictum has never been more true than in looking at what has taken place over the past couple of years. Under the barrage of 18 months and tens of millions of dollars of special interest attack ads, as well as the political rhetoric that came along with Congress changing hands for the first time in four decades, Washington has not presented a pretty picture to the American people.

But look beyond the rhetoric, the soundbites, and the smokescreens, Mr. Speaker. Look at the results. We have gotten bipartisan welfare reform, bipartisan telecommunications reform, bipartisan health insurance reform, a line-item veto measure that passed with bipartisan support, environmental protections that have had bipartisan support, and now a major illegal immigration bill that also enjoys tremendous bipartisan support. In each case, the final product from this Congress has been a major accomplishment where past Congresses have unfortunately produced failure.

Mr. Speaker, in California, illegal immigration is a problem in its own right, but it is also a factor that contributes to other problems. It undermines job creation by taxing local resources, it threatens wage gains by supplying undocumented labor, it has been a major factor in public school overcrowding, forcing nearly $2 billion in State and local resources to be spent each year educating illegal immigrants rather than California's children.

As with other major national problems, the American people want results, not rhetoric, as I was saying. H.R. 2202 fills that bill. It is not perfect. There are Members of this House who spent years trying to address illegal immigration who think that the bill could be better, and I am one who thinks that this bill could be better. This conference report is not the answer to all of our problems.

However, that is not a fair test, and it is not the test that the American people want us to use. People do not want us to kill good results in the name of perfection. There is no question that this conference report, filled with bipartisan proposals to improve the fight against illegal immigration, should pass, and pass with broad bipartisan support, as I am sure it will.

The bill dramatically improves border enforcement, fights document fraud and targets alien smuggling, makes it easier to deport illegal immigrants, creates a much needed pilot program to get at the problem of illegal immigrants filling jobs, and makes clear that illegal immigrants do not qualify for welfare programs. Together, Mr. Speaker, this is not just a good first step; it takes us a good way toward our goal of ending this very serious problem of illegal immigration.

Mr. Speaker, I must note that the 104th Congress did not just come around to this problem at the end of the session. This important bill only adds to other accomplishments, other results.

Congress tripled funding. Federal funding, to $500 million to reimburse States like California for the cost of housing felons in State prisons if they are illegal aliens. The remarkable fact is that we are 1 week from the close of fiscal year 1996 and the Clinton administration has not distributed $1 in fiscal year 1996 money to States like California.

The welfare reform bill, signed by the President, disqualified illegal immigrants from all Federal and State welfare programs and empowered State welfare agencies to report illegals to the INS. Congress also created a $3.5 billion Federal fund to reimburse our hospitals for the cost of emergency health care to illegals, only to see that provision die due to a Presidential veto.

Finally, Mr. Speaker, I must add that promoting economic growth and stability in Mexico, in particular, whether through implementing the North American Free Trade Agreement or working with our neighbor to avoid a financial collapse that would create untold economic refugees on our Southern border is critical to the success of our fight against illegal immigration. We want to do what we can to

give people an opportunity to raise their families at home rather than come to this country for jobs and other benefits.

Mr. Speaker, now is the time for final action on this important illegal immigration bill. California must deal every day with that flood of illegal immigrants who are coming across the border seeking government services, job opportunities, and family members. There is simply no question that the President, for all his rhetoric, has failed to make this a top priority. Once again, as with welfare reform, we can give the President a chance to live up to his rhetoric. Let us pass this rule, pass this conference report, and give the American people another issue of which they can be very proud.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding me the customary 30 minutes of debate time, and I yield myself such time as I may consume.

I want to say at the outset, I say it gently and nicely, this is not directed personally to my truly good and close friend whom I admire, respect and like a huge amount from California, but I want to say to our friends on the other side that I am personally shocked and astounded by the lack of comity and collegiality that was shown in this particular instance. This is the first time I can recall in my 18 years of service on the Rules Committee where the majority party started taking up a rule before the minority party was here, and in fact we learned of the rule being taken up at this time after having been assured, I know it is not the gentleman's fault, so I am not directing my comments at all to him, I say to my good friend, but to whoever is responsible for changing or speeding up the course of action here. We were assured this would not be taken up for some time, until sometime after we had disposed of the intelligence bill and after at least some of the other bills on suspension would be taken up, and our people are not prepared or are not so prepared as they would have been an hour or two from now to debate this matter.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from California.

Mr. DREIER. I just want to say that I agree with the gentleman. I wish that it had been run in a more orderly fashion. I was assuming that there would have been a recorded vote on that intelligence bill.

Mr. BEILENSON. I understand. As I said to the gentleman from California [Mr. DREIER], my friend, I know it was not the gentleman's doing. I just wanted to say if we seem a little hurried on this side and some of our folks have not arrived yet, it is because they did not expect to have to be over here quite at this time. At any rate, let us get down to the matter. We do have the remainder of the day to deal with this and its other matter. Mr. GALLEGLY's amendment, and we could have given ourselves a little more time, it seems to me.

Mr. Speaker, we do oppose this rule and the legislation it makes in order, the conference report on the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

By waiving all points of order against the conference report and its consideration, this rule allows the leadership to bring this measure to the floor fewer than 24 hours from the time it emerged from the conference committee. Hardly anyone besides the majority Members and staff who worked on the conference report knows much about its specific provisions. We know that it does not contain Mr. GALLEGLY's amendment on educating children of illegal immigrants, which is, we think, good. That is, it is good that it does not contain it, but that is the only provision that has received much attention in the press. We are being asked to rush to judgment on a matter that needs far more deliberation and discussion than it will have prior to the vote on final passage. Furthermore, the rule essentially sanctions House consideration of legislation that is not the product of a legitimate House-Senate conference committee. There is good reason why no Democratic member except for one signed the conference report. Democratic members who had worked hard on this legislation along with their Republican colleagues from its inception were completely shut out of the conference process. There was no consultation with Democrats over the past 5 months after the House and Senate had both passed immigration bills of their own. Democratic members went to the conference meeting yesterday not knowing what was in the final product and were not given the opportunity to offer amendments despite the fact that the proposed conference report contained many new items and quite a few that were outside the scope of the conference itself and no vote was taken on the report. And now here on the floor we are being asked to endorse this egregious practice by adopting this rule. We should not do that, we should defeat this rule or, failing that, we should defeat the conference report itself.

Mr. Speaker, those of us who represent communities where large numbers of immigrants settle have been working hard for a number of years to get Congress and the administration to stop the flow of illegal immigrants into the United States. Many of us have also been trying to slow the growth or slow the rate at which legal immigrants are flowing into our country.

Our efforts have been supported by not only people who are affected directly by rapid population growth resulting from immigration, but also by the vast majority of Americans everywhere. More than 80 percent of the American people, according to poll after poll, want Congress to get serious about stopping illegal immigration, and they want us to reduce the rate of legal immigration. Unfortunately, this legislation would do neither. This measure is a feeble and misguided response to one of the most significant problems facing our Nation. For us to spend as much time and energy as we have identifying ways to solve our immigration problems and then produce such a weak piece of legislation is, I think it is fair to say, a travesty, and eventually the American people, perhaps soon, I hope soon, will understand that we have not fulfilled our responsibilities in this matter.

If we truly care about immigration reform, we must vote down this conference report today so that the Congress and the President will be forced to revisit this issue next year. Otherwise, I am afraid the Congress and the administration will have an excuse to put this issue aside and it will be years again, literally years, before we get really serious about stopping illegal immigration and reducing legal immigration.

One of this bill's greatest defects is its lenient treatment of employers who hire illegal immigrants. An estimated 300,000 illegal immigrants settle permanently in the United States each year. As we all know, virtually all of them are lured here by the prospect of jobs which they are able to obtain because the law allows them to prove work authorization through documents that can be easily forged.

That will continue to be the case despite this legislation's reduction in the kinds of documents that can be used to prove work eligibility. As a result, it is next to impossible for employers to determine who is and who is not authorized to work in the United States.

This is not a problem we recently discovered, Mr. Speaker. Congress knew a decade ago and more when we first established penalties for employers who knowingly hire illegal immigrants that it would be difficult to enforce the law, impossible actually, if we did not have some kind of system requiring employers to verify the authenticity of documents that employees use to show work authorization.

Moreover, because more than 50 percent of illegal immigrants come here legally and then overstay their visas, we cannot stop these types of immigrants simply by tightening border control. The only real way we can stop them is by forcing employers to check their work authorization status with the government.

But despite knowing full well that the lack of an enforceable verification system is the largest obstacle to enforcing employer sanctions and thus the biggest hole in our efforts to stop illegal immigration, this legislation fails to cure that major principal problem.

For employment verification, the bill provides only for pilot programs in

States that have the highest numbers of undocumented workers. Because these pilot programs will be voluntary, employers will be able to avoid checking the status of their employees. Thus, businesses that hire illegal immigrants, and there are plenty of them, Mr. Speaker, who do, will continue to be able to get away with it the same way they do now, by claiming that they did not know that employees' work authorization documents were fraudulent. And that will continue until the Congress revisits the issue and passes legislation making verification mandatory.

To make matters worse, the bill fails to provide for an adequate number of investigators within either the Immigration and Naturalization Service or the Labor Department to identify employers who are hiring illegal immigrants.

The other glaring failure of this piece of legislation is its failure to reduce the huge number of legal immigrants who are settling in the United States each year. Many people have been focusing on the problem of illegal immigration, which is understandable. Undocumented immigrants and employers who hire them are breaking our laws and should be dealt with accordingly. But if a fundamental immigration problem we are concerned with, and I believe it is, it certainly is amongst the people I represent back home, is the impact of too many people arriving too quickly into this country, the sheer numbers dictate that we cannot ignore the role that legal immigration plays. About three-quarters of the estimated 1.1 million foreigners who settle permanently in the United States each year do so legally.

□ 1215

It is the 800,000, more or less, legal immigrants, more so than the estimated 300,000 illegal ones, who determine how fierce the competition for jobs is, how overcrowded our schools are, and how large and densely populated our urban areas are becoming. More importantly, the number of foreigners we allow to settle in the United States now will determine how crowded this country will become during the next century.

The population of the United States has just about doubled since the end of World War II. That is only about 50 years ago. It is headed for another doubling by the year 2050, just 53 or 54 years from now, when it will probably exceed half a billion people. Half a billion people in this country. Immigration is the engine driving this unprecedented growth.

Natives of other lands who have settled here since the 1970's and their offspring account for more than half the population increase we have experienced in the last 25 years. The effects of immigration will be even more dramatic, however, in the future. By the year 2050, more than 90 percent of our annual growth will be attributable to immigrants who have settled here since the early 1990's; not prior immigration, but just the immigration that is occurring now and will continue to occur if this bill is allowed to pass.

As recently as 1990, the Census Bureau predicted that U.S. population would peak and then level off a few decades from now at about 300,000 people. In 1994, however, just 4 years later, because of unexpectedly high rates of immigration, the bureau changed its predictions and now sees our population growing unabated into the next century, into the late 21st century, when it will reach 800 million, or perhaps 1 billion Americans, in the coming century.

Now, a year ago, there was a near consensus among Members and others working closely on immigration reform that we needed to reduce the number of legal as well as illegal immigrants entering this country. The Clinton administration has proposed such reductions, and both the House and Senate Judiciary Committee versions of the immigration reform legislation also contained those reductions. All three proposals were based on the recommendations of the immigration reform commission, headed by the late Barbara Jordan, which proposed a decrease in legal immigration of about a quarter million people a year.

The commission's recommended reduction would still, of course, have left the United States in a position of being by far the most generous nation in the world in terms of the number of immigrants we accept legally. We would continue to be a country which accepts more legal immigrants than all of the other countries of the world combined.

But, unfortunately, Mr. Speaker, after intensive lobbying by business interests and by proimmigration organizations, both the House and the Senate stripped the legal immigration reduction from this legislation entirely, and did so with the Clinton administration's blessing. Now, unless the Congress defeats this legislation today, reductions in legal immigration, are unlikely for the foreseeable future.

Our failure to reduce legal immigration will only be to our Nation's great detriment. The rapid population growth that will result from immigration will make it that much more difficult to solve our most pervasive and environment problems such as air and water pollution, trash and sewage disposal, loss of agriculture lands, and many others, just to name some of the major ones.

More serious environmental threats are not all that we will face when our communities, especially those in large coastal urban areas, speaking mainly, of course, at the amount, of California and Texas and Florida and New York and New Jersey, but there are others that are already being affected and more that will be in the future, areas that are magnets for immigrants, whether legal or illegal, are already straining to meet the needs of the people here right now. There could be no doubt that our ability in the future to provide a sufficient number of jobs or adequate housing and enough water, food, education, especially health care and public safety, is certain to be tested in ways that we cannot now even imagine.

However we look at it, Mr. Speaker, however we look at it, failing to reduce the current rate of immigration, legal and illegal, clearly means that our children and our grandchildren cannot possibly have the quality of life that we ourselves have been fortunate to have enjoyed. With twice as many people here in this country, and then more than twice as many, we can expect to have at least twice as much crime, twice as much congestion, twice as much congestion, twice as much poverty, twice as many problems in educating our children, providing health care and everything else.

In terms of both process and outcome, this conference report is a grave disappointment. It is notable more for what it is not than for what it is. Instead of a conference report that reflects only the views of the majority party, this measure could have been a bipartisan product as immigration bills traditionally are, but it is not. Instead of a measure developed in someone's office, this continuing resolution could have been the result of a conference committee, but it is not. Instead of legislation that is lax or lenient on employers who hire illegal immigrants, this could have been a measure that finally established a workable system that enforced penalties against those who knowingly hire illegal immigrants, but it is not.

Instead of a bill that fails to slow the tide of legal immigrants, except by singling them out for unfair treatment, as it does, this could have been a bill that reduces the rate at which immigrants settle here and thus help solve many problems which confront us as a society already, but it is not.

Mr. Speaker, the bill this rule makes in order, does not, to be frank about it, deserve our support. I urge our colleagues to vote it down, both the rule and/or the conference report, so that Congress and the President, and the administration, which did not do its duty, it seems to this Member by these issues, both the Congress and the President will be forced to return to this issue next year and to produce the kind of immigration reform legislation that the American people want and that our country badly needs.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my very good friend, the gentleman from Texas [Mr. SMITH], the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the comments by opponents of this legislation simply do not represent the views of most Americans.

They do not even represent the desires of a majority of the Members of their own party. Every substantive provision in this compromise conference report has already been supported by a majority of Democrats and a majority of Republicans either in the House or Senate.

I find it curious that when the American people want us to reduce illegal immigration, every single criticism made by the opponents of this bill would make it easier for illegal aliens to enter or stay in the country, or it would make it easier for noncitizens to get Federal benefits paid for by the taxpayer.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to my friend, the gentleman from Sanibel FL [Mr. GOSS], the chairman of the Subcommittee on Budget and Legislative Process.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the vice chairman of the Committee on Rules, my friend, the gentleman from California [Mr. DREIER], for yielding. I wish to commend the gentleman for his efforts on this important bill. I can say that he has been persistent and he has been instrumental in getting us to this point.

I support the rule, but I do agree with the gentleman from California [Mr. BEILENSON] that there was a mixup in the scheduling, and I think that we have understood there was nothing sinister behind it. A vote dropped off, so we got ahead of ourselves.

Mr. Speaker, many months ago the House passed 2202 to reform our Nation's broken immigration system.

This landmark legislation will tighten our borders, block illegal immigrants from obtaining jobs that should go to those who are in the United States legally, streamline the process for removing illegals, and make illegal immigrants ineligible for most public benefits.

All along in this process, the drumbeat from the American people has been very clear—it's long past time for reform. We have come to understand that reform is not for the faint of heart—that there are tough choices to be made and that there are real human beings on all sides of the immigration process. In the end, I believe we have legislation that is tough but fair—legislation designed to keep the door open for those who want to come to America but are willing to do it via an orderly, legal process, not sneak in the back or side door.

H.R. 2202 will add 5,000 new border patrol agents over the next 5 years Yes, 5,000. It will make illegal immigrants ineligible for many public benefits, while still allowing them access to emergency medical care. It also requires future sponsors to take more responsibility for their charges—a prospective change that is a win for immigrants and for American taxpayers alike, reducing the $26 billion annual tab American taxpayers currently pay. H.R. 2202 sets up a 3-year voluntary pilot program in five States so employers can use a phone system to verify Social Security numbers of prospective employees. If the pilot is successful, we may finally have a simple and effective way for employers to fulfill their legal responsibility to hire only eligible workers. There is no national identity card and no big brother database in this legislation. Mr. Speaker, as with all things that are borne of compromise, this legislation is not without disappointments. In my State of Florida, we know that undocumented immigrants cost Florida taxpayers millions of dollars every year in education costs. The Governor's office estimated the cost for 1 year to have been $180 million. Nationwide for 1 year the estimate was more than $4.2 billion. We simply cannot afford to educate all of the world's children while extending a magnet that fuels illegal entry into our country. Although I am disappointed it's not in this bill, I am pleased that this House has a chance to debate the Gallegly language as a separate measure, to end the current unfunded Federal mandate and give States an opportunity to make their own decision about how to handle this problem.

Overall, Mr. Speaker, this is a solid bill. It is one more example of this Congress, under our new majority, living up to its commitments. One more time we have promises made, promises kept.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague from California for yielding me time. TONY, we will miss you next year and all your work you have done for not only our district, but the people of California, and the people of our country.

Mr. Speaker, there is a consensus that illegal immigration is a national problem that needs to be addressed. I believe our immigration laws need to be strengthened. But this conference agreement ignores the real reasons for illegal immigration and does little to protect American jobs. The reason people are in our country illegally is not to go to school, it is to get a job.

A successful control of illegal immigration requires comprehensive efforts not only to police our borders, but also to effectively reduce the incentives to employ illegal immigrants.

The bill has serious deficiencies in regard to employment and work site enforcement. The conference report does not contain the Senate provision that would authorize 350 additional enforcement staff for the Department of Labor, Wage and Hour Division, to enhance worksite enforcement of our laws.

This conference report does not contain the Senate provision authorizing enhanced civil penalties for employers who violate the employment sanctions and specified labor laws. Higher penalties would also serve to reduce the incentives to employ and thereby deter illegal immigration.

This conference report does not contain the Senate provision that would have provided subpoena authority to the Secretary of Labor to carry out enforcement responsibilities under this act.

Even though I served on the conference committee, and I was honored to do so, I nor other Democrats were given the opportunity to offer amendments to correct these deficiencies: We will have real immigration reform when we as Democrats are not locked out of the process.

Is this bill better than no bill? Maybe. But the people of America want something that will stop illegal immigration. This will not stop it. It may be better than the status quo because of the additional border patrol, but it does not go as far as the American people want it to go to deter illegal immigration. That is why this is not the panacea that you may hear from the other side of the aisle. It is an election year gimmick to say we passed immigration reform, but we have not.

Mr. DREIER. Mr. Speaker, as the gentleman from Texas just said, this bill is clearly better than the status quo.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Orlando, FL [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding 2 minutes to me.

Mr. Speaker, I just want to make a comment. There are a few things in this bill that maybe I could quibble over, but very few. There are a number of things that are not in this bill that I would like to see here, and I know many other Members would. But, overall, this is an excellent work product. There are some very significant things in this bill.

One of the things this bill does is to reform the whole process of asylum, that is the question where somebody seeking to come here or to stay here claims that they have been or would be persecuted for religious or political reasons if they return to the country of their origin.

We have had lots of people coming in here claiming that. Most of them who claim it have no foundation in claim at all. Once they get a foot in the airport or wherever, they make that claim, they get into the system, many of them are never heard from again. We do not get the kind of speedy process we need to resolve this.

Under this legislation there is a system much better than we have today for resolving the whole question of asylum from A to Z. We have an expedited or summary exclusion process that will be guaranteed in the sense you get two bites at the apple. If you ask for asylum at the airport, an asylum officer specially trained will screen you. If you think you have been given a raw deal

and he says you do not have a credible fear of persecution and decides to return you straight home, you get to go before an immigration judge. That has to be done though within a matter of 24 hours, 7 days at the most.

It is a very, very positive provision, because it you do not qualify, you are going to be shipped right back out again, and do not get caught up in our system. And the list goes on and on.

So this is a very important and positive bill. But there are a couple of things that I think should have been in here that are not. One of them is the strengthening of the Social Security card that the gentleman from California [Mr. BEILENSON] talked about at some length. We need a way, a very difficult way, to get rid of document fraud, in order to make employer sanctions work. All too many people are coming into this country today getting fraudulent documents for $15 or $20 on the streets, including Social Security cards, drivers licenses or whatever, and then they go get a job. There is no way to make a law that says it is illegal to knowingly hire an illegal alien work.

□ 1230

And until we solve this fraud problem and we do more than we are doing in this bill to do that, we will never make it such that we can cut the magnet of people coming in here illegally.

But the bill is excellent. Let us vote for this bill and work on these other matters in the next Congress.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me this time.

And let me say at this point briefly to my friend from California, whom I have had the honor of serving with, and we were in the same class together, been here for 20 years, how much I have appreciated his friendship and his counsel and all that he has done for this institution. He is truly one of the most decent people I have ever served with in public life, one of the brightest people I have ever served with, and I will miss him dearly as we go into our next Congress.

Mr. Speaker, I would like to echo the comments of my friend from California in opposing this rule and opposing this conference report. I do so for the following reasons:

This conference report weakens protection for American workers while making it easier for employers to hire illegal workers. The conference report includes broad language that is not contained in the House-passed bill which rolls back antidiscrimination protections and makes it more difficult for American workers to bring employment discrimination claims.

Workers will now have to prove that an employer deliberately had an intent to discriminate, which is an almost impossible standard to meet. Workers who are wrongfully denied employment because of computer errors, and we know in this brave new world we live in that is becoming more and more common, under this bill they will not be able to seek compensation from the Federal Government because of that error because they were just kind of wiped out on the list and were not able to get a job.

At the same time it does this, it does something else. It will make it easier for employers to hire illegal workers. The conference report does not include the Senate provision that would have increased penalties for employers who knowingly hire illegal workers.

Now, that is significant, because each year more than 100,000 foreign workers enter the work force by overstaying their visas. Many are hired in illegal sweatshops, in violation of minimum wage laws. And we have seen what the Labor Department has unveiled in this regard over the last couple of years: Sweatshops all over this country with illegal people who are working in these sweatshops and no crackdown on the employers. The conference report does not include the additional 350 labor inspectors.

Let me also say something about class. This is a bill that discriminates against average working people in this country and average folks. Millions of Americans would be denied the ability to reunite with their spouses or minor children because they do not earn more than 140 percent of the poverty level, which is the income standard set by the conference report in order for it to sponsor a family member to come here.

A third of the country would be ineligible to bring in folks under this particular conference report. But if you have a few bucks, no problem. If you are an average worker in this country, we are sorry.

Another point in this bill that I think Members should pay attention to: An individual serves his country. They are here not as a citizen but as a legal immigrant, and they decide to serve in the armed forces, the Air Force, the Marine Corps, the Army, and they put in 2 years or 4 years, and then they leave and get in an automobile accident and take advantage of some medical benefits. They can go under this bill. They can be deported.

There are a lot of things in this bill that are discriminatory against a lot of people who care about this country. I think it is a bad piece of legislation. Say no to the rule. Say no to the bill. We will come back and do it right in the next Congress.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume and would say to my friend, if he does not like the sponsor provision that exists today, he should try to get rid of it rather than leaving it absolutely meaningless.

Mr. Speaker. I yield 2 minutes to the gentleman from Huntington Beach, CA [Mr. ROHRABACHER]. my friend, and one of the strongest proponents of legal immigration.

Mr. ROHRABACHER. Mr. Speaker. I rise in strong support of the rule and the conference report.

Mr. Speaker, millions of illegal aliens have been pouring into our country, and we have heard year after year after year a reason of why we should not act. There is always going to be a reason that the other side will prevent us from acting.

In fact, for years those of us on the Republican side have begged for an immigration bill, and we have been prevented time and time again from having any type of legislation where we could come to grips with this problem.

In California, our health facilities and our schools have been flooded with illegal aliens. Our public services are stretched to the breaking point. Tens of billions of dollars that should be going to benefit our own citizens are being drained away to provide services and benefits to foreigners who have come here illegally.

Who is to blame? Certainly not the immigrants. We cannot blame them if we are to provide them with all these services and benefits. This administration and the liberal Democrats, who have controlled both Houses of Congress for decades, have betrayed the trust of the American people.

We are supposed to be watching out for our own people. When we allocate money for benefits, for service, SSI and unemployment benefits, it is supposed to benefit our citizens, the people that are paying taxes, who fought our wars. Instead, when we have tried to make sure these are not drained away to illegal aliens, we have been stopped every time by the Democrats who controlled this House.

This bill finally comes to grips with the problem that has threatened the well-being of every American family. And, yes, we are going to hear a little nitpicking from the other side of why it is not a perfect bill. But the American people should remind themselves, it is this type of nitpicking that has placed their families in jeopardy for decades and permitted a problem of illegal immigration to mushroom into a catastrophe for our country.

Mr. BEILENSON. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from California, and let me say as a new Member of Congress, I have admired his leadership, his determination, and particularly the demeanor in which he has led not only his district, the State of California, but the Nation, and I thank him very much for his services.

It is important as we rise to the floor, Mr. Speaker, on this issue, to chronicle for the American people just how far we have come. This legislation started out as a combination of some effort in response to legal immigration and illegal immigration.

Unfortunately, the provisions of the legal immigration part of this legislation were extremely harsh and, in fact,

did not capture the spirit of the Statue of Liberty, which indicates that this Nation, bar none, regardless of the standards used by other countries, we do not follow, we lead, was not a country that would close its doors to those seeking opportunities for work but opportunities for justice and liberty and freedom.

So I am delighted that we were able to separate out the major parts of legal immigration and to acknowledge that, yes, we must work with regulating the influx of those coming into this country, but we should never deny the opportunity for those seeking political refuge and needing social justice and fleeing from religious persecution. Our doors should never be closed.

I am disappointed, as we now look at illegal immigration, we have several points that need to be considered. This is not a good jobs bill for America because it does not give to the Department of Labor the 350 staff persons needed to make sure that employers are following the rules as they should.

And, likewise, I would say that this is an unfair bill with respect to those who are here legally, for it says if they want to bring their loved ones, their mother, their father, their siblings, they must not be a regular working person, but they have to be a rich person.

I thought this country was respective of all working citizens, all working individuals who worked every day. But now we require a high burden of some 200 percent more over the poverty level than had been required before in order for a legal resident, a citizen, to bring in their loved ones to, in essence, join their family together. I think that is unfair.

Then we raise a much higher standard on those citizens who now, or those individuals who are seeking employment who may be legal residents. Now they must prove intentional discrimination. I think that is extremely unfair.

We likewise determine that we do not have the ability for redress of grievances by those individuals who have been discriminated against. That is unfair.

And let me say this in conclusion, Mr. Speaker. Mr. Speaker, let me say that we treat juveniles unfairly and we should vote down the rules and vote down the bill.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Mount Holly, NJ [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, first let me say that I support the rule and I will vote in favor of the bill itself today. However, I am deeply disturbed by one aspect of the bill.

Most of the provisions of the bill, I think, are in accord with good sound policy. However, this bill does contain one provision, to exempt the Immigration and Naturalization Service from both the Endangered Species Act and the National Environmental Policy Act.

This provision is intended to address an issue that has to do with the California-Texas-Mexico border. However, the way this section is written, the exemption applies to the entire border of the United States, not just the California-Mexico border near San Diego.

This waiver is not necessary, either in theory or in reality. Section 7, as a matter of fact, of the Endangered Species Act provides the framework to address any fence building. I have letters from the Department of Justice and the Department of the Interior stating that these waivers are not necessary.

Mr. Speaker, if it is important enough to exempt the Immigration and Naturalization Service from these important environmental laws, then we have to grow food, why do we not just exempt the Department of Agriculture? We have to get around in this country, so why do we not just exempt the Department of Transportation? And flood control is extremely important in my district, so why do we not just exempt the Corps of Engineers?

Mr. Speaker, this is a bad provision, and while I am going to vote for this bill, I pledge to spend the next 2 years making sure we straighten out this part of the bill which, to me, is a serious problem.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the distinguished gentleman from California, a friend of mine, for yielding me this time.

I also want to join all my colleagues who are acknowledging the many years of service the gentleman from California [Mr. BEILENSON] has provided to this institution and to the people of America. They probably do not realize how instructive he has been in helping us fashion all sorts of policy, and I certainly will miss him, and I hope that he continues to be involved in policy for this country, because he has been a voice that has brought reason and, I think, a great deal of wisdom tc this country's policies and laws.

Mr. Speaker, let me go on to say that I am very disappointed in what we have here today, for a couple of reasons, not only because I think substantively this is a bill that needs a great deal of improvement, but because procedurally it is disappointing to see, in the greatest democracy in the world, that the Republicans, the majority in this Congress, saw fit not to allow anyone to participate in the structuring of this final version of the bill unless one happened to be Republican.

Not one point in time, since the bill first passed out of the House of Representatives back in March, have Democrats had an opportunity to provide amendments to this particular conference report or to participate even in discussion of amendments on this report.

We had a conference committee yesterday that was only for the purpose of offering an opening statement. We did not have a chance to make an offer of an amendment that say, "This is a provision that needs to be changed; can we change it?" Not a word. We were not allowed one opportunity to do so.

This has come to the floor, with changes made in the back room in the dead of night, and some people are only now finding out what some of the provisions are.

I want to give you one example of how procedurally this bill has gone wrong. In conference we happened to have found out, because we were handed a sheet that same morning, that a provision in the bill that we thought was in, which would deny a billionaire a visa to come into this country after that billionaire had renounced his U.S. citizenship.

In other words, we have a billionaire in this country who renounces his U.S. citizenship, says, "I do not want to be a U.S. citizen any more." Why? Because he wants to avoid taxes. If an individual is not a U.S. citizen, they do not pay U.S. taxes.

So he renounces his citizenship, goes abroad, and then comes right back, applies for a visa to come back into this country. He has not paid any taxes, and he gets to come back into the country.

We had a provision in the bill that said, no, if an individual renounces their U.S. citizenship because they want to avoid taxes, they cannot come back in. We walk in that morning, and that provision is no longer there. So these billionaires can come back into the country without having paid their taxes.

□ 1245

We said, why did you put that back in there? Why did we not have a chance to discuss this?

Good news? Billionaires cannot come back in, if they renounce their citizenship. Bad news? We did not know it until this morning when we walked in and found it is back in the bill. That is the democratic process that we have undergone in this bill, where Members are not told what is in the bill until the last moment.

What is the result? One Member called it, one colleague called it nitpicking. I do not call it nitpicking when through a stealth move we remove increased penalties for employers who we know are hiring people who are not authorized to work in this country.

Why? I do not know. Who does it hurt? Only those employers who are violating the law. Why do we want to reduce the penalties on employers who are violating the law?

Final point I will make, young student in college, tries to get financial aid, has been valedictorian in high school. Because he is a legal immigrant, he happens to be qualified for a Pell grant. Gets a Pell grant for 1 year, is now deportable because the person qualified for a Pell grant or maybe a student loan. Crazy.

Mr. DREIER. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Scottsdale, AZ [Mr. HAYWORTH], my thoughtful and hard-working and eloquent colleague.

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I thank my good friend from California for this time. Mr. Speaker, I would make the observation that despite the prevailing winds of what is politically correct, this is one of the few instances in official Washington where a description accurately fits the act it is describing, for this rule and this legislation addresses the problem of illegal immigration. By its very definition, it is an act against the law. And for that reason primarily, if an action is taken which is illegal, there should be sanctions against those who would participate in that illegal act. That is why I rise in strong support of the rule and the legislation.

Mr. Speaker, I come from the border State of Arizona. It is of great concern to the people of Arizona that we close the door on illegal immigration. Hear me clearly. on illegal immigration, because by closing this illegal back door, we can keep the front door open to immigrants who have helped our society and helped our constitutional Republic.

I think of one of them who hails from Holbrook in the sixth district of Arizona, who makes that place her home. Her name is Pee Wee Mestas. She is a restaurant owner. She came to this Nation legally. Her mother applied for a visa, went through the necessary legal steps to become a citizen. Her mother worked hard, going to school, going to cosmetology classes while working as a domestic servant to provide for her family. Pee Wee's mom was willing to work hard and follow the rules. Because she was, she raised up a generation of citizens, citizens who work hard and play by the rules.

That is the basic issue here. End an illegal act and instill responsibility. If it is good enough for the Mestas family, it should be good enough for the United States of America. Support the rule. Support the legislation. Let us take steps to end illegal immigration.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELAZQUEZ].

(Ms. VELAZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELAZQUEZ. Mr. Speaker, I would like to take this opportunity to offer thanks to the gentleman from California [Mr. BEILENSON] for his guidance, leadership, and vision, and we all are going to miss him.

Mr. Speaker, I rise today to express my strong opposition to this conference report. This so-called immigration reform bill not only attacks a wide range of very hard-working Americans but, worst of all, it wreaks havoc on the lives of children. When did we become such a distrustful society that we would even turn on our most vulnerable members?

In a frenzy to shove undocumented immigrants out of the country, the Republican majority has crafted one of the most offensive pieces of legislation ever. They did not make this bill any better simply by removing the bar on undocumented children attending public school. The conference agreement still severely restricts legal immigrants' access to benefits, even though they play by the rules, they work hard and they pay taxes. But yet those multibillionaires who renounce their citizenship just so they cannot pay taxes, they are welcome to come back.

I ask my colleagues and urge them to vote down the rule and vote this legislation down.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Lula, GA [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, we have heard a lot of terms here the today. One is unfairness. Let me talk about the greatest unfairness there is. That is those citizens and those legal immigrants who are finding their jobs taken away from them, who are finding their taxes increased to pay for the jobs that are going to those who are illegally in this country and the benefits that are going to them.

There are a lot of things that we as Americans hold dear. One is citizenship. Those of us who are lucky to achieve it by the virtue of birth or those who have achieved it by virtue of immigration and naturalization. Another thing we hold dear is that we are a country that has a system of law.

I submit to you that the ever-increasing tide of illegal immigrants undermines both of these things. Citizenship should not be cheapened. Respect for the law, which includes immigration laws, should not be denigrated.

This bill is the first major step this institution has taken in the direction of dealing with illegal immigration in more than a decade. Is it perfect? Certainly not. But does it begin to restore the sanctity of citizenship and respect for the law, yes, it does.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BERMAN].

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, first I want to say to my colleague from California, whom I have known for 34 years, who walked precincts in his first campaign, that I will truly, sincerely and sorely miss him. He is a model legislator and a pleasure to work with. I wish him well.

The gentleman from Arizona, who spoke a few minutes ago, is so totally wrong when he says this is the bill that will finally do something about illegal immigration. Everyone knows, when they think about it, the only effective ways to do something to deter illegal immigration are at the border, and this bill authorizes more Border Patrol, but already the Committee on Appropriations and the administration have gone far beyond the authorization contained in this particular bill to do that. Setting up and committing to a national verification program to make employer sanctions meaningful. This bill started out like that but totally fell apart on the House floor, primarily at the behest of the majority party Members. And then to go after those industries that systematically recruit and employ illegal immigrants in order to have a competitive edge in wages and working conditions in their own operations.

The Border Patrol increase is being done by the administration and the other 2 provisions are outrageously ignored in this conference report.

I voted for this bill when it came out of the House of Representatives. I indicated I would vote for it in the form it was in if the Gallegly amendment was removed. The Gallegly amendment was removed, but in a dozen different ways the conference report is worse than the House bill and in many cases, notwithstanding the Committee on Rules waivers, exceeds the scope of what either House did in the most draconian ways. Draconian against illegal immigration? No. Draconian against legal immigrants.

This is truly a desire by the people who lost on both the House and Senate floor in their efforts to cut back on legal immigration to do the same thing, but in the most unfair fashion, not straightforwardly by reducing the numbers but by focusing on the working class people in the society and stripping them of their right to bring legal immigrants over.

The new welfare law bars legal immigrants from programs such as SSI and food stamps and from Medicaid for 5 years. It gives States the ability to permanently deny AFDC and Medicaid to legal immigrants.

This conference report goes much, much further than that, makes legal immigrants not ineligible for these three or four programs but subject to deportation for use of almost every means-tested program for which they are eligible under the welfare law. In other words, what the welfare conference did not do, they decided to do here, and not declare ineligibility but make you subject to deportation.

Let me tell you what that means. You are a legal immigrant child who goes through high school, applies to a college based on your superb academic performance and test scores. You get admitted to an expensive university, ivy league college, Stanford. You apply for a student loan. If you are on that student loan for more than a year, you are subject to deportation. What an outrageous provision that is. What a slap in the face of this country's traditions that is.

Let me tell you how much else they do here. For the first time in American history, an U.S. citizen will be subject to an income test before he can bring his spouse into the country.

I urge a "no" vote on the rule, a "no" vote on the conference report.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], former mayor of Carlsbad, now of Oceanside, CA.

(Mr. PACKARD asked and was given permission to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, I rise in very strong support of this rule and the conference report. Immigration has been the most significant critical problem in my State for many, many years. I have worked a lifetime, it seems, on trying to resolve our serious illegal immigration problems. They are affecting southern California and California generally and the Nation generally in very significant ways.

In fact, the two bills that I introduced on the first day that I started this session of Congress, the 104th Congress, have been incorporated into this bill, one of which would increase the Border Patrol to 10,000 agents, and the second would deny Federal benefits to illegal aliens. In essence, that was Prop 187 in California.

But this bill is not only about protecting our borders from those who are entering here illegally. It is about protecting American taxpayers from being forced to pay for those who are breaking our laws just to be in this country. California alone pays out billions of dollars per year to deal with the problems of illegal immigration. This bill will help to ease this problem by removing the incentives for immigrants to cross our borders illegally, and by reimbursing those States who have to incarcerate illegal immigrant felons.

Mr. Speaker, this bill is the culmination of a process that began in California with Prop 187 and continued through the Immigration Task Force called by the speaker. I want to congratulate all those who have worked so hard on it. I particularly want to congratulate LAMAR SMITH, who has worked to put this bill together. I also want to congratulate ELTON GALLEGLY for his efforts, and certainly I will support his bill and the vote on this issue.

Let me conclude by simply telling the minority leader of the Committee on Rules, Mr. BEILENSON, at least on this issue how much I have appreciated working with him. He is one of the gentlemen of the House. It has been a real pleasure to work with him over these years. We will miss him dearly.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY], my very good friend who has chaired our Task Force on Illegal Immigration, former mayor of Simi, CA.

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman for yielding. I rise today in strong support of this rule.

For the better part of the past decade I have been working to bring badly needed reforms to our Nation's immigration laws. Unfortunately, for far too long I have felt like I was talking to myself.

That is clearly no longer the case. Immigration reform is an issue on the minds of nearly all Americans, and nearly all express deep dissatisfaction with our current system and the strong desire for change. Today we are delivering that change.

I truly believe that this conference report that we will be hearing shortly represents the most serious and comprehensive reform of our Nation's immigration law in modern times. It also closely follows the recommendations of both the Speaker's Task Force on Immigration Reform, which I chaired, and those of the Jordan Commission. Approximately 60 percent of the recommendations made by the Speaker's Task Force have been included in this conference report.

They include, in part, provisions to double the number of Border Patrol agents stationed at our borders to 10,000 agents; expanded preinspection at foreign airports to more easily identify and deny entry to those persons with fraudulent documents or criminal backgrounds; tough new penalties for those who use or distribute fake documents, bringing the penalty for that offense in line with the use or production of counterfeit currency.

□ 1300

Mr. Speaker, the primary responsibilities of any sovereign nation are the protection of its borders and enforcement of its laws. For too long in the area of immigration policy, we at the Federal Government have shirked both those duties. It may have taken a long time, but policy makers in Washington are finally ready to acknowledge the devastating effects of illegal immigration on our cities and towns.

Finally, I would like to congratulate my colleague, the gentleman from Texas [Mr. SMITH], who chairs the Subcommittee on Immigration and Claims for all the effort that he has put into this, putting his heart and soul into this legislation. I would also like to thank him for welcoming the input of myself and other members of the task force in crafting this legislation, and I urge my colleagues to vote yes on this rule and let us pass immigration reform that this Nation sorely needs.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my very good friend the gentleman from Imperial Beach, CA [Mr. BILBRAY].

(Mr. BILBRAY asked and was given permission to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, as somebody who lives on the border with Mexico and grew up with the immigration issue, I am very concerned to hear my colleagues on the other side of the aisle say, "Let's not do it now. Let's put it off and try to do something else in the next Congress."

I as a mayor and as a county supervisor, I worked with the problems in our community with illegal immigration, crime, the impacts on our health care system. In fact, if my colleagues go to our hospitals today, they will see there are major adverse impacts. Talk to our law enforcement people about the major impact of illegal immigration. The cost is not just in dollars and cents.

And I would ask my colleagues on the other side of the aisle, if you don't care about the cost to the working class people, because this illegal immigration does not affect the rich white people, illegal immigration hurts those who need our services and our jobs in this country more than anything else, those who are legally here. But if you don't care about that, let me ask you to care about the humanity that is being slaughtered every day along our border because Washington, not Mexico, not Latin America, not anywhere else in the country, but Washington and the leadership in Washington has pulled a cruel hoax that says, "Come to our country illegally, and we will reward you. Come to our country, and we will give you benefits."

I ask my colleagues to consider this: In my neighborhoods in south San Diego, we have had more people die in the last few years being slaughtered on our freeways, drowned in our rivers, run off of cliffs. More people have died, my colleagues, trying to cross the border illegally in San Diego than were killed in the Oklahoma bombing.

Now I ask my colleagues on the other side of the aisle who wanted to delay and put it off, Would you delay addressing one of the greatest terrorist acts that we have seen in our neighborhoods and along the border than we have seen in our lifetime? If Oklahoma's explosion was so important that we address that slaughter, please do not walk away from the loss of humanity down in San Diego and in California along the border. There are people that are dying because they are told to come to this country and we will reward them.

Please join with us. Support the rule. Let us reform illegal immigration and let us do it now. Quit finding excuses.

Mr. BEILENSON. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from California is recognized for 30 seconds.

Mr. BEILENSON. Mr. Speaker, we urge, as we have before, a "no" vote on this rule. The rule allows consideration of a conference report that was not given proper consideration by the conference committee, a conference report on which the minority party had no involvement. More importantly, the conference report that this rule makes in order is a feeble and misguided response to one of the most significant problems facing our Nation. Passage of this legislation will allow employers who hire illegal immigrants to continue to do so and to get away with it. Passage of this legislation will let Congress say that we have done something about illegal immigration when in fact we have not done the real work that we know that we have to do.

The real tragedy, Mr. Speaker, and I say to my friends, is that we have missed here a great opportunity to know what to do. The Members who have worked hardest on this issue know what we need to do.

So I suggest, Mr. Speaker, that we defeat this rule and force the Congress and the President to revisit this issue next year and then produce the kind of immigration reform legislation that the American people want and that this country so badly needs.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time to simply say that this may be the last rule that will be managed by my very good friend from California and to join in letting my colleagues know that he will be, by me, sorely missed. He has been a great friend and, I do appreciate the advice and counsel that he has given me over the years.

Let me say on this particular measure, Mr. Speaker, that as we look at this issue, it has been a long time in coming. Getting to this point has been a struggle, and I should say to my friends on the other side of the aisle that I can certainly relate to the level of frustration that those in the minority have felt, because having gone through four decades of serving in the majority, they find that they are not able to have quite the control that they did as now members of the minority.

But I believe that, as was the case when this bill first emerged from the committee, that it will in the end enjoy tremendous bipartisan support. The measure earlier this year had a tremendous number of votes. As I recall, there were only 80 some odd votes against the bill itself and 330 votes in support of it, and so the vote may not be identical to the earlier one, but I do believe that there will be Democrats and Republicans alike recognizing that this Congress has done more than past Congresses to deal with this problem of illegal immigration.

The American people have asked us to do it, and the 104th Congress has been result-oriented as we go through the litany of items from telecommunications reform, welfare reform, line-item veto, unfunded mandates. We have provided tremendous results, and this immigration bill is further evidence of that.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 165, not voting 14, as follows:

[Roll No. 430]

YEAS—254

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NAYS—165

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blumenauer
Bonior
Borski
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Barton
Diaz-Balart
Gibbons
Heineman
Lincoln
Mascara
Moran
Peterson (FL)
Pomeroy
Rohrabacher
Rose
Williams
Wilson
Young (FL)

□ 1327

Mrs. CLAYTON and Messrs. DEUTSCH, TORRES, LEWIS of Georgia, and LUTHER changed their vote from "yea" to "nay."

Mrs. JOHNSON of Connecticut, Ms. FURSE, and Mr. ARMEY changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1330

Mr. SMITH of Texas. Mr. Speaker, pursuant to House Resolution 528, I call up the conference report on the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. (Mr. RIGGS). Pursuant to House Resolution 528, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday September 24, 1996, at page H10841.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. SMITH] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report gives Congress the best opportunity in decades to address the illegal immigration crisis. Every 3 years, enough illegal aliens enter the country permanently to populate a city the size of Boston or Dallas or San Francisco. Classrooms bulge; welfare jumps; the crime rate soars. Innocent victims pay the price, and law-abiding taxpayers foot the bill.

This bill secures America's borders, penalizes alien smugglers, expedites the removal of criminal and illegal aliens, prevents illegal aliens from taking American jobs, and ends noncitizens' abuse of the welfare system.

By doubling the number of Border Patrol agents and securing our borders, we will protect our communities from the burdens imposed by illegal immigration: crime, drug trafficking, and increased demands on local police and social services. The benefits of securing our borders will be felt not only in border States but throughout the entire Nation.

If we cannot control who enters our country, such as illegal aliens, we cannot control what enters our country, such as illegal drugs. To control who enters, this bill increases criminal penalties for alien smuggling and document fraud. The Nation cannot allow alien smuggling to continue, especially since many alien smugglers are also kingpins in the illegal drug trade.

Illegal aliens should be removed from the United States immediately and effectively. Illegal aliens take jobs, public benefits, and engage in criminal activity. In fact, one-quarter of all Federal prisoners are illegal aliens. This bill will lower the crime rate, lower the cost of imprisoning illegal aliens, and make our communities safer places to live.

This legislation also relieves employers of a high level of uncertainty they face by streamlining the hiring process. It makes the job application process easier for our citizens and legal residents by establishing voluntary employment quick-check pilot programs in 5 States. The quick-check system will give employers the certainty and stability of a legal work force.

Since the beginning of this century, immigrants have been admitted to the United States on a promise that they will not use public benefits. Yet every year the number of noncitizens applying for certain welfare programs increases an astonishing 50 percent. America should continue to welcome those who want to work and produce and contribute, but we should discourage those who come to live off the taxpayer. America should keep out the welcome mat but not become a doormat.

This legislation also ensures that those who sponsor immigrants will have sufficient means to support them. Just as we require deadbeat dads to provide for the children they bring into the world, we should require deadbeat sponsors to provide for the immigrants they bring into the country. By requiring sponsors to demonstrate the means to fulfill their financial obligations, we make sure that taxpayers are not stuck with the bill, now $26 billion a year in benefits to noncitizens.

The provisions in this conference report are not new. These are the same reforms that passed the House on a bipartisan vote of 333 to 87, and in the Senate on a bipartisan vote of 97 to 3. And these are the same reforms that President Clinton has urged Congress to pass and send to his desk.

This bill will benefit American families, workers, employers, and taxpayers across the Nation, but especially in California, Texas, Florida, and other States that face the illegal immigration crisis on a daily basis.

Mr. Speaker, America is not just a nation of immigrants. It is a nation of immigrants committed to personal responsibility and the rule of law. It is time for Congress to stand with the American people and approve this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, we are dealing with a bill that is so flawed, we will need a lot of speakers to make it clear why Members should not support the immigration conference report that is now before them.

What we do to the environment is a crime. The National Environmental Protection Act is the Nation's founding charter for environmental protection, and this bill repeals that law, in effect, when it comes to border-related construction. That means when we are working on highways, roads, bridges, fences, that it is OK to ignore the environment. Do my colleagues really mean that?

This conference report means that border construction can pollute our public waterways anyway, dirty our air, create hazardous point sources that can create dangerous runoffs, and generally ignore any adverse environmental impact of that construction. Do my colleagues really want that in a conference report?

This is yet another Republican attack on the environment. If it pleases my colleagues on the Democratic side, I will offer a motion to recommit the conference report to correct these glaring wrongs.

The next matter that my colleagues should carefully consider is the part that deals with the American workers. What we are doing here is giving us a conference report, and the lack of procedure has been amply dealt with, but what we are doing now is that we are being told to take it or leave it. I think that this amendment process, which we were completely shut out of, deserves a no vote on the conference, regardless of anything Members may like about it.

It was the Republicans, I say to Chairman HYDE, that railed and railed about how unfair we were. It was the Speaker of the House, NEWT GINGRICH, that has railroaded every conference bill for the last year. We do not even come to conference and have a right to offer an amendment. The process alone deserves every Member of this House to reject this conference report on due process procedural grounds.

And then what about the discriminatory aspects of this bill? Not only do we weaken illegal immigration but we say yes to more discrimination, because we now have onerous material that was not even in the bad bill I opposed in committee and on the floor.

We now have included unilaterally provisions that tell employers that they may engage in practices of racial discrimination so long as it cannot be proved that they had intent to violate the law. Coming out of the Committee on the Judiciary, I think it is a very sad day for any legislation to come out doing this to the most sensitive problem in our society.

Vote "no" on the conference report.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 15 seconds and say that the last provision that the gentleman from Michigan referred to was in the Senate bill which passed by 97 to 3.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I listened to the last gentleman in the well and I am a little bewildered because we marked this bill up, it took us 9 days, and we dealt with 103 amendments, 39 of which were decided by rollcall vote. The bill, when we finally got it to the floor, passed 333 to 87 in the House and 97 to 3 in the Senate. Prior to introducing the bill, the House Immigration Subcommittee heard from more than 100 witnesses and the Democrats were present and participated fully. So the gentleman, I think, is mistaken.

In any event, this is among the most important pieces of legislation this Congress will handle. A country has to control its borders. A country has the right to define itself. I think this is a

good bill. It cannot please everybody, but it pleases a lot of people and I think it ought to pass.

I am pleased to speak in support of the conference report on H.R. 2202, because I believe it will facilitate major progress in addressing one of our Nation's most urgent problems—illegal immigration. In reconciling House and Senate versions of this landmark legislation, we provide for substantially enhanced border and interior enforcement, greater deterrents to immigration related crimes, more effective mechanisms for denying employment to illegal aliens, and more expeditious removal of persons not legally present in the United States.

The most difficult matter for the conferees to resolve concerned public education benefits for illegal aliens. Because public education is a major State function, the House had recognized the interests of each individual State in issues involving public school attendance at State taxpayer expense.

In that connection, we appreciated the fact that concerns about the welfare of unsupervised children and adolescents might lead many States to continue providing free public education to undocumented aliens—and we did nothing to discourage such choices at the State level. The compromise House and Senate conferees initially developed, both gave expression to the right of a State to choose a different course and extended important transitional protections to current students. Because of an explicit veto threat from the President, however, we subsequently decided that it would be preferable to address this entire issue in the context of other legislation rather than place at risk the many needed enforcement-related provisions of this bill.

The conferees also struggled with the issue of how to fairly and expeditiously adjudicate asylum claims of persons arriving without documents or fraudulent documents. We recognized that layering of prolonged administrative and judicial consideration can overwhelm the immigration adjudicatory process, serve as a magnet to illegal entry, and encourage abuse of the asylum process. At the same time, we recommended major safeguards against returning persons who meet the refugee definition to conditions of persecution.

Specially trained asylum officers will screen cases to determine whether aliens have a "credible fear of persecution"—and thus qualify for more elaborate procedures. The credible fear standard is redrafted in the conference document to address fully concerns that the "more probable than not" language in the original House version was too restrictive.

In addition, the conferees provided for potential immigration judge review of adverse credible fear determinations by asylum officers. This is a major change providing the safeguard of an important role for a quasi-judicial official outside the Immigration and Naturalization Service.

The conference document includes a House provision I offered in the Committee on the Judiciary to protect victims of coercive population control practices. Our law—which appropriately recognizes persecution claims in a number of contexts—must not turn a blind eye to egregious violations of human rights that occur when individuals are forced to terminate the life of an unborn child, submit to involuntary sterilization, or experience persecution for failing or refusing to undergo an abortion or sterilization or for resisting a coercive population control program in other ways. A related well-founded fear clearly must qualify as a well-founded fear of persecution for purposes of the refugee definition.

Our modification of the refugee definition responds to the moral imperative of aiding victims and potential victims of flagrant mistreatment. We also take a public stand against forcible interference with reproductive rights and forcible termination of life—a stand that hopefully will help to discourage such inhumane practices abroad.

This omnibus legislation includes a number of miscellaneous provisions that are responsive to a range of problems. For example, certain Polish applicants for the 1995 diversity immigrant program reasonably anticipated being able to adjust to permanent resident status; by facilitating their adjustment in fiscal year 1997 we effectively rectify a bureaucratic error. We also recognize the equities of certain nationals of Poland and Hungary who were paroled into the United States years ago—and thus entered our country legally—by affording them an opportunity to adjust to permanent resident status. I welcomed the opportunity to seek appropriate conference action in these compelling situations.

This omnibus immigration legislation makes major needed changes in the immigration and Nationality Act. The primary thrust of the conference document is to respond in a measured and comprehensive fashion to a multifaceted breakdown in immigration law enforcement. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT] who is completing his 14th year. He has served with great distinction in the Congress on a variety of committees, including the House Committee on the Judiciary.

Mr. BRYANT of Texas. I thank my good friend from Michigan for yielding me this time and for those nice remarks.

Mr. Speaker, the gentleman from Illinois [Mr. HYDE] and the gentleman from Texas [Mr. SMITH] have spoken of a bill that passed by wide margins. Indeed it did. But it is not the bill before the House today, and that is the whole point that we are making. It was changed radically before it even got to the floor by the leadership. It has been changed radically since, and that is why we say to Members today, vote for the motion to recommit but do not vote for this bill.

Members of the House, I was a cosponsor of this legislation. I stood in a press conference alongside the gentleman from Texas [Mr. SMITH] and said we have got to do something to reduce legal immigration and to reduce illegal immigration. With a great deal of criticism from many people on my side, I said we had to pass a bill, and I was for the bill we introduced. But that is not the bill that is before the House today.

We put together a bill that was to have reflected what the Barbara Jordan Commission recommended to us was to have been a bipartisan bill. It was going to be tough on employers that hire illegal aliens and include tough measures to stop illegal aliens from coming into the country and taking jobs.

But somewhere along the way, in the back rooms, the stuff that was tough on the folks that bring illegal aliens here, and that is to say, the employers that attract them here with a promise of jobs, somehow it disappeared, and in its place was put a list, a wish list offered up by lobbyists for the biggest employers of these illegal aliens in the country.

The bill that passed the House committee included 150 wage and hour inspectors that were asked for by the Jordan Commission. The Senate bill included 350. Why? Because people that hire illegal aliens also violate the wage and hour laws. Why? Because half of the jobs in this country that are lost to illegal aliens are lost to illegal aliens that did not get here by sneaking across the border. They are the ones that got here with a visa, but then they did not go home, they overstayed the visa. You can put a million Border Patrol agents at the border, but you are not going to find that one-half of the problem. The only way you are going to find it is with wage and hour inspectors. Those are gone from the bill. Why? Because some lobbyist for an employer somewhere wanted it done.

The bill eliminates the increased civil penalties for employers to tell them we are not going to put up any more with chronic violators of the laws that say you cannot hire people that are not citizens or are not here legally. Those enhanced civil penalties are gone. Why? Because the American people wanted them gone? Because the Jordan Commission said that they ought to be gone? Of course not. Because a lobbyist for an employer that hires illegal aliens came down here and said, "Mr. GINGRICH, you Republicans do your job and get us off the hook." And that is exactly what they did.

□ 1345

They also added into the bill gratuitous language that eliminates the anti-discrimination provisions in the current law. Not in the bill, but in the current law. We passed a bill in 1986. Many Hispanics said this is going to result in inadvertent discrimination against Americans who are of Hispanic descent because they are going to be confused with somebody who is here illegally.

The GAO, after the bill was passed, did a study and found that they were right, so we included in the law strong prohibitions on discriminating against people in the course of asking for a job by asking them for too many papers or giving them a hard time when they come to the workplace. The law says you can ask for one of several papers, and that is all you can do.

But now the Republican provision says it does not make any difference if you ask them for all the papers in the world. If you cannot prove you intended to discriminate against them,

you are not guilty of discrimination. That is a fundamental violation of the compact that we made between the groups in this country that make up our population, so that no one would be disadvantaged by the enforcement of a bill and law that is difficult to enforce. Well, it is gone.

The simple fact is this: What the employers that hire illegal immigrants wanted got done in this bill, and what working Americans who need to have their jobs protected, from being lost to illegal aliens, was not done. Worse, those that are the subject of discrimination, inadvertent or advertent, now have lost their protection.

Mr. Speaker, this is not a good bill. I can see the handwriting on the bill. I know it is an election year. Anti-immigration rhetoric is real good in an election year, and I am sure we are probably going to see a lot of folks coming down here thinking well, I should not vote for this, but I am probably going to have to. You do not have to. Vote for the motion to recommit. We fix all of these problems and a few I do not have time to mention. Vote for the motion to recommit. Vote against the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND], who has been such a fighter in our effort to reduce illegal immigration.

Mrs. SEASTRAND. Mr. Speaker, I rise in very strong support of the conference report to H.R. 2202. It has completely rewritten the laws regarding the apprehension and removal of illegal aliens and will fully fund initiatives to double the size of our Border Patrol and increase the level of immigration enforcement in the interior of these United States. It will implement a strategy of both prevention and deterrence at our Nation's land borders.

This legislation will require aliens who arrive at our airports with fraudulent documents to be returned without delay to their point of departure; making it far more difficult for aliens to enter the United States, either across our land borders or through our airports. It will also aggressively attack immigration-related crimes. It is going to increase penalties for alien smuggling and document fraud and expand the enforcement capacity against such crimes. It will also make it easier for employers to be certain that they are hiring legal workers by providing a toll-free worker verification number that employers may call to verify the eligibility of employees to work legally in the United States.

I will just tell you, America, and especially California, needs immigration reform, and we need it now.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], the senior member of the Committee on the Judiciary, who has worked with great diligence on trying to reform the bill.

Mr. FRANK of Massachusetts. Mr. Speaker, we have here Congress and American politics at its absolute worse. We have a very important issue, illegal immigration.

I worked for a very long time in a bipartisan way with departing Senator AL SIMPSON, whose departure I regret now even more than before, and others, in 1986 and in 1990 to fashion legislation in a bipartisan way to deal with this problem. Bipartisan, because this is not and ought not be an ideological issue. Some issues are legitimately partisan.

I was sorry to here hear the chairman of the Committee on the Judiciary defend the shabbiest legislative procedure I have ever seen here. Yes, we had full markups; yes, we had full debates. And then once we did, this bill disappeared into a series of secret meetings between the Republican House and Senate staffs, it seemed to me, with some input from the Members, and the Dole campaign, and virtually all of the things on which we seriously worked in committee disappeared, and others appeared.

Now, this is a popular issue, getting rid of illegal immigrants to the extent that we can, as it ought to be. Unfortunately, this is a bill which does not do nearly as much as it could to diminish illegal immigration, and, instead, as the gentleman from Texas noted, makes it a little easier than it used to be for people to take advantage of them once they are here.

This is a bill that says gee, it would be nice if there were not so many illegal immigrants, but as long as they are here, maybe we can get a little cheap work out of them. That is the general thrust.

But then it does other things. I want to talk about one thing that appeared that was in neither bill.

At the Republican Convention we had speakers who talked about AIDS and how terrible it is. When the Republican leadership amended the military bill to say that if you are HIV positive you would be forced out, that was recognized to be a mistake and it was repealed. But here they go again.

What they have done is to take the issue of illegal immigration, a popular issue, and use it as a shield behind which to do ugly things to vulnerable people. The gentleman from Texas pointed out the extent to which they are weakening the civil rights protection. Here is another thing they do. It was not in either bill. It has not been voted on, and in the most extraordinary arrogance ever seen, we were not allowed to offer an amendment on this or any other thing in the conference. Because I will give my Republican leadership friends credit, they know how embarrassing this is, and therefore they are determined not to let anyone vote on it, so they did it in a forum in which you could not vote.

They simply say, OK, we got a bill on illegal immigration. By the way, they are going to stick in a couple of these things, and you have no way to vote, other than no on the whole bill.

The one I am talking about has to do with people who are HIV positive. This bill says if you are a legal immigrant, you came here legally, and there has been some economic misfortune and you get very sick, you cannot take federally-funded medical care for more than a year. That in and of itself seems to me to be cruel and unfair.

But then they say, well, in the interest of public health, we do not want epidemics around, we will make an exception for communicable diseases. That was in the bill as it came out.

Then, in the mysterious darkness that they use instead of a conference report, they gave an exception to the exception. What is the exception to the exception? If you are here legally and you are HIV positive, you may not get any treatment if you need Federal funds. If you are here legally and you contracted this terrible illness, which they profess to think is something we ought to fight, then you are, by this bill, condemned to death, with no help, because you cannot get Federal assistance.

I guess when they tote up the death penalties that they want to take credit for, they ought to add one: Legal immigrants here with HIV illness.

They created an exception for communicable diseases, but then they created an exception to the exception, so that if you are here legally and you get HIV, no matter how, and, by the way, we have changed the law, I did not agree with it, but this is the law, no one is now challenging it, so if you are known to be HIV positive and we test you, you cannot come in. So we are not talking about becoming a magnet for people who are HIV positive to come here. There is already a limit on that. What we are talking about are people who are here and become HIV positive, or who are here and become HIV positive when they got here, and they are denied medical treatment for more than 12 months, which, of course, if you are HIV positive, is the medical treatment you need.

What is the reason for that? What is that doing in a bill to deal with illegal immigration? I am talking about illegal immigrants. They can be deported if they take advantage of this medical care. I do not think it is a good idea to deny medical care to people in need elsewhere.

But this? We said "Gee, we made a mistake. We should not kick people who are HIV positive out of the military." Should we kick them out of existence? Because that is what you do when you say to people who are here and do not have a lot of money and who are HIV positive, that you cannot get any medical treatment beyond 12 months.

I take it back. When they are about to die, then I guess they can get some.

This is an unworthy substantive and procedural piece of legislation, and it ought to be defeated.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from

Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of this legislation, and I commend the gentleman from Texas for his outstanding work, in working so hard to put together a bill that has had very, very difficult times getting different pieces of legislation included.

I agree with some of the Members on the other side that I would like to see legal immigration reforms. I would like to see an employer verification system that really will help employers screen out fraudulent documents. But it is time for us to do and see the good things that are in this bill.

So I strongly disagree with those who did not get one piece of legislation into this bill that they would like or dislike and are going to vote against the entire bill, which they admit has dozens and dozens of positive, good illegal immigration reforms dealing with cracking down on illegal entry at our borders, dealing with illegal overstays in the country, dealing with cutting off access to government benefits for people who are not lawfully in this country.

Mr. Speaker, I urge the support for this legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN], one of the only two medical doctors in the House.

(Mr. COBURN asked and was given permission to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, I just want to answer a couple of questions about this in terms of HIV in regard to AIDS. This bill does not deny treatment to legal immigrants that have AIDS. What it says is the government does not have a responsibility to pay for that treatment on non-U.S. citizens. I think if we poll the vast majority of the people in this country, I think they would agree with this.

The second thing is most Americans in this country pay for their own health care, either through a health plan, insurance payment, or working. They pay for their health care. We have created a class in this country that does not feel that it should pay for its health care on a disease that at this point in time the vast majority of which is a preventible disease.

The third point that I would like to make is that this bill does deny AIDS treatment to illegal immigrants, illegal. Yes, it does. Illegal immigrants, those people who are here illegally. So what we are saying with this bill is that if you have a sponsor and you are here legally, that sponsor should cover for your cost of the AIDS treatment.

Mr. BRYANT of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I understand why the gentleman did not want to yield. The bill does not say that legal immigrants can get AIDS treatment and illegal cannot. It gives disabilities to both of them for getting it with Federal funds. Anybody who can pay for it on their own the bill does not affect. The bill says with regard to legal and illegal immigrants, they cannot get it with Federal funds. The distinction between legal and illegal does not exist in the bill. The degree of penalty may be different. In both cases the bill says if you are here legally or illegally and you have HIV, you cannot be treated with Federal funds. That includes legal immigrants.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 15 seconds to say what the bill says, and that is it does not deny AIDS treatment to legal immigrants. It simply says the immigrant's sponsor, not the American taxpayer, should pay for the treatment.

Mr. BRYANT of Texas. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts. [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, it is a good sign that they are uncomfortable when it is described accurately. It does not just say you go after the sponsor. If you are a legal immigrant and you are treated, you can be deported for it. It becomes a deportable offense to be a sick person who gets treated if you have AIDS. At least describe accurately the harm you are inflicting on people.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, let me take 10 seconds out of the beginning of my short remarks here as a border State Congressman from California.

One of the greatest selling jobs of all-time was to take the behavioral conduct ring out of the word AIDS. If we were discussing this as what it is, a fatal venereal disease, and it had the ring of syphilis, which is no longer fatal, I do not think we would be going back and forth like this. We would say illegal immigrants cannot get treatment for syphilis, and if they are legal then their sponsor has to take care of it.

But because we have done this magnificent PR on the only fatal venereal disease in the country, we still go back and forth as though AIDS is a badge of honor. It shows you are a swinger and you are part of the in crowd in this country. Sad.

I cannot add anything to the brilliance of the gentleman from California [Mr. GALLEGLY] or the gentleman from Texas or the people who have worked out an excellent piece of legislation. I just, for my 5 grown children and my constituents, want to get up and say: Illegal-legal. Illegal is lawbreaking; law breakers have no rights in this country.

□ 1400

Mr. BRYANT of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I want to join my other colleagues in indicating how sorely I will miss my friend from Texas, who is really a great Member of Congress, and I am sorry he will be leaving this body.

The people of my congressional district and of southern California, and probably the entire country, desperately want us to do something effective to stop illegal immigration. It is wrong to conclude that the people who voted for Proposition 187 are racist or xenophobes. They are people who are looking at what has happened: The employer sanctions did not work, the other strategies did not work, the refusal or earlier administrations to fund the Border Patrol and the Congress to appropriate the money left the border essentially unprotected. They want something done.

The problem with this bill is it cons the American people into thinking major new steps are going to be done.

This President is the first President to put the money where the mouth is. He has proposed, and the Committee on Appropriations, to its credit, has funded massive increases in Border Patrol. He has initiated through Executive order an expedited procedure for asylum, which has reduced those frivolous asylum applications by 58 percent. We are depositing more criminal aliens and more illegal immigrants than we ever did before, and all the trend lines are up.

What the Jordan commission and every single independent academic study of this issue says, without a verification system we will never make employer sanctions meaningful. Nothing else. Nothing else is serious if we do not do that and make a commitment to do that.

Second, we know there are industries that systematically recruit and hire illegal immigrants, and for reasons that I do not know, the gentleman from Texas [Mr. BRYANT] has a theory which sounds plausible to me, this conference committee struck inspectors and investigators to cover those industries. We should not be conned.

Let me turn to what it does with legal immigrants. For the first time in American history, even when we had the moratoriums on immigration, a U.S. citizen, and, remember, this bill puts an income requirement on petitioning for spouses. An individual has to make 140 percent. Fifty-three percent of the unmarried American people do not make 53 percent, do not make 140 percent of the poverty standard. Mr. Speaker, 53 percent of the American people do not make it.

A graduate student woman in medical school, who is not making that money, falls in love and marries a physician in France. She cannot bring him in because, even though he is affluent, has all the assets needed, there is no indication in the world he will go on any government program, she cannot bring him in.

This is the stupidest as well as the meanest provision I can imagine. When

we had moratoriums on immigration in this country, we allowed U.S. citizens to bring in their spouses. Why would we want to change that now?

I urge a "no" vote on a bill that is soft on illegal immigration and harsh and mean on legal immigrants.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER], who has contributed so much to this bill.

Mr. HUNGER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for my friend who just spoke, let me set the record straight. When he claimed the Clinton administration has funded thousands and thousands of Border Patrol agents, Republican amendments have added 1,700 Border Patrol agents over the last 3 years above and beyond what the Clinton administration requested. President Clinton cut 93 Border Patrol agents in the fiscal year 1994 budget. We added 600. The next year we came with an additional 500, and the next year with an additional 400 agents.

The Clinton administration has been dragged kicking and screaming to the border. They have opposed the border fence every step of the way.

My last point is, even after they opposed the additional Border Patrol agents, President Clinton then sent his public relations people to San Diego to welcome the agents that he had opposed. If these people just linked arms, all the Clinton public relations people, we would not need a Border Patrol because they would stretch across the entire State.

Mr. BRYANT of Texas. Mr. Speaker, I yield 10 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I would say to my friend, the gentleman from California knows that no President has proposed more Border Patrol agents than this President. The Committee on Appropriations, not the authorizing committee, the Committee on Appropriations has funded those positions and more. He has signed those bills. We are doing more now than we ever did before.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY], the chairman of the House task force on illegal immigration.

Mr. GALLEGLY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, this is truly a humbling moment for me because this conference report is something that truly I wondered if we would ever see in this body.

I came to Congress nearly a decade ago, and since that time my overwhelming focus has been on two things: to stop the unchecked flow of illegal immigration in this country and to find a way to convince those that are already illegally in this country that it is time to go home. This conference report goes a long way toward accomplishing both of those objectives.

For many years many of us in California, Texas, and other States that have been disproportionately impacted by illegal immigration have been walking through the halls and through this body ringing alarm bells. We have been urging this Congress to wake up to the fact that our country is, in effect, under a full-scale invasion by those that have no legal right to be here yet who come by the thousands every day and consume precious social benefits that are denied every day to legal residents who are truly entitled to those benefits.

Today this is a different bell ringing in this Chamber, Mr. Speaker, and the bell is a bell of change. The passage of this conference report finally signals the willingness of this Congress to seriously address the issue of illegal immigration.

Mr. Speaker, we are a generous Nation, by far the most generous Nation on the face of the Earth. This legislation does not endanger or threaten that generosity but, in fact, it does nothing more than to preserve it.

The simple fact is that the greatest potential threat to legal immigration is illegal immigration. There are many who would see us close the front door to legal immigration because the back door to illegal immigration is off the hinges. We simply cannot allow this to happen. I believe this conference report goes a long way toward ensuring that it never will happen. I urge its passage.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me this time. I want to point out a couple of important health consequences from this bill.

In the welfare bill we excluded legal aliens from health care but we left those who are already patients to be covered under Medicaid. They are now excluded.

Second, we exclude any legal alien from any Medicaid services whatsoever. That is going to put a burden on the counties and the States and on the hospitals and on people who pay for private insurance when that insurance goes up, because a lot of people are still going to get care, but their care is going to have to be paid for by someone else.

On the AIDS issue, what we are doing is really a disastrous policy. This bill provides that all people can be tested but they cannot get care. Why would anybody want to come to know whether they are HIV positive if they cannot then get any medical care to assist them? They will rather be ignorant about it and spread the disease.

For those of us who call ourselves pro-life, understand that this bill would allow a pregnant women to be tested: but when she is determined to be HIV positive, she will not be allowed to have the Government pay for her AZT to stop the transmission of HIV, which is successful under this treatment to two-thirds of those children.

We will condemn babies to getting AIDS when it could have been prevented. That, to me, is antilife and nonsensical, and this bill smacks of a lot of injustices that have not been thought through.

I want to point this out to Members as another reason to vote against a very unjust bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, every substantive issue in the bill before us today has been voted on by the House or the Senate. I would say to my colleagues on the other side that even in welfare, many of them, no matter what we did, they would vote against it, both for political reasons and issue reasons.

In California over two-thirds of the children born in our hospitals are to illegal aliens. Members should take that into effect when they are talking about helping the poor and American citizens and taking away funds from Medicaid.

We have over 400,000 children K through 12. At $5,000 each to educate a child, that is over $2 billion. They should try to take that out of their State for education.

Some 70 percent of the environment is done at the State level. Members should think about $3 billion taken out of their States. They could not afford that.

This bill does not help all of those things. Prop 187, that the Gallegly amendment was in, passed by two-thirds in California. It has been taken out of this.

There are some things in here that I do not like as well, but I would ask my colleagues on the other side to think about how they could afford it in their States, and I think it would be very difficult.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I rise in strong support of this conference report and commend the gentleman from Texas, Chairman SMITH, for his great leadership in bringing this bill to the floor.

As legislators we work on an endless number of issues, but today we are addressing one of our Nation's most critical, that of protecting our borders. H.R. 2202 not only secures our borders with the addition of 5,000 new Border Patrol agents, it also streamlines the deportation of criminal aliens, protects American jobs and holds individuals responsible to support immigrants that they sponsor, and, finally, eases the tax burdens on all Americans.

It is no longer possible to ignore the magnitude of the illegal immigration problem. These reforms will go a long way toward restoring reason, integrity, and fairness to our immigration policy and to controlling our borders. Through the adoption of this conference report, the 104th Congress achieves another commonsense change for a better America.

Mr. BRYANT of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, this bill, which contains some valid provisions to enforce our immigration laws, has been poisoned with unconscionable provisions that violate fundamental American values.

The bill would deny treatment to people with AIDS but not to people with syphilis. It would promote discrimination in employment by removing provisions of Federal law, of present law, designed to prevent that.

The bill would not permit an American citizen, denied a job because the Federal Government made a computer mistake, from recovering damages. This is outrageous and will result in Americans being denied jobs and having no recourse.

The agreement will undermine American family values by curtailing the ability of American citizens to sponsor the entry of family members into the community.

The bill exempts the Immigration and Naturalization Service from our environmental laws, even though none of these laws have ever hindered the enforcement of immigration laws.

The bill will send genuine refugees back to their oppressors without having their claims properly considered. If a person arrives at the border without proper documents, the officer at the border can send that person back without a hearing. Guess who cannot get proper papers? Refugees. A refugee cannot go to the Gestapo and KGB and say: I am trying to escape your oppression, please give me the proper papers so I can go to America.

The bill eliminates judicial review for most INS actions. Just think, a Federal bureaucracy with no judicial accountability. When did the Republicans become such spirited advocates of unrestrained big government? No government agency should be allowed to act, much less lock people up or send them back to dictatorships, without being subject to court review.

□ 1415

Should we ensure that our immigration laws are respected and enforced? Of course. Do we need to undercut public health efforts, destroy our environment, debase our fundamental values, violate the rights of American citizens and waste taxpayer dollars on foolish or dangerous enterprises in order to enforce our immigration? Of course not.

This bill is not a credit to this country. I hope Members stand up for American values and vote "no."

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I support the passage of this important immigration conference report. The American people want and expect the Federal Government to do its job of controlling our borders. We have a strong obligation in protecting our citizens from illegal criminal aliens, who prey on them with drugs, and other crime-related activity.

I am particularly proud to support this immigration bill which includes some of my own initiatives directed at these serious threats from criminal aliens, engaged in both the illicit drug trade as well as international terrorism.

The first provision provides clear authority to our National Guard units to allow them to move criminal aliens facing deportation to INS deportation centers, when these aliens have engaged in drug related offenses. In the past, many States did so effectively with their National Guard units. My provision restores that vital authority to our National Guard as part of its counterdrug mission.

The National Guard can now help expedite the deportation out of the U.S. on Guard air flights of large numbers of these criminal aliens involved in the deadly drug trafficking in our communities after they serve their jail time, and before they can return to the streets, and once again in their trade in drugs. I hope many Guard units will do so.

The provision recognizes the limits on the INS's inability to individually transport numerous criminal aliens for deportation, using INS personnel on commercial flights. We have provided one more effective tool in the war on drugs, the use of our National Guard in the deportation of criminal aliens involved in drugs.

Nearly one-fourth of our Nation's jail cells in the United States, are occupied by criminal aliens, mostly those who have engaged in drug related offenses. We need more effective and creative tools to handle this crisis. I hope that our State and local authorities and the INS takes advantage of this assistance that the National Guard can provide.

New York City Mayor Giuliani on "Face the Nation" recently said it best with regard to our Nation's drug crisis, including criminal aliens, on what the Federal Government can best do to combat the serious drug problems facing our cities and local communities:

What the Federal Government could do is to deport more of the illegal drug dealers that we have in our city (sic) unfortunately, very few deportations take place of the people who are actually selling drugs who are illegal immigrants and that would be very helpful.

My provision helps do just that. Senator Dole has wisely urged an even greater role for our excellent National Guard already involved in the battle against illicit drugs. Today we provide the first installment on Senator Dole's wise call for additional Guard action.

My other provision in the conference provides for criminal asset forfeiture penalties for visa and passport fraud and related offenses surrounding misuse or abuse of these key entry and travel documents.

Nine of the original indictable counts in the World Trade Center terrorist bombing involved visa or passport fraud. It was clear that those responsible for that bombing misused our travel and entry documents to facilitate their deadly terrorist blast. By this measure we have made those who would make and help create fraudulent visas and passports to promote terrorism and drug smuggling here at home, subject to even tougher penalties.

The potential loss of the printers, copiers, buildings, and large financial proceeds of this massive illicit business in key U.S. travel and entry documents, should help further deter terrorism and other criminal activity, facilitated by these fraudulent travel documents.

Although this is a good bill, I am hopeful that the sponsors will review provisions in the conference report that would greatly expand "deeming" for legal immigrants beyond the compromise agreed to in the recently enacted welfare bill, which combines the income of the immigrant and the sponsor for Medicaid eligibility determination. Regrettably, the deeming provisions may adversely affect many States with high immigrant populations, including New York, which are implementing welfare reform. The result may potentially cause a marked increase in the amount of uncompensated care for area hospitals and increase the costs of the Ryan White treatment program. I have brought this issue to the attention of Chairman SMITH and have asked him to consider the contention that confusion is likely to result as the States implement the language of the two bills and I thank him for that consideration.

Accordingly, Mr. Speaker, I am pleased to support the conference report, and urge its adoption.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of this conference report. Today when this bill passes, the American people will be able to judge for themselves who is on their side and who is for draining dollars meant for our people, draining those dollars away from American families and taking them and giving them to foreigners who have come to this country illegally.

We have had to fight for years, first through a democratically controlled Congress and now this administration which has fought us and dragged us by the feet every step of the way but we have finally got a bill to the floor.

Giving illegal aliens benefits that should be going to our own people is a betrayal of our people. People who are sick, they come to our borders. Yes, we care about them. I do not care if it is AIDS or tuberculosis. But if someone is sick and illegally in this country, they should be deported from this country to protect our own people instead of spending hundreds of thousands of dollars that should go for the health benefits of our own citizens. The question is, To whom do we owe our loyalty? Who do we care about? The American people should come first.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY] who actually lives on the border and faces the crisis of illegal immigration every day.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of this conference report. I would like to thank Chairman SMITH and Chairman SIMPSON for the leadership they have shown on this bill. I would also like to commend Senator FEINSTEIN of California for her commitment to make the conference report work and encourage the President to sign it into law.

I think that the public is sick and tired of seeing the partisan fighting on important issues such as this. Senator FEINSTEIN had a major concern about one portion of the bill, part of the bill I feel strongly about, and that is the issue of the mandate of the Federal Government that we give free education to illegal aliens while our citizen and legal resident children are doing without. But, Mr. Speaker, this Member, and I think the American people, are not willing to kill this bill because of a single provision.

I think there are those who will find excuses to try to kill this bill and try to find ways not to address an issue that has been ignored for over a decade.

We must not forget that California has been disproportionately hit with paying $400 million a year in emergency health care, $500 million for incarceration costs, and $2 billion in providing education for illegal aliens in our State.

Congress must still recognize that these are federally mandated costs and it is up to the Federal Government to either put up or shut up in ending these unfunded mandates.

Thank you, Mr. Speaker, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM], chairman of the Subcommittee on Crime.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, I rise in support of this bill today. It is a very, very fine product. H.R. 2202 is a much needed boost to our efforts against illegal immigration.

Included in the bill are 5,000 new border patrol agents, more INS agents to track alien smugglers and visa overstayers, more detention space for illegal aliens, and the list goes on and on.

I am most pleased that many of the asylum reform provisions that we have needed for years and I worked on with the gentleman from Texas for years are now in this bill. We have very generous asylum laws but now we are going to have provisions that make it a lot more difficult for somebody to come here and claim that they have a fear of persecution if they are sent back home to their native country, when they really do not, and be able to overstay and stay and get lost in our country and never get kicked out. Instead we have got a provision that I think is very fair for summary and expedited exclusion which, by the way, is already law as a result of the antiterrorism bill earlier this year but which we are making much more livable and a better product today.

Also we have in here some efforts to try to get document fraud under control. We lessen the number of documents used in employer sanctions where we attempt to cut off the magnet of jobs by a 1986 provision that makes it illegal for an employer to knowingly hire an illegal alien. There were far too many documents that could be produced to get a job. Now we have reduced that number to a manageable number.

What is left to be done is we need to find a way to get document fraud out of it. I think that some steps are taken in this bill, not enough, and I have introduced another separate piece of legislation I hope passes the next Congress to make the Social Security card much more tamper-proof than it is today.

We also have some provisions in here I think are important with regard to Cuba. We have allowed the Cuban Adjustment Act to continue to operate and with regard to the expedited exclusion issue, we have made a special provision so that those Cubans who arrive by air are going to be not subject to that particular provision.

We have also taken care of student aid problems that were earlier in this bill, whereby if you are deemed to have the money value in your pocket of your sponsor, you no longer will be in the case of education, at least for student aid purposes, excluded from those benefits.

The bill is an excellent bill. I urge my colleagues to adopt it and we need to send it down to the President and get it put into law.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, for generations immigrants have played a vital role in our economy, but today immigrants play the role of villain in the Republican's morality play. By exploiting a false image of millions of illegal immigrants crossing the border into the United States, NEWT GINGRICH and his Republican allies have crossed the border from decency to indecency.

After all, under this bill the simple idea of uniting with your closest family members will become a luxury that only the wealthiest will be able to afford. The Republicans say they want to get tough on crime, so how do they do that? Under this bill legal immigrants are deportable for the crime of wanting to improve their education to adding something to this country. That is right, under this bill if you are a legal immigrant and you use public benefits, including a student loan for more than a year, you are shown the door. What does that accomplish? It means that we throw our young people who are taking steps to gain an education and job skills and, yes, improve their English skills also. It means that this bill does not simply punish immigrants, it punishes all Americans who benefit from contributions that immigrants make to our Nation. Let us defeat this sad, cynical, and shortsighted legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HORN].

(Mr. HORN asked and was given permission to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, legal immigration, yes; illegal immigration, no. Californians and residents of other border States have been fighting illegal immigration for years. It took the current Republican majority to take a serious look at this issue. Do not listen to the charges of those who oppose this bill. It is not cruel to ask immigrants and their sponsors to live up to their obligations. It is not heartless to try to put some teeth in our immigration laws. It is a pretty sad day when you can jump a fence, have more rights in this side of the border than when you are coming through legally. We need to protect legal immigration.

Recently I held a hearing near the border. Our border in southern California is still a sieve. They have simply moved the problem 40 miles east. They refuse to indict those that are coming over with drugs. And generally it is chaotic still. What it means, we had gained more congressional seats but that will not be good for everybody east of California, I am sure. So I would hope we would have the help of our colleagues throughout this Chamber because this is a national problem, not just a Southwest, Southeast problem.

Mr. BRYANT of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I want to commend the chairman and the ranking member. They worked very hard with this bill. There are still some problems. The common perception is that once you get the Gallegly amendment out, the bill is OK. The problems are still there and more work is needed on this bill.

The Endangered Species Act, nobody has talked about it today, but it is part of this package. In other words, the Environmental Policy Act and the Endangered Species Act are waived if we are talking about construction of roads and barriers at the border. That is not right.

Mr. Speaker, this bill also rolls back three decades of civil rights policy by establishing an intent standard. It exacerbates the results and the effects of the welfare reform law but now it seems that we are castigating legal immigrants.

This bill includes back-door cuts in legal immigration by establishing a

new income standard. It guts the American tradition we have always had to refugees by including summary exclusion provisions that are going to require instant return of any refugee.

Perhaps, most importantly, what this bill does is it is tougher on legal immigrants and American workers than on illegal immigration. It makes life harder for American workers and easier for American businesses. Eliminated are provisions in the bill to increase the number of inspectors for the Department of Labor to enforce worker protections, the Barney Frank amendments that allowed us in the past to vote for this bill. This bill also strips authority from the courts with provisions that will eliminate the power of the courts to hold the INS accountable and eliminate protections against error and abuse.

I want to return to the Barney Frank provisions that allowed many civil libertarians, those concerned with civil rights, when we passed very tough employer sanctions in the old immigration bill, to support this bill because we knew there would be recourse if there was discrimination. All of these inspectors, all of these that enforce civil rights provisions are eliminated from this bill. That is a key component that is going to hurt American workers.

This bill eliminates also longstanding discretionary relief from deportation that will say to American family members of immigrants being deported that you get no second chance. I know there are enormous pressures for dealing with illegal immigration bill. There are political pressures that are very intense. But we should not allow the politics and the fact that this is a wedge issue to prevent us from doing the right thing. The right thing is that this bill needs more work. We do want to have strong measures against illegal immigration. There are a lot of provisions here in the bill that are good, that make sense. But the attack on legal immigrants, American workers, right now, is stronger than on illegal immigration. Therefore, I think that we should reject this bill. Give it one more shot.

There is additional time. I understand we will be in next week now. Let us do the right thing. Let us defeat this conference report.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore (Mr. BILBRAY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, several times today, various opponents have mentioned that we do not have in this legislation the Department of Labor inspectors.

□ 1430

But I want to remind them that they have already lost that argument twice. That provision was taken out on the House floor by amendment, and then subsequent to that we passed the House bill without those inspectors in it. That means two times it has come before this body and two times the Members have spoken.

The point is that we have already debated that, we have already voted.

The other thing about the inspectors that seems to be conveniently overlooked is that in this bill we have added an additional 900 inspectors, 300 each year for 3 years, and these are INS inspectors. It makes far more sense to have Immigration and Naturalization Service inspectors enforcing immigration laws than the Department of Labor.

And, Mr. Speaker, I also want to itemize some of the provisions that are in this bill that might have been overlooked.

We have heard tonight by Members on both sides of the aisle that this bill doubles the number of Border Patrol agents over the next 5 years. That is the largest increase in our history.

It also streamlines the current system of removing illegal aliens from the United States to make it both quick and efficient.

It increases penalties for alien smuggling and document fraud.

It establishes a three-tier fence along the San Diego border, which is the area with the highest number of illegal border crossings.

It strengthens the public charter provisions and immigration laws so that noncitizens do not break their promise to the American people not to use welfare.

It ensures that sponsors have sufficient means to fulfill their financial support obligation.

It also strengthens provisions in the new welfare law prohibiting illegal aliens from receiving public benefits, and it strengthens penalties against fraudulent claims to citizenship for the purposes of illegally voting or applying for public benefits.

Lastly, Mr. Speaker, I just want to say that I know my friend from Texas, Mr. BRYANT, opposes this bill, but I still want to say that he deserves public credit for many of the provisions still in the bill that he would consider beneficial, even if he does not consider the entire bill beneficial.

Mr. Speaker, I just want to continue the comments I was making a while ago and express to the gentleman from Texas [Mr. BRYANT] my appreciation for his constructive role in the process. Even if he cannot support the entire bill, he has played a significant role in getting us to this point, and especially at the beginning when he was a cosponsor of this bill.

Lastly, Mr. Speaker, I want to make the point once again that the opponents who we are hearing from this afternoon do not represent a majority of their own party. They certainly are entitled to try to kill this bill or block the bill or defeat the bill, but we have every right, those of in the majority, to try to pass this legislation.

The reason I say that they do not even represent a majority of their own party is simply because every major provision in this conference report, which is itself a compromise, is the result of either the House passage of the bill which passed by 333 to 87, or the Senate immigration bill which passed by a vote of 97 to 3.

So there is wide and deep bipartisan support for the provisions in this bill, and I expect to see that bipartisan support continue when the bill comes on a conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume, only to say that I once again take issue with this characterization of the bill. This is not the bill that the House voted on; it is not the bill the Senate voted on. It is a bill that the Republicans spent 4 months behind closed doors cooking up so it would serve their electioneering and political interests this year.

The fact of the matter is that this bill now does not have wage and hour inspectors in it which are necessary, it does not have the subpoena authority for the Labor Department which is necessary, it does not have the requirement that employers participate in the verification project. In other words, they have done exactly what the employers wanted them to do so that the draw of illegal aliens into this country, which is to get a job, has not been effective.

Oh, yes, we are talking about more people on the border if the Committee on Appropriations goes along with this. That sounds good. I am certainly for that. But the only way we are ever going to solve this problem is to deal with the fact that there are people out there who habitually hire illegal aliens, and we had many, many inspectors in the House committee, had many, many inspectors in the House committee version, the 150. We had 350 in the Senate bill. They are gone. Of the enhanced penalties that we had in the bill, the enhanced penalties that we had in the bill so that habitual offenders would suffer for their acts have now been removed.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the chairman of the subcommittee has given the perfect rationale for voting against the bill and for our motion to recommit. He says many of these provisions are here in part because of the gentleman from Texas, the ranking member. That is exactly right, and if this bill had only those provisions, it would not be controversial. He has conceded the point.

There is a core of agreement on measures to restrict illegal immigration that would not be controversial.

But here is what happens, and people should understand people sometimes think the party does not mean anything. Yes, party control means something. The Republicans are in control of this Congress. That means their ideological agenda and the interest groups that they are most interested in get served.

What that means is that we do not get a chance to vote just on the bill dealing with illegal immigration. It comes with illegal immigration and an unbreakable format, a conference I have never seen before, where the chairman just decided no amendments would be allowed because he is afraid to have his members vote on these things.

Other provisions are there. Well, what are the other provisions? One provision reaches back to antidiscrimination language. It has nothing to do with illegal immigration. We have said that we feared, when we put employer sanctions into the law, that this would lead to discrimination against people born in America who were of Mexican heritage. The GAO said, "You're right, it's happened." What they have done in this bill is to reach back to that section not otherwise before us and made it much harder for us to protect those people against discrimination.

Then we will have a recommit to undo that. My colleagues could vote for the recommit and it will not effect their commitment on illegal immigration.

With regard to the people with AIDS, that is a provision that was in neither bill. The gentleman from Texas who does not want to defend things on the merits says, "Well, the majority is with me." Well, that was not in the House bill, and it was not in the Senate bill. It is an add-on in that secret conference that they had.

What this bill does is to weaken our enforcement powers against those who employ people who are here illegally and then, serving the Republican ideological agenda, says "If you're here legally and you have AIDS, you may die if you need Federal funds because you will get none. If you are a Mexican-American born here, we will make it easier for people to discriminate against you. If you are an American legally eligible to work and the Government falsely certifies that you weren't and makes a mistake, in the House version of the bill we had a protection for you." In this version of the bill there is none. if they apply for a job, having been born in this country, and they are turned down because the government inaccurately reported that they were not eligible to work, they have no recourse. Our bill would have given some recourse.

This bill protects the employers. This bill makes it harder if someone is a potential victim of discrimination, or if they are a perfectly legal resident of the United States with AIDS, including a child. Children with AIDS who are not yet eligible to become citizens, children who are brought here; they did not sneak in, not these terrible people my colleagues are worried about, children who are here with AIDS are denied Federal health benefits in certain circumstances by this bill. That is shameful.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the States have indicated that there is likely to be confusion in the interpretation of title V of this bill in the recently enacted welfare bill. The intent of some of the provisions in title V may need to be addressed in the later bill. Until that time the States should be held harmless on issues which are ambiguous.

However, the immigration bill is not intended to change in any way the eligibility provisions in the recent welfare bill. Non-citizens are not eligible for SSI or food stamps, and future immigrants are not eligible for Medicaid as well as for their first 5 years, and this bill simply does not change that.

Mr. Speaker, I also on a different subject want to reiterate the fact that all of us who are strong supporters of this bill also are strong supporters of employer sanctions. That is why in this bill we have increased Interior enforcement, we have increased the number of INS inspectors, we have increased the penalties, and we have this quick-check system that will allow employers to determine who is eligible to work and who is not.

So this bill goes exactly in that direction, which of course is supported by a majority of the American people as well.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I come before the House today, as we debate this immigration reform legislation, from a State that has been impacted and sometimes devastated by a lack of a national immigration policy.

I notice we have some reforms in here, and there are some good reforms. We are doubling the number of Border Patrol, but also in this we are also restricting some payments, some benefits, to illegal aliens, and we should go even beyond that.

But I tell my colleagues that unless we stop some of the benefits, unless we demagnetize the magnet that is attracting these folks to come to our shores—we can put a Border Patrol person every 10 yards across our border, and we will not stop the flow because people will come here because of the attraction of the benefits.

How incredible it is that we debate whether we give education benefits or medical benefits and legal benefits and housing benefits and other benefits to illegal aliens and even legal aliens in this country when we do not give the same benefits in this Congress, and that side of the aisle has denied them to our veterans who have served and fought and died for this country in many cases, or their families, and to our senior citizens. So this is a much larger debate.

Finally, my colleagues, we must have a President who will enforce the laws, and we have not had a President who will enforce the immigration laws, and we have a new policy every day, and we cannot live that way.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute 15 seconds to the gentleman from California [Mr. TORRES].

(Mr. TORRES asked and was given permission to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, I rise to voice my strong opposition to this so-called immigration reform bill. There must be some confusion over what immigration actually means, over what immigration actually is. The dictionary defines immigration as "coming into a country of which one is not a native resident."

Basic logic tells us that any attempt to reform immigration should address those issues that directly relate to immigration: strict border control, effective verification of citizenship, and penalizing those businesses and industries who knowingly employ undocumented immigrants.

Most Americans would agree with those goals. But this bill goes way beyond these sensible, logical goals. Instead, it attacks the very principles upon which this country was founded. America's Founding Fathers built this country on the principles of fairness and equality, on honoring the law and creating safeguards against any kind of discrimination. Throughout history, our country has welcomed those immigrants who play by the rules, pay their taxes, and contribute to our cherished diversity.

But this bill ignores those traditions and attacks the very people who we say are welcome—legal immigrants. The welfare bill effectively stripped legal residents of many safeguards, and this bill goes on to clean up what the welfare bill missed.

Under this bill, legal immigrants who enter the country and begin the process of living the life of an American resident would lose the protections guaranteed by the Constitution.

Employers would be given the go-ahead to discriminate by a bill that does not enforce current immigration requirements and citizenship verification. Employers would be allowed to exploit workers by weakening civil rights protections and gutting wage and law enforcement.

This bill is not about immigration reform, it's about punishing women and children who play by the rules and represent the very best in our country. Most legal immigrants work hard for low to moderate wages, with little or no health insurance. Should the family need Federal assistance, too bad. Because if one of these workers ends up in the hospital and cannot pay his bill, and the sponsor cannot pay his bill,

that worker will be deported. Never mind that he has been paying taxes for the past few years. Suddenly, it just doesn't matter that he has contributed to our economy and has followed our laws.

It doesn't stop there. It isn't just the worker. It's his family, his children. If his child needs medical care and he can't pay, his tax money suddenly isn't available. This bill sends the child to school sick, with the fear of deportation always looming in the background.

Legal immigrant children must have their sponsor's income deemed for any means-tested program. This effectively bars these children from child care, Head Start, and summer jobs and job training programs.

What does reducing a legal resident's access to health care and Federal benefits have to do with restricting illegal immigration I would argue—nothing. Absolutely nothing. Because this is not about reducing illegal immigration. If it were, I would not be standing before you asking these simple questions.

For these reasons, I encourage my colleagues to oppose this blatant offense to our sense of fairness, justice, and equal protection for every American resident.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, let us talk about playing by the rules.

If this bill is not passed, those who have broken immigration law and entered this country legally have more rights than those who are waiting patiently at the ports of entry to enter into this country. That kind of confuses me, because my colleagues on the other side of the aisle have no problem with an immigration agent turning away somebody at the port of entry if they are coming to a legal port of entry, without a judge's rulings, without court cases, without lawyers. But if somebody jumps the fence, breaks the law, then they want to continue to empower these people with more rights than those who are playing by the rules.

□ 1445

I have to say, this is the absurdity of Washington, that we are even discussing this issue. But they are saying, what if this legislation passes, what could happen?

Let me tell the Members, as somebody who lives on the border, let me say what happened today and what has happened in the past. San Diego County, when I was a supervisor, spent $30,000 sending people back to foreign countries in body bags, because of how many people are dying because of this problem.

The fact is, there are law-abiding citizens who are doing without in their hospitals because the Federal Government is actively dumping patients onto working-class hospitals and expecting those communities to pay the bill that Washington has played the deadbeat dad and walked away from. This bill will finally correct that.

Mr. Speaker, I think the chairman of the committee said quite clearly, we want to have a welcome mat out for legal immigration, but there is a difference between having a welcome mat and being a doormat. Our taxpayers have a right to expect that citizens do have rights and should be first in our priorities for social programs and for the taxpayers' dollars; the fact that illegal aliens should not be given preference over legal residents and citizens.

Mr. Speaker, if our colleagues from the other side of the aisle want to walk away from this issue, then they are walking away from a major mandate, not just from the people of California, but across this country. We had bipartisan support at finally addressing the issue of the absurdity of welfare, and we passed a welfare reform bill the President signed. It is time to be bipartisan. Pass this bill. Give the President the chance to sign this bill, too.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I commend the chairman of the subcommittee for his hard work on H.R. 2202.

Mr. Speaker, let us just say everybody is in bipartisan support of this bill. The House passed the bill 333 to 87. The Senate bill passed 97 to 3. This bill secures our borders, cuts crime, protects American jobs, and saves taxpayers from paying billions of dollars in benefits to noncitizens.

The conference report doubles the number of Border Patrol agents, expedites the removal of illegal aliens, increases penalties for alien smuggling and document fraud, prohibits illegal aliens from receiving most public benefits, and encourages sponsors of legal immigrants to keep their commitment of financial support.

My grandmother came from Poland with a sponsor, a job, and a clean bill of health. We should expect no less from any other person coming to this country. We must stop illegal immigration. We must stop the waste of Treasury dollars towards people who come here illegally. We need to clean up our communities. This bill goes a long way to doing it.

Again, I commend the gentleman from Texas for his leadership on this issue.

Mr. SMITH of Texas. Mr. Speaker, I yield 15 seconds to the gentleman from Florida [Mr. STEARNS].

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would just say to my colleagues, coming here the wrong way is not the American way. I support this bill. I compliment the gentleman from Texas [Mr. SMITH] for the work he has done.

As a Representative from a State heavily impacted by our Nation's immigration policies, I strongly urge all of my colleagues to support the immigration in the national interest conference report. The sweeping reforms in H.R. 2202 will stem illegal immigration, secure our borders, and encourage personal responsibility for legal immigrants.

While America is a nation of immigrants, its borders must be protected from illegal immigrants. According to INS there are 4.5 million illegal aliens in the United States. By doubling the number of border patrol agents, H.R. 2202 protects legal residents from the social and economic burdens of illegal immigrants.

H.R. 2202 improves legal immigration policies to ensure those who sponsor immigrants have the means to support them. If we don't require sponsors to fulfill their financial obligations, taxpayers will continue to pay $26 billion annually for legal immigration. Sponsors must honor their obligations so legal immigrants may become self-reliant, productive residents of the United States rather than dependents of the welfare state.

Again, I urge all of my colleagues to support H.R. 2202.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas [Mr. BRYANT] is recognized for 15 seconds.

Mr. BRYANT of Texas. Mr. Speaker, I simply want to say that Members should vote for the motion to recommit. All of the things that will strengthen this bill are in it, plus the things that have been talked about by the other side.

Second, I regret the gentleman from Texas [Mr. SMITH] and I we did not work together on this bill at the end. He is a good friend of mine. I appreciate so much the spirit in which we began. I look forward to working with him on something we agree on in the future. I thank the gentleman very much.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. SMITH] is recognized for 1 minute and 30 seconds.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Texas for his generous comments. I feel the same.

Mr. Speaker, for the sake of American families, American workers, and American taxpayers, we have to pass immigration reform right now. To secure our borders is a worthy effort. If we secure our borders, we are going to reduce crime, we are going to reduce the number of illegal aliens coming into the country, we are going to protect jobs for American workers, and we are going to save taxpayers billions and billions of dollars.

In addition to that, we have to distinguish and say to legal immigrants, we want you if you are going to come to contribute and work and produce, but you cannot come to take advantage of the taxpayer. I urge my colleagues to vote for this conference report, and against the motion to recommit.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. BRYANT of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BRYANT of Texas moves to recommit the conference report on the bill H.R. 2202 to the committee of conference with instructions to the managers on the part of the House to take all of the following actions:

(1) ENHANCING ENFORCEMENT OF PROTECTIONS FOR AMERICAN WORKERS.—

(A) Recede to (and include in the conference substitute recommended by the committee of conference, in this motion referred to as the "conference substitute") section 105 of the Senate Amendment (relating to increased personnel levels for the Labor Department).

(B) Recede to (and include in the conference substitute) section 120A of the Senate Amendment (relating to subpoena authority for cases of unlawful employment of aliens or document fraud).

(C) Recede to (and include in the conference substitute) section 119 of the Senate Amendment (relating to enhanced civil penalties if labor standards violations are present).

(2) PRESERVING SAFEGUARDS AGAINST DISCRIMINATION.—

(A) Disagree to (and delete) section 421 (relating to treatment of certain documentary practices as unfair immigration-related employment practices) in the conference substitute and insist, in its place, and include in the conference substitute, the provisions of section 407(b) (relating to treatment of certain documentary practice as employment practices) of H.R. 2202, as passed the House of Representatives.

(B) Disagree to (and delete) section 633 (relating to authority to determine visa processing procedures) in the conference substitute.

(C) Insist that the phrase "(which may not include treatment for HIV infection or acquired immune deficiency syndrome)" be deleted each place it appears in sections 501(b)(4) and 552(d)(2)(D) of the conference substitute and in the section 213A(c)(2)(C) of the Immigration and Nationality Act (as proposed to be inserted by section 551(a) of the conference substitute).

(3) PRESERVING ENVIRONMENTAL SAFEGUARDS.—Disagree to (and delete) subsection (c) of section 102 (relating to waivers of certain environmental laws) in the conference substitute.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BRYANT of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 179, nays 247, not voting 7, as follows:

[Roll No. 431]

YEAS—179

Abercrombie	Gejdenson	Nadler
Ackerman	Gephardt	Neal
Andrews	Gonzalez	Oberstar
Baldacci	Green (TX)	Obey
Barcia	Gutierrez	Olver
Barrett (WI)	Hall (OH)	Ortiz
Becerra	Harman	Owens
Bellenson	Hastings (FL)	Pallone
Bentsen	Hefner	Pastor
Berman	Hilliard	Payne (NJ)
Bevill	Hinchey	Payne (VA)
Blumenauer	Holden	Pelosi
Bonior	Hoyer	Pomeroy
Boraki	Jackson (IL)	Poshard
Boucher	Jackson-Lee (TX)	Rahall
Brown (CA)	Jacobs	Rangel
Brown (FL)	Jefferson	Reed
Brown (OH)	Johnson (SD)	Richardson
Bryant (TX)	Johnson, E. B.	Rivers
Campbell	Johnston	Ros-Lehtinen
Cardin	Kanjorski	Rose
Chapman	Kaptur	Roybal-Allard
Clay	Kennedy (MA)	Rush
Clayton	Kennedy (RI)	Sabo
Clyburn	Kennelly	Sanders
Coleman	Kildee	Sawyer
Collins (IL)	Kleczka	Saxton
Collins (MI)	Klink	Schroeder
Conyers	LaFalce	Schumer
Costello	Lantos	Scott
Coyne	Levin	Serrano
Cummings	Lewis (GA)	Sisisky
Danner	Lipinski	Skaggs
de la Garza	LoBiondo	Slaughter
DeFazio	Lofgren	Spratt
DeLauro	Lowey	Stark
Dellums	Luther	Stokes
Deutsch	Maloney	Studds
Diaz-Balart	Manton	Stupak
Dicks	Markey	Tejeda
Dingell	Martinez	Thompson
Dixon	Matsui	Thornton
Doggett	McCarthy	Thurman
Doyle	McDermott	Torres
Durbin	McHale	Torricelli
Edwards	McKinney	Towns
Engel	McNulty	Velazquez
Eshoo	Meehan	Vento
Evans	Meek	Visclosky
Farr	Menendez	Volkmer
Fattah	Millender-McDonald	Ward
Fazio	Miller (CA)	Waters
Fields (LA)	Minge	Watt (NC)
Filner	Mink	Waxman
Flake	Moakley	Wise
Flanagan	Mollohan	Woolsey
Foglietta	Moran	Wynn
Ford	Morella	Yates
Frank (MA)	Murtha	Zimmer
Frost		
Furse		

NAYS—247

Allard	Baker (CA)	Bartlett
Archer	Baker (LA)	Barton
Armey	Ballenger	Bass
Bachus	Barr	Bateman
Baesler	Barrett (NE)	Bereuter
Bilbray	Goodling	Orton
Bilirakis	Gordon	Oxley
Bishop	Goss	Packard
Bliley	Graham	Parker
Blute	Greene (UT)	Paxon
Boehlert	Greenwood	Peterson (MN)
Boehner	Gunderson	Petri
Bonilla	Gutknecht	Pickett
Bono	Hall (TX)	Pombo
Brewster	Hamilton	Porter
Browder	Hancock	Portman
Brownback	Hansen	Pryce
Bryant (TN)	Hastert	Quillen
Bunn	Hastings (WA)	Quinn
Bunning	Hayes	Radanovich
Burr	Hayworth	Ramstad
Burton	Hefley	Regula
Buyer	Herger	Riggs
Callahan	Hilleary	Roberts
Calvert	Hobson	Roemer
Camp	Hoekstra	Rogers
Canady	Hoke	Rohrabacher
Castle	Horn	Roth
Chabot	Hostettler	Roukema
Chambliss	Houghton	Royce
Chenoweth	Hunter	Salmon
Christensen	Hutchinson	Sanford
Chrysler	Hyde	Scarborough
Clement	Inglis	Schaefer
Clinger	Istook	Schiff
Coble	Johnson (CT)	Seastrand
Coburn	Johnson, Sam	Sensenbrenner
Collins (GA)	Jones	Shadegg
Combest	Kasich	Shaw
Condit	Kelly	Shays
Cooley	Kim	Shuster
Cox	King	Skeen
Cramer	Kingston	Skelton
Crane	Klug	Smith (MI)
Crapo	Knollenberg	Smith (NJ)
Cremeans	Kolbe	Smith (TX)
Cubin	LaHood	Smith (WA)
Cunningham	Largent	Solomon
Davis	Latham	Souder
Deal	LaTourette	Spence
DeLay	Laughlin	Stearns
Dickey	Lazio	Stenholm
Dooley	Leach	Stockman
Doolittle	Lewis (CA)	Stump
Dornan	Lewis (KY)	Talent
Dreier	Lightfoot	Tanner
Duncan	Linder	Tate
Dunn	Livingston	Tauzin
Ehlers	Longley	Taylor (MS)
Ehrlich	Lucas	Taylor (NC)
English	Manzullo	Thomas
Ensign	Martini	Thornberry
Everett	McCollum	Tiahrt
Ewing	McCrery	Torkildsen
Fawell	McDade	Traficant
Fields (TX)	McHugh	Upton
Foley	McInnis	Vucanovich
Forbes	McIntosh	Walker
Fowler	McKeon	Walsh
Fox	Metcalf	Wamp
Franks (CT)	Meyers	Watts (OK)
Franks (NJ)	Mica	Weldon (FL)
Frelinghuysen	Miller (FL)	Weldon (PA)
Frisa	Molinari	Weller
Funderburk	Montgomery	White
Gallegly	Moorhead	Whitfield
Ganske	Myers	Wicker
Gekas	Myrick	Wolf
Geren	Nethercutt	Young (AK)
Gilchrest	Neumann	Young (FL)
Gillmor	Ney	Zeliff
Gilman	Norwood	
Goodlatte	Nussle	

NOT VOTING—7

Gibbons	Mascara	Wilson
Heineman	Peterson (FL)	
Lincoln	Williams	

□ 1511

Messrs. CUNNINGHAM, EWING, LINDER, CHRISTENSEN, McDADE, BAESLER, and SKELTON changed their vote from "yea" to "nay."

Messrs. YATES, WYNN, and LoBIONDO changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 305, noes 123, not voting 6, as follows:

[Roll No. 432]

AYES—305

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Deutsch
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—123

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Blumenauer
Bonior
Borski
Brown (OH)
Bryant (TX)
Bunn
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
de la Garza
DeLauro
Dellums
Diaz-Balart
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gutierrez
Hastings (FL)
Hilliard
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
King
Kleczka
LaFalce
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Gibbons
Heineman
Lincoln
Mascara
Peterson (FL)
Wilson

□ 1521

Ms. KAPTUR changed her vote from "aye" to "no."

Messrs. KIM, BROWN of California, and HOSTETTLER changed their vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report accompanying the immigration bill, H.R. 2202.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1996.)

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate the conference report to accompany H.R. 2202, the illegal immigration reform bill.

Trent Lott, Richard Shelby, Jon Kyl, Craig Thomas, Bob Bennett, Slade Gorton, Mark O. Hatfield, Sheila Frahm, Orrin Hatch, Hank Brown, Dan Coats, Judd Gregg, Rod Grams, Frank H. Murkowski, Al Simpson, and Don Nickles.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur on Monday, September 30, at a time to be determined by the majority leader, after consultation with the Democratic leader, and that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. Mr. President, in view of this agreement that has been worked out, I would like to announce there will be no further votes tonight. I know that there are a number of very important events occurring. I wanted to give that notice to the Senators as early as possible.

I have worked with Senator DASCHLE and Senator KENNEDY to get an agreement to get this illegal immigration conference report considered. This will guarantee that we will get to a cloture vote on Monday, if necessary, and to final passage at a time after that, either Monday night or certainly not later than next Tuesday.

In the meantime, we continue to hope, and, I believe, maybe agreement can be reached to work out a compromise so that the illegal immigration legislation can be included in the continuing resolution which will be connected to the Department of Defense conference report.

There will be a meeting tonight, I think, at 9:30 of the Senators and Congressmen and administration officials who are interested in this area. We hope they can get it worked out and maybe it can be included in an agreed-to package tomorrow night just in case that doesn't happen. Illegal immigration is such an important issue in this country and people expect us to act on it.

After the effort was made and agreement was reached to take out one provision that had been objected to by the President and others, we thought this legislation would move forward. It should. But there are some problems that are being expressed by the administration. We will work on those. If we don't get it worked out, we will have a cloture vote on Monday.

104TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
104–863

MAKING OMNIBUS CONSOLIDATED APPROPRIATIONS FOR FISCAL YEAR 1997

CONFERENCE REPORT

TO ACCOMPANY

H.R. 3610

SEPTEMBER 28, 1996.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1996

★ 27–557

CONTENTS

104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { 104–863

MAKING OMNIBUS CONSOLIDATED APPROPRIATIONS FOR FISCAL YEAR 1997

SEPTEMBER 28, 1996.—Ordered to be printed

Mr. LIVINGSTON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3610]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DIVISION A

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101(a) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: Provided, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: Provided further, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $19,372,010,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1998, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,873,382,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: Provided, That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1988: Provided further, That not less than $1,268,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances at the end of fiscal year 1997 not needed for fiscal year 1997 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $310,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, $234,895,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $223,000,000, which shall include amounts becoming available in

fiscal year 1997 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $223,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1998, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $87,898,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,404,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the funds made available in this Act may be transferred to the Office from the Department of Health and Human Services, or used to carry out any such transfer: Provided further, That none of the funds made available in this paragraph may be used for any audit, investigation, or review of the Medicare program.

277

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

280

SEC. 520. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the Railroad Retirement Board and the Office of Inspector General of the Railroad Retirement Board;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C.

5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The three-member Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before September 30, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 521. CORRECTION OF EFFECTIVE DATE.—Effective on the day after the date of enactment of the Health Centers Consolidation Act of 1996, section 5 of that Act is amended by striking "October 1, 1997" and inserting "October 1, 1996".

TITLE VI—GENERAL PROVISIONS

SEC. 663. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 664. ELECTRONIC BENEFIT TRANSFER PILOT.

Title 31, United States Code, is amended by inserting after section 3335 the following new section:

"§3336. Electronic benefit transfer pilot

"(a) The Congress finds that:

"(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

"(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

"(3) A joint federal-state EBT system offers convenience and economies of scale for those states (and their citizens) that wish to deliver state-administered benefits on a single card by entering into a partnership with the federal government.

"(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states pursuant to section 6501 et seq. of this title.

"(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institutions as a financial agent of the Government, and the offering to the participating states of the opportunity to contract with the financial agent selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

"(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review."

SEC. 665. DESIGNATION OF FINANCIAL AGENTS.

1. 12 U.S.C. 90 is amended by adding at the end thereof the following:

"Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may select associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of electronic benefit transfer services (including State-administered benefits with the consent of the States), as defined by the Secretary.".

2. Make conforming amendments to 12 U.S.C. 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122 and to 31 U.S.C. 3122 and 3303.

TITLE VIII—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Federal Financial Management Improvement Act of 1996."

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the government and reduce the federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the "FASAB") has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838), the Govern-

ment Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. 803 IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the entity or organization responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance including areas in which there is substantial but not full compliance;

(ii) the primary reason or cause of the noncompliance;

(iii) the entity or organization responsible for the non-compliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the time frames to implement such actions.

(c) COMPLIANCE IMPLEMENTATION.—

(1) DETERMINATION.—No later than the date described under paragraph (2), the Head of an agency shall determine whether the financial management systems of the agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) any other information the Head of the agency considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 120 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(3) REMEDIATION PLAN.—

(A) If the Head of an agency determines that the agency's financial management systems do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into substantial compliance.

(B) If the determination of the head of the agency differs from the audit compliance findings required in subsection (b), the Director shall review such determinations and provide a report on the findings to the appropriate committees of the Congress.

(4) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems cannot comply with the requirements of subsection (a) within 3 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

SEC. 804. REPORTING REQUIREMENTS.

(a) REPORTS BY THE DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this Act. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE INSPECTOR GENERAL.—Each Inspector General who prepares a report under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) shall report to Congress instances and reasons when an agency has not met the intermediate target dates established in the remediation plan required under section 3(c). Specifically the report shall include—

(1) the entity or organization responsible for the non-compliance;

(2) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the non-compliance, the primary reason or cause for the failure to comply, and any extenuating circumstances; and

(3) a statement of the remedial actions needed to comply.

(c) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section 3(a) of this Act, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of applicable accounting standards for the Federal Government.

SEC. 805. CONFORMING AMENDMENTS.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting "and the Controller of the Office of Federal Financial Management" before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking "and' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of Section 3(a) the Federal Financial Management Improvement Act of 1996, and a summary statement of the efforts underway to remedy the noncompliance; and"

(c) INSPECTOR GENERAL ACT OF 1978.—Section 5(a) of the Inspector General Act of 1978 is amended—

(1) in paragraph (11) by striking "and" after the semicolon;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996."

SEC. 806. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term "agency" means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term "Federal accounting standards" means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term "financial management systems" includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term "financial system" includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term "mixed system" means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

SEC. 807. EFFECTIVE DATE.

This title shall take effect for the fiscal year ending September 30, 1997.

SEC. 808. REVISION OF SHORT TITLES.

(a) Section 4001 of Public Law 104–106 (110 Stat. 642; 41 U.S.C. 251 note) is amended to read as follows:

"SEC. 4001. SHORT TITLE.

"This division and division E may be cited as the 'Clinger-Cohen Act of 1996'.".

(b) Section 5001 of Public Law 104–106 (110 Stat. 679; 40 U.S.C. 1401 note) is amended to read as follows:

"SEC. 5001. SHORT TITLE.

"This division and division D may be cited as the 'Clinger-Cohen Act of 1996'."

(c) Any reference in any law, regulation, document, record, or other paper of the United States to the Federal Acquisition Reform Act of 1996 or to the Information Technology Management Reform Act of 1996 shall be considered to be a reference to the Clinger-Cohen Act of 1996.

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1997".

DIVISION C—ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

SEC. 1. SHORT TITLE OF DIVISION; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS OF DIVISION; SEVERABILITY.

(a) SHORT TITLE.—This division may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this division an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this division.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this division, for purposes of titles I and VI of this division, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(d) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

(e) SEVERABILITY.—If any provision of this division or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this division and the application of the provisions of this division to any person or circumstance shall not be affected thereby.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 of this division made and in effect no later than 1 year after the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a) of this division) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A) of this division; and

(3) of the machine-readable-document pilot program (described in section 403(c) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2) of this division.

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404 of this division.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is

deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b) of this division) or the machine-readable-document pilot program (described in section 403(c) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2) of this division, respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a

Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate

in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I–9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I–9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a) of this division) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot pro-

gram would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1) of this division, using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under section 404(b) of this division, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b) of this division, the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period speci-

fied in section 404(c) of this division, the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c) of this division. The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) of this division regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and

the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's iden-

tity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) of this division consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided

in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) of this division which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the

employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term 'qualified alien' includes—

"(1) an alien who—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for—

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

"(2) an alien—

"(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or par-

ent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.".

SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) IN GENERAL.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).

SEC. 503. INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

SEC. 504. PROCEDURES FOR REQUIRING PROOF OF CITIZENSHIP FOR FEDERAL PUBLIC BENEFITS.

Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended—

(1) by inserting "(1)" after the dash, and

(2) by adding at the end the following:

"(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner.".

SEC. 505. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 506. STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

(b) REPORT ON COMPUTER MATCHING PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(c) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this section the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

SEC. 507. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 508. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(d) NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.".

SEC. 509. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO ALIENS WHO ARE NOT QUALIFIED ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to aliens who are not qualified aliens (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) in order to provide such benefits to individuals who are United States citizens or qualified aliens (as so defined). Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

SEC. 510. TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS UNDER THE FOOD STAMP PROGRAM.

Effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, subclause (I) of section 402(a)(2)(D)(ii) (8 U.S.C. 1612(a)(2)(D)(ii)) is amended to read as follows:

"(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B),

ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997.".

Subtitle B—Public Charge Exclusion

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership

interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(c)(2) of this division a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

Subtitle C—Affidavits of Support

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Section 213A (8 U.S.C. 1183a), as inserted by section 423(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended to read as follows:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable after such time as the alien (i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under subparagraph (B), and

(ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during any such period.

"(B) QUALIFYING QUARTERS.—For purposes of this section, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

"(i) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

"(ii) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under clause (i) or (ii) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during the period for which such qualifying quarter of coverage is so credited.

"(C) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act.

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(f) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or

"(ii) does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain

income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) FLEXIBILITY.—For purposes of this section, aliens may demonstrate the means to maintain income through demonstration of significant assets of the sponsored alien or of the sponsor, if such assets are available for the support of the sponsored alien.

"(iii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a)(1) and section 422(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(a)(1), 1632(a)(1)) are each amended by inserting "and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996" after "section 423".

(2) Section 423 of such Act (8 U.S.C. 1138a note) is amended by striking subsection (c).

(c) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 552. INDIGENCE AND BATTERED SPOUSE AND CHILD EXCEPTIONS TO FEDERAL ATTRIBUTION OF INCOME RULE.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) is amended by adding at the end the following new subsection:

"(e) INDIGENCE EXCEPTION.—

"(1) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

"(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

"(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

"(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acqui-

esced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

"(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

"(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.".

SEC. 553. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 564. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631). Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits described in section 213A(d)(2)(B) of the Immigration

and Nationality Act (as amended by section 551(a) of this division) for the alien and the alien's dependents and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in subsection (a)(1) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 565. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 552 of this division) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

Subtitle F—General Provisions

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 593. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 594. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle D—Other Provisions

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accord-

ance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

And amend the title to read as follows:

An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

And the Senate agree to the same.

BILL YOUNG,
JOSEPH M. MCDADE,
BOB LIVINGSTON,
JERRY LEWIS (except for chapter 6 of title V of division A),
JOE SKEEN,
DAVE HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
ERNEST ISTOOK,
JOHN P. MURTHA,
NORM DICKS,
CHARLES WILSON,
W.G. BILL HEFNER,
MARTIN OLAV SABO,
DAVID OBEY,
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CHRISTOPHER S. BOND (except for chapter 6 of title V of division A),
MITCH MCCONNELL,
CONNIE MACK,
RICHARD C. SHELBY,
MARK O. HATFIELD,
DANIEL K. INOUYE (with reservation),
FRITZ HOLLINGS,
J. BENNETT JOHNSON,
ROBERT BYRD,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying report.

The composition of this conference agreement includes more than the Department of Defense Appropriations Act for fiscal year 1997. While the House version of H.R. 3610 and the Senate amendment in the nature of a substitute dealt only with defense appropriations, the conference report was expanded to include other matters, most significantly, other fiscal year 1997 appropriations for other departments and agencies. These appropriations are included in title I of this conference agreement and are organized in groupings as they would have been had they been enacted in their regular appropriations act. Explanation of the matters included in this conference agreement follows.

ANTITERRORISM, COUNTERTERRORISM, AND SECURITY FUNDING

The conference agreement includes funding for antiterrorism, counterterrorism, and security initiatives. The following table shows the programs, the location of the funding provision in the conference agreement, and the amount of funding for these initiatives.

Antiterrorism, counterterrorism, and security funding

[Budget authority, in millions of dollars]

	FY 1997 Conference Agreement
TITLE I, SEC. 101(a)—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES	
The Judiciary: Antiterrorism and Effective Death Penalty Act workload/security	10.0
Department of Commerce: Export Administration: Hire criminal investigators/engineers to review export licenses	3.9
Department of Justice:	
Security upgrades from General Administration account	3.6
Counterterrorism fund [1]	20.0
Executive Office of Immigration Review: Removal of criminal aliens/immigration court security	1.0
Criminal Division: Investigations and prosecutions of terrorist cases	1.7
US Attorneys: Wiretap activity/computer fraud/building security	10.9

TITLE IV—RELATED AGENCIES

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

The conference agreement provides $1,793,000 as proposed by the Senate in H.R. 3755 as reported from Committee, instead of $1,757,000 as proposed by the House in H.R. 3755.

The conferees are concerned that the Council failed to submit complete and responsive information to the Congress during the fiscal year 1997 hearing process. The conferees direct the Council to correct this problem during subsequent budget cycles.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

The conference agreement provides $19,372,010,000 instead of $19,422,115,000 as proposed by the House in H.R. 3755 and $19,357,010,000 as proposed by the Senate in H.R. 3755 as reported from Committee. Within the total, the conference agreement provides $1,946,015,000 for SSI administration. The conference agreement provides an additional $19,895,000 for the automation initiative. The conferees direct that the Social Security Administration comply with the directive in the House report accompanying H.R. 3755 regarding the use of funding for research and demonstrations.

In addition to the amount provided for the regular supplemental security income program appropriation, the conference agreement provides $175,000,000 as proposed by the Senate in H.R. 3755 as reported from Committee for the processing of continuing disability reviews as authorized by P.L. 104–121, the Senior Citizens' Right to Work Act and P.L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As passed by the House prior to enactment of P.L. 104–193, H.R. 3755 provided $25,000,000 for the processing of continuing disability reviews as authorized by P.L. 104–121.

The conference agreement includes a technical provision adding the words "as amended" to the citation of the law as proposed by the Senate in H.R. 3755 as reported from Committee.

LIMITATION ON ADMINISTRATIVE EXPENSES

The conference agreement provides $5,873,382,000, instead of $5,899,797,000 as proposed by the House in H.R. 3755 and $5,820,907,000 as proposed by the Senate in H.R. 3755 as reported from Committee. Within the total amount, the conference agreement provides $3,080,000,000 from the OASDI trust funds and $1,268,000 for the Social Security Advisory Board. The conference agreement provides an additional $234,895,000 for the automation initiative.

The conferees agree that the amount provided for operation of the Social Security Advisory Board is sufficient to enable this independent, bipartisan board to fulfill its mandate to provide the Congress, the President, and the Commissioner of Social Security with recommendations on policy issues related to the Social Security and Supplemental Security Income programs.

In addition to the regular limitation on administration, the conference agreement provides an additional $310,000,000 for the processing of continuing disability reviews as proposed by the Senate in H.R. 3755 as reported from Committee and as authorized by P.L. 104–121, the Senior Citizens' Right to Work Act and P.L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As passed by the House prior to enactment of P.L. 104–193, H.R. 3755 provided $160,000,000 for the processing of continuing disability reviews as authorized by P.L. 104–121.

OFFICE OF INSPECTOR GENERAL

The conference agreement provides $37,424,000, instead of $27,424,000 as proposed by the House in H.R. 3755 and the Senate in H.R. 3755 as reported from Committee. The conferees believe this additional funding is necessary to provide for the hiring of up to 115 additional FTEs, particularly investigative agents, to adequately protect the Social Security Trust Funds from fraud and criminal abuse.

The conferees believe that all of the Inspectors General need to do a better job of accounting for and tracking the savings that they claim to generate by their efforts. More attention must be paid to how much money is actually collected each year and paid back to the Federal government. The conferees direct the Inspector General to report to the Committees each quarter on:

(1) the actual payments, as a result of fines, restitutions, or forfeitures, made to the United States Government as a result of his activities; and

(2) how "funds put to better use" were used; this report must identify funds made available for use by management and the programs, projects, and activities that were increased as a result of these funds.

	FY 1996 Comparable	FY 1997 Request	House	Reported Senate	Conference	Conference vs FY 1996	Conference vs House	Conference vs Senate	Mand Disc
BLACK LUNG DISABILITY TRUST FUND									
Benefit payments and interest on advances	949,494	981,666	981,666	981,666	981,666	+12,171	---	---	M
Employment Standards Admin., salaries & expenses	27,193	26,071	26,071	26,071	26,071	-1,122	---	---	M
Departmental Management, salaries and expenses	19,621	19,621	19,621	19,621	19,621	---	---	---	M
Departmental Management, inspector general	298	287	287	287	287	-11	---	---	M
Subtotal, Black Lung Disablty. Trust Fund, apprn	996,606	1,007,644	1,007,644	1,007,644	1,007,644	+11,038	---	---	
Treasury administrative costs (indefinite)	756	356	356	356	356	-400	---	---	M
Total, Black Lung Disability Trust Fund	997,362	1,008,000	1,008,000	1,008,000	1,008,000	+10,638	---	---	
Total, Employment Standards Administration	1,460,060	1,526,913	1,486,405	1,484,166	1,512,406	+32,346	+27,000	+28,260	
Federal funds	1,479,057	1,526,856	1,484,422	1,483,172	1,511,422	+32,365	+27,000	+28,260	
Trust funds	(1,003)	(1,057)	(983)	(983)	(983)	(-20)	---	---	
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Safety and health standards	8,374	16,066	8,207	8,207	12,000	+3,626	+3,793	+3,793	D
Enforcement:									
Federal Enforcement	120,890	122,386	117,125	118,525	126,208	+5,318	+9,083	+7,683	D
State programs	68,295	73,316	66,929	68,929	77,354	+9,059	+10,425	+10,425	D
Technical Support	17,815	20,446	17,459	17,459	17,459	-356	---	---	D
Compliance Assistance:									
Federal Assistance	34,822	61,970	34,822	34,822	37,440	+2,618	+2,618	+2,618	D
State Consultation Grants	32,479	33,064	32,479	32,479	34,560	+2,081	+2,081	+2,081	D
Safety and health statistics	14,465	14,647	14,176	14,176	14,176	-289	---	---	D
Executive direction and administration	6,670	6,858	6,537	6,537	6,537	-133	---	---	D
Total, OSHA	303,810	340,861	297,734	299,134	325,734	+21,924	+28,000	+26,800	

	FY 1996 Comparable	FY 1997 Request	House	Reported Senate	Conference	Conference vs FY 1996	Conference vs House	Conference vs Senate	Mand Disc
SOCIAL SECURITY ADMINISTRATION									
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	22,641	20,923	20,923	20,923	20,923	-1,718	---	---	M
ADDITIONAL ADMINISTRATIVE EXPENSES 1/	10,000	10,000	10,000	10,000	10,000	---	---	---	M
SPECIAL BENEFITS FOR DISABLED COAL MINERS									
Benefit payments	660,215	625,450	625,450	625,450	625,450	-34,765	---	---	M
Administration	5,181	4,620	4,620	4,620	4,620	-561	---	---	M
Subtotal, Black Lung, FY 1997 program level	665,396	630,070	630,070	630,070	630,070	-35,326	---	---	
Less funds advanced in prior year	-180,000	-170,000	-170,000	-170,000	-170,000	+10,000	---	---	M
Total, Black Lung, current request, FY 1997	485,396	460,070	460,070	460,070	460,070	-25,326	---	---	
New advances, 1st quarter FY 1997 / 1998	170,000	160,000	160,000	160,000	160,000	-10,000	---	---	M

1/ No-year availability for these funds related to sections 9704 & 9706 of the Internal Revenue Code of 1986.

	FY 1996 Comparable	FY 1997 Request	House	Reported Senate	Conference	Conference vs FY 1996	Conference vs House	Conference vs Senate	Mand Disc
SUPPLEMENTAL SECURITY INCOME									
Federal benefit payments	23,648,636	26,659,100	26,659,100	26,659,100	26,659,100	+3,010,464	---	---	M
Beneficiary services	176,400	179,000	100,000	100,000	100,000	-76,400	---	---	M
Research and demonstration	8,200	7,000	7,000	7,000	7,000	-1,200	---	---	M
Administration 1/	1,817,276	2,018,973	1,961,015	1,931,015	1,946,015	+128,739	-16,000	+16,000	D
Automation investment initiative	86,000	104,927	86,000	19,695	19,695	-36,105	-36,105	---	D
Subtotal, SSI FY 1997 program level	26,606,512	28,869,000	28,682,115	28,617,010	28,632,010	+3,026,498	-50,105	+16,000	
Less funds advanced in prior year	-7,060,000	-9,260,000	-9,260,000	-9,260,000	-9,260,000	-2,200,000	---	---	M
Subtotal, regular SSI current year, FY 1996 / 1997	18,646,512	19,609,000	19,422,115	19,357,010	19,372,010	+826,498	-50,105	+16,000	
Additional COR funding	16,000	260,000	26,000	26,000	26,000	+10,000	---	---	D
SSI reforms (welfare)	---	250,000	---	150,000	150,000	+150,000	+150,000	---	D
Total, SSI, current request, FY 1996 / 1997	18,660,512	20,119,000	19,447,115	19,532,010	19,547,010	+986,498	+99,895	+16,000	
New advance, 1st quarter, FY 1997 / 1998	9,260,000	9,690,000	9,690,000	9,690,000	9,690,000	+430,000	---	---	M

1/ Figures include amounts for the SSI disability initiative previously displayed as a seperate line item.

	FY 1996 Comparable	FY 1997 Request	House	Reported Senate	Conference	Conference vs FY 1996	Conference vs House	Conference vs Senate	Mand Disc
LIMITATION ON ADMINISTRATIVE EXPENSES									
OASDI trust funds	(2,667,238)	(2,835,077)	(3,091,183)	(3,042,625)	(3,080,000)	(+412,762)	(-11,183)	(+37,478)	TF
HI/SMI trust funds	(864,099)	(918,418)	(846,099)	(846,099)	(846,099)	(-18,000)	---	---	TFe
SSI	(1,817,276)	(2,018,973)	(1,961,016)	(1,931,016)	(1,946,016)	(+128,739)	(-15,000)	(+15,000)	TF
Social Security Advisory Board	---	---	(1,500)	(1,268)	(1,268)	(+1,268)	(-232)	---	TF
Subtotal, regular LAE	(5,348,613)	(5,772,468)	(5,899,797)	(5,820,907)	(5,873,382)	(+524,769)	(-26,415)	(+52,475)	
DI disability initiative	(289,322)	---	---	---	---	(-289,322)	---	---	TF
OASDI automation	(112,000)	(196,073)	(196,073)	(206,396)	(216,000)	(+104,000)	(+19,927)	(+9,604)	TF
SSI automation	(65,000)	(104,927)	(65,000)	(19,896)	(19,896)	(-36,104)	(-36,104)	---	TF
Subtotal, automation initative	(187,000)	(300,000)	(260,073)	(226,291)	(234,895)	(+47,895)	(-16,178)	(+8,604)	
TOTAL, REGULAR LAE	(5,804,936)	(6,072,468)	(6,149,870)	(6,047,198)	(6,108,277)	(+303,342)	(-41,593)	(+61,079)	
Additional CDR funding	(60,000)	(260,000)	(160,000)	(160,000)	(160,000)	(+100,000)	---	---	TF
SSI reforms (welfare)	---	(250,000)	---	(150,000)	(150,000)	(+150,000)	(+150,000)	---	TF
TOTAL, LAE	(5,864,936)	(6,582,468)	(6,309,870)	(6,357,198)	(6,418,277)	(+553,342)	(+108,407)	(+61,079)	

	FY 1996 Comparable	FY 1997 Request	House	Reported Senate	Conference	Conference vs FY 1996	Conference vs House	Conference vs Senate	Mand Disc
OFFICE OF INSPECTOR GENERAL									
Federal funds	4,801	6,335	6,335	6,335	6,335	+1,534	---	---	D
Trust funds	(10,037)	(21,089)	(21,089)	(21,089)	(31,089)	(+21,052)	(+10,000)	(+10,000)	TF
Portion treated as budget authority	(10,977)	---	---	---	---	(-10,977)	---	---	TFa
Total, Office of the Inspector General:									
Federal funds	4,801	6,335	6,335	6,335	6,335	+1,534	---	---	
Trust funds	(21,014)	(21,089)	(21,089)	(21,089)	(31,089)	(+10,075)	(+10,000)	(+10,000)	
Total	(25,815)	(27,424)	(27,424)	(27,424)	(37,424)	(+11,609)	(+10,000)	(+10,000)	
Total, Social Security Administration:									
Federal funds	26,513,350	30,466,326	29,794,443	29,879,338	29,894,338	+1,380,988	+99,895	+15,000	
Current year FY 1996 / 1997	(19,083,350)	(20,616,326)	(19,944,443)	(20,029,338)	(20,044,338)	(+960,988)	(+99,895)	(+15,000)	
New advances, 1st quarter FY 1997 / 1998	(9,430,000)	(9,850,000)	(9,850,000)	(9,850,000)	(9,850,000)	(+420,000)	---	---	
Trust funds	(5,685,949)	(6,603,867)	(6,330,959)	(6,378,287)	(6,449,365)	(+563,417)	(+118,407)	(+71,078)	
Trust funds considered BA	(875,076)	(918,418)	(846,099)	(846,099)	(846,099)	(-28,977)	---	---	
United States Institute of Peace	11,481	11,160	11,160	11,160	11,160	-321	---	---	D
Total, Title IV, Related Agencies:									
Federal funds (all years)	29,479,606	31,490,674	30,729,339	30,844,119	30,873,863	+1,394,048	+144,514	+29,734	
Current year, FY 1996 / 1997	(19,799,606)	(21,366,674)	(20,629,339)	(20,744,119)	(20,773,863)	(+974,048)	(+144,514)	(+29,734)	
FY 1997 / 1998	(9,430,000)	(9,850,000)	(9,850,000)	(9,850,000)	(9,850,000)	(+420,000)	---	---	
FY 1998 / 1999	(250,000)	(275,000)	(250,000)	(250,000)	(250,000)	---	---	---	
Trust funds	(6,988,137)	(6,707,787)	(6,430,308)	(6,478,261)	(6,549,194)	(+561,057)	(+118,886)	(+70,943)	
Trust funds considered BA	(977,264)	(1,022,626)	(948,448)	(948,063)	(948,927)	(-31,337)	(+479)	(-136)	
TITLE V									
1% Cap on performance awards	---	---	---	-30,500	-30,600	-30,600	-30,600	---	D

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1997 recommended by the Committee of Conference, with comparisons to the fiscal year 1996 amount, the 1997 budget estimates, and the House and Senate bills for 1997 follow:

New budget (obligational) authority, fiscal year 1996	$579,522,607,669
Budget estimates of new (obligational) authority, fiscal year 1997	608,191,881,110
House bill, fiscal year 1997	604,917,517,710
Senate bill, fiscal year 1997	601,684,170,710
Conference agreement, fiscal year 1997	610,961,282,710
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	+31,438,675,041
Budget estimates of new (obligational) authority, fiscal year 1997	+2,769,401,600
House bill, fiscal year 1997	+6,043,765,000
Senate bill, fiscal year 1997	+9,277,112,000

BILL YOUNG,
JOSEPH M. MCDADE,
BOB LIVINGSTON,
JERRY LEWIS (except for chapter 6 of title V of division A),
JOE SKEEN,
DAVE HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
ERNEST ISTOOK,
JOHN P. MURTHA,
NORM DICKS,
CHARLES WILSON,
W.G. "BILL" HEFNER,
MARTIN OLAV SABO,
DAVID OBEY,
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CHRISTOPHER S. BOND (except for chapter 6 of title V of division A),
MITCH MCCONNELL,
CONNIE MACK,
RICHARD C. SHELBY,
MARK O. HATFIELD,
DANIEL K. INOUYE (with reservation),
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT BYRD,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
Managers on the Part of the Senate.

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CONFERENCE REPORT ON H.R. 3610, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-863)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DIVISION A

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101(a) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $75,773,000 of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: Provided, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1996: Provided further, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: Provided further, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

For an additional amount, for enhancements for the Office of Intelligence Policy and Review and security measures, $3,600,000; of which $2,170,000 is for security enhancements: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $9,450,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: Provided, That funds provided under this heading shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

For an additional amount for necessary expenses, as determined by the Attorney General, $20,000,000, to remain available until expended,

(ENTIRE CONFERENCE REPORT WAS PRINTED IN THE RECORD)

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3610, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997, AND PASSAGE OF H.R. 4278, OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report to accompany the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read, and upon adoption of the conference report, notwithstanding any rule of the House to the contrary, the bill, H.R. 4278, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes, be considered as passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report to accompany H.R. 3610 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to bring before the House the Omnibus Consolidated Appropriations Act of 1997 that will fund the remaining appropriations bills for the full fiscal year and allow us to go home.

I want to say up front that the procedure that we were forced to follow was less than desirable. That procedure was initially caused by the other body's inability to complete consideration of five appropriation bills. We also had to address the demands of the Clinton administration to increase domestic spending.

But the House was able to get its work done. We passed all of our bills promptly this summer, all 13 appropriations bills. That would not have been the case without the dedicated, steadfast, and conscientious effort of all of the Members of the House, but most especially my friend the gentleman from Wisconsin, DAVID OBEY, the ranking minority member of the committee, as well as all of the subcommittee chairmen; all of the ranking members of subcommittees; all of the members of the Committee on Appropriations; and especially, the dedicated staff, majority and minority; the gentleman who sits next to me, the chief clerk of the Committee on Appropriations, Jim Dyer; the gentleman that sits next to him, Dennis Kedzior; Fred Mohrman, who is not here tonight but who helped get us started in the 104th Congress; Scott Lilly, the ranking minority clerk over there sitting next to the gentleman from Wisconsin [Mr. OBEY]; and all of the other dedicated staff, many of whom have not even slept a single minute over the last 3 or 4 days to prepare this bill.

They have done just an incredible job against overwhelming odds, bearing a tremendous work load, and I can tell them all that I am deeply appreciative of their efforts. Because of them we were able to get our work done.

Now the procedure we used to develop this conference report is brought about because some of the bills got stymied on the other side. But in order to come to closure on these matters as well as to address the needs for increased funding for antiterrorism programs, the drug initiative, disaster assistance for Hurricane Fran, wildfires in the West, and to consider the demands of the administration for funding certain programs, we had to combine all of these remaining bills into one legislative agenda, one legislative package, which sits before you so the trade-offs could be made and the package could be viewed as a balanced one.

As many of the Members know, the administration asked for additional domestic spending that would be offset by cuts in the defense appropriations bill. That was unacceptable to me, and it was unacceptable to the gentleman from Florida, BILL YOUNG, the chairman of the Subcommittee on National Security.

We both insisted that no further cuts be made to the level of funding in the defense bill and that other offsets must be found to pay for their wish list of domestic spending. We refused to cut defense further.

Mr. YOUNG put together a good defense appropriations bill that provides for a strong national defense and meets the needs of American servicemen, and women whether they be in Bosnia or flying over Iraq or Saudi Arabia or Kuwait or elsewhere all around the globe.

In a minute I will be happy to yield to the gentleman from Florida [Mr. YOUNG], so he can explain the portion of the bill that relates to the national defense. But in the meantime, I want to say that this appropriation measure carries full-time funding for 6 complete bills, virtually half of the budget of the United States Government. It includes the Subcommittee on Commerce, Justice, State and Judiciary; the Department of Defense, the Subcommittee on Foreign Operations, Export Financing and Related Programs; the Subcommittee on the Interior; the Subcommittee on Labor, Health and Human Services and Education; and the Subcommittee on Treasury, Postal Service, and General Government.

In addition to augmenting various programs in these annual spending bills, we are providing funding for the antiterrorism program of some $981 million, we are giving $8.8 billion for a drug initiative to combat drug abuse and to interdict the inflow of drugs into this country, and we are providing nearly $400 million for relief from disasters such as Hurricane Fran.

The sizable offsets included in the bill, for example, from the BIF/SAIF program that we will hear about the gentleman from Iowa [Mr. LEACH] and the gentlewoman from New Jersey [Mrs. ROUKEMA] and the spectrum sale both fully fund the deficit impact in any spending in this bill.

I want to reiterate, this bill does not add to the deficit. In fact, this bill completes our final step in the 104th Congress toward securing some $53 billion in cumulative savings under the

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CONFERENCE REPORT ON H.R. 3610, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

previous Congress for the American taxpayer. Had the President gotten his wishes abided in his budget, frankly, we would have spent $75 billion more than we actually did.

Mr. Speaker, I believe the funding levels in this bill represent a good compromise. They have been working out in strict bipartisan fashion. My hat is off to the gentleman from Wisconsin [Mr. OBEY] and all of the Democrats and Republicans who sat with us in long, tedious hours over the last few weeks and with Mr. Panetta and all his staff over at the White House. They put in incredible hours with us.

Not many of us got any sleep at all, but we finally pounded out is, I think that a bipartisan package can be achieved if people of good will work together with one another. That is what happened here.

I believe we have a bill that is good for the departments and the agencies funded by these six subcommittees. It is good for the taxpayer because it is deficit neutral, and it is a good bill because it allows us to go home to our constituents.

In a few minutes I will be happy to yield to the subcommittee chairmen who helped to craft this package.

At this point in the RECORD I would like to insert several detailed tables showing the funding levels for the departments and agencies in this conference report.

Mr. Speaker, I reserve the balance of my time.

□ 2045

Mr. OBEY. Mr. Speaker, I yield myself 12 minutes.

Mr. Speaker, I think it is useful for us to take just a few moments to analyze just how different this appropriation bill is from a number of appropriation bills which this House was considering just about a year ago.

A year ago, the majority tried to force the Clinton administration to sign a budget that set us on the path to cutting real levels of support for education by 30 percent, by cutting real levels of support for training by 40 percent, by cutting real levels of support for the environment by 30 percent.

This year, that will not happen. This year, the Government is not shutting down, and this year we are not seeing in the bill before us today those kinds of deep reductions in the investments that are necessary to make this country grow.

Last year, the Government was shut down on purpose in order to force the President to sign a bill which made very deep reductions in these investments. This year, we came within 3 days of seeing the Government shut down by accident. Thank God, it did not happen. I think a lot of people are due credit for that.

First of all, I would like to point out why we are here in this position tonight. Four months ago the House passed appropriations bills which asked the President to spend $11 billion more than he wanted to spend in the area of military spending. They put us on the road to a 5-year real reduction in support for education of 20 percent. They put us on the road to similar reductions in support for training, for Cops on the Beat, and other critical areas.

This committee did its job in passing all 13 appropriation bills, but half of the appropriation bills never finished their passage through the Congress, as the chairman has indicated.

In addition, there are a huge number of other authorizations which did not make it through the Congress. This bill must pass tonight because all of those others didn't.

I support the bill because it is the only way that we can keep our obligation to keep Government open and to make some of the investments necessary to help our people. I also support it because it does restore some of the reductions in those investments that are so important to our children and our workers.

For instance, Head Start will now add children rather than dumping them off the rolls, as this Congress was asked to do just a year ago.

Title I, the most important education program we have to help young children learn how to read, to deal with math, to deal with science, title I will be helping an additional 400,000 children, rather than dumping almost 1 million of them off the rolls as we were asked to do just about a year ago.

School-to-Work under this bill is strengthened rather than being eliminated, as this Congress tried to do just a few short months ago.

Safe and Drug-Free Schools is also strengthened under this bill in comparison to the very deep reductions that this Congress was asked to make just a few months ago.

Pell grants, the major grant to enable the children of working families to go to college: there will be 150,000 more working-class students who will get help under Pell grants.

There will be over 700,000 young people who will receive Perkins loan help, rather than zeroing out the program.

Job training is 6 percent stronger than the original House bill this year alone, not to mention the deep reductions that were made in it a year ago.

The Older Americans Act: we will be providing adjustments in the minimum wage for 74,000 seniors who work part time at minimum wage salaries trying to do public service work and staying off the welfare rolls at the same time.

The attack that we saw in this House earlier this year on the enforcement of labor laws which protect workers from abuse at the bargaining table is turned back in this bill. There will be no crippling of the National Labor Relations Board. There will be no handcuffs placed on government efforts to strengthen health and safety protections for workers in the workplace. And thanks to the insistence of the Clinton administration, working people and kids are going to be put at the top of our priority list again, rather than near the bottom, as we feel they were a year ago.

These restorations are paid for and will not add to the deficit, the taxpayers will be happy to hear.

But this bill also contains a string of other authorizing legislation. In fact, there are some 31 separate major authorization provisions being attached.

I have been asked by many Members of the House, "DAVE, can you guarantee that there is not some provision in here which we will regret when we hear about it in the weeks to come?"

My answer is simply to invite you to take a look at the stack on that table, or on the table in front of the gentlewoman from Ohio. That bill is not measured in pages, it is measured in feet. It is about a foot and a half long. I do not know how much it weighs, but you could get a double hernia lifting it.

I would simply say that I think I know most of the legislative decisions that were made by the Committee on Appropriations, but I certainly cannot verify that there are not some provisions in these other portions of the bill which we will wish we had not seen because they were managed by many other committees, there were not managed by the Committee on Appropriations. This is simply the vehicle by which all of that other legislation is getting done.

You have an immense amount of legislation that has never been considered by either body, and, as a result, I think that in many ways, unfortunately, this legislation is a case study in institutional failure because of the massive amount of somebody else's unfinished business that had to be attached to the appropriations legislation.

As a result, we have had a huge number of Members, the vast majority of the people's Representatives, who have been cut out of the process, and I think that that is a terrible abuse of the legislative process. It has also meant, frankly, that the administration has played a much heavier role in the direct drafting of legislation than I am, frankly, comfortable with. But I think that was made necessary by the lack of ability of the Congress as a bicameral institution to pass all of the legislation that it was required to pass without that kind of involvement.

Having said all of that, I simply want to say a few things about the gentleman from Louisiana [Mr. LIVINGSTON]. The House Committee on Appropriations did do its job by finishing its appropriations bills on time, even if the Senate did not and even if the Congress, as an institution, did not.

You may have noticed that BOB LIVINGSTON and I disagree often. You may have noticed that we have strong views, often in the opposite direction. We have different priorities, I think it is safe to say. But I would like to think that he and I have demonstrated a relationship that shows that people of the opposite political parties can have a relationship that demonstrates respect and even deep friendship, even while differing over very important and fundamental issues.

I think our relationship demonstrates that opponents do not have to be enemies. I certainly regard the gentleman as being one of the strongest and closest friends I have on Capitol Hill.

I would simply like to congratulate him for all of the work he has done. It has taken an immense amount of work to get to this point, including coordinating an awful lot of issues about which we knew absolutely nothing because that responsibility was thrust upon us.

I would also like to thank every single member of the Committee on Appropriations staff, and especially on the Democratic side, Greg Dahlberg, Mark Murray, Nancy Madden, Bob Bonner, Cheryl Smith, Mark Mioduski, Scott Lilly, Tom Forhan, Pat Schlueter, and Del Davis. Many of them have, indeed, gone 2 and 3 days without sleep. Others perhaps have been able to catch an hour or two at the most. I think the American public would be profoundly impressed if they could see the dedication which all of them have brought to their jobs.

I would also like to thank Leon Panetta, the President's Chief of Staff. Without his involvement we would be facing a government shutdown. There is absolutely no doubt about that.

Mr. Speaker, anyone who watched those meetings this week understands

that Mr. Panetta truly has a profound understanding of the way this Government does work and the way it is supposed to work, and without him we would never have been here with this legislation tonight.

I would also like to especially thank Senator MARK HATFIELD and Senator ROBERT BYRD, two truly fine gentlemen, two truly outstanding public servants. They helped us over many a rough spot, and without their help, we also would not be here tonight.

So Mr. Speaker, at this point I would simply like to stop my remarks. I know we have several other Members who would like to make short comments on our side of the aisle. I would again like to thank everyone who cooperated.

I am sorry we could not help a lot of Members on a lot of items they would have liked help on, but we felt we could not do it because we, frankly, did not have the time to examine each of those items and we did not want to embarrass this institution by accepting many items that we knew very little or nothing about. So I thank all of the Members of the House for their understanding.

Mr. Speaker, I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I thank the gentleman for his gracious comments and say that, frankly, I believe that we had an enormously successful 2 years on the Committee on Appropriations, and that would not have been possible without the close advice and consultation with Mr. OBEY. He has indeed been a friend.

We have been adversaries, but we have been adversaries in a friendly way. It has been a pleasure to deal with him. I appreciate his assistance and, likewise, the great assistance effort we got from the two gentlemen on the other side, Senator BYRD and Senator HATFIELD.

Mr. Speaker, I yield to the outstanding and vigorous gentleman from Florida, the chairman of the Subcommittee on National Security who has been like my right arm, only he is on the left side of my office. His office is right next to mine, one-stop shopping for the Defense Department, my friend, BILL YOUNG from Florida.

□ 2100

I want to also pay special tribute to the gentleman from Pennsylvania [Mr. MURTHA] who is the ranking member on our subcommittee.

In our section of this bill today, we bring in a true bipartisan fashion, as we always have. This is an excellent bill as far as the national defense and intelligence appropriation is concerned. And when we came from conference, had it not been for the tremendous cooperation of our counterparts, Senator STEVENS and Senator INOUYE, we could not have come to the conclusion that we did nearly 3 weeks ago with a bill that was very close to the House-passed bill earlier on.

This conference report is the product of the work of each and every subcommittee member who spent hours and days in hearings, on inspections in the field, and in the markup and conference sessions. On our side of the aisle, I'm particularly appreciative of the wise counsel of Joe McDade. Joe and I joined the subcommittee at the same time, 16 years ago and we have sat side by side through all of those years. Earlier, I thanked BOB LIVINGSTON for his great leadership of the full committee, and in spite of his very active schedule, he still finds time to devote a lot of energy toward our National Security efforts. JERRY LEWIS and JOE SKEEN each chair their own subcommittees, yet they still play a very active role on our subcommittee. DAVE HOBSON and HENRY BONILLA have a very strong interest in our National Security and have been there every step of the way. Two new members to our effort are GEORGE NETHERCUTT and ERNEST ISTOOK. They may not have as much experience as others on the subcommittee but they each have played a very important role in our work.

Earlier, I referred to the bipartisanship of our committee. Anyone who attends our hearings or observes the work of this subcommittee would have a hard time telling which party each of us belongs to, because we all have such a strong commitment to a strong National Defense. JACK MURTHA has been a great partner, a wise counselor, and a true patriot in the work of this subcommittee. NORM DICKS is a knowledgeable and hard working member who plays a particularly important role in our intelligence effort. CHARLIE WILSON is leaving the Congress, and we will miss his great contribution and his sense of humor which has more than once allowed us to get through a tough hearing or markup. BILL HEFNER and MARTY SABO also play a very important role on our committee, and still find time to do so even with their other important responsibilities as ranking minority members on the Military Construction subcommittee and the Budget Committee.

I also want to compliment the great work of our staff. They work hard, long hours, with many nights and weekends away from their families. They also have an expertise in their individual areas that is astounding. Kevin Roper, our clerk and staff director, combines a computer like brain with a day that starts and ends when most of the rest of this town is in bed. He is supported by a group of analysts who, as I said before, are not only very knowledgeable but have a particularly strong devotion themselves to a strong National Defense for our Nation. They are Doug Gregory, Tina Jonas, Alicia Jones, Paul Juola, Patricia Ryan, David Killian, Steve Nixon, Julie Pacquing, John Plashal, Greg Walters, and Stacy Trimble. I also want to thank Paige Schreiner for her work for the committee before she left to have a baby earlier this year and Katy Hagen who joined us just recently.

This conference bill had to come down in numbers and we are basically a billion dollars under the House-passed bill. We were able to do that with a lot of heartburn and a lot of heartache. We had to eliminate programs that we did not want to eliminate, but it had to be done.

But I want to report to my colleagues, Mr. Speaker, that two-thirds of the bill, as it relates to the national defense and intelligence section of this bill, two thirds of those dollars go for readiness, for training, for military personnel, pay raises, health issues, educational issues, matters of this type. The other third goes for research and development, procurement and other types of investment in our national security.

We fully funded the 3 percent pay raise. We added $475 million to the health care budget shortfall in the President's budget. We added $600 million over the budget for barracks and facilities repair for our people in uniform for a decent place to live. We added $138 million to continue the DOD breast cancer research and care programs. We fully funded all the readiness and training programs, and we added significant amounts for very key programs such as $353 million for the new counterterrorism programs, $165 million over the budget for Department of Defense drug interdiction operations. We provided $300 million additional for the defense operations of the U.S. Coast Guard.

This is a good bill. For those who might be wondering if they should vote for this overall package or not, but they believe in a strong national defense, the defense section of this bill is strong enough to overcome those apprehensions and overcome those fears. They should be able to vote for this bill based on the strength of the section dealing with national defense.

Mr. Speaker, I include for the RECORD tabular material, as we normally do on a conference report.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to add my appreciation to the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Louisiana [Mr. LIVINGSTON] for their cooperative effort and to briefly acknowledge that today we can stand here and say that we are not going to shut the Government down. A great difference and a strike for balance over divisiveness. The American people are the benefactors of this process.

As a member of the Texas delegation, I have been active in efforts to reform our Nation's immigration laws. The compromise on the immigration provisions was reached after much debate. As a result of this compromise, our Nation's borders will be more secure. I am pleased that there is no provision that would allow States to deny free public education to the children of illegal aliens.

I was concerned about the restrictions on income levels for sponsoring legal immigrants but at the least the final version of the bill requires immigrants to have incomes of 125 percent above the poverty level to sponsor immigrants instead of 140 percent above the poverty level, which was the original proposal. Additionally, the proposal to deport and deny naturalization for immigrants who used means-tested benefits was dropped from the bill. The original provision to make sponsors responsible for emergency Medicaid costs for immigrants was also deleted from the bill.

The verification requirements for immigrants in this bill are not more stringent than the requirements that were contained in the welfare reform bill. Moreover, the bill exempts charitable organizations from the verification requirements in the new welfare reform law and exempts battered immigrants and indigent immigrants from some of the deeming restrictions in the welfare reform law. Finally, the provision of the bill that would have restricted HIV treatment for immigrants was deleted from the final version of the bill.

□ 2130

Mr. LIVINGSTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary, who helped craft and is the author of the immigration provisions in this bill.

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on Appropriations for yielding me this time.

Mr. Speaker, I rise in support of this bill which contains the strongest illegal immigration measures ever passed. Every illegal immigration measure that we passed in the stand-alone bill last week, every phrase, every word, every comma remains in this omnibus bill. It secures America's borders. It stems the pointless flow of illegal drugs, protects American jobs and saves taxpayers billions of dollars.

This bill also requires new immigrants and their sponsors to be self-reliant rather than relying on taxpayers for support.

For the first time ever, we require every new immigrant to have a sponsor. Just as we asked deadbeat dads to support the children they bring into the world, this bill requires deadbeat sponsors to support the immigrants they bring into this country.

This bill has been changed though, Mr. Speaker. The administration put American taxpayers last when they insisted that we make it easier for noncitizens to receive welfare. They threatened to shut down the Government unless we make it harder to deport noncitizens who use welfare.

I wish that all of these provisions had remained, but still this is a landmark bill. It puts our taxpayers, workers and communities first. I urge my colleagues to support it.

Mr. LIVINGSTON. Mr. Speaker, to conclude the argument and debate today on this final bill, I yield the balance of my time to the very distinguished gentleman from Georgia, the Honorable NEWT GINGRICH, Speaker of the House.

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Georgia [Mr. GINGRICH] is recognized for 6 minutes.

Mr. GINGRICH. Mr. Speaker, let me start by saying I think this is truly a historic evening and that I want to thank everyone on both sides who made this possible.

It took a tremendous amount of effort both here and in the other body and in the executive branch. It took a bipartisan effort.

I want to particularly single out Mr. OBEY and all of his staff and all the

members of his committee on the Democratic side who worked so hard, and I want to thank Chairman LIVINGSTON and his members and his staff who worked so hard.

I want to pick up a little bit on what Mr. OBEY said. Leon Panetta was up here, our former colleague, for 2 nights, until, I think, 4:30 one night and until 7 a.m. the next, working to get this done, not to drag it out, not to get into some kind of a mess, not to hang around for an extra 10 days, but to get it done and to get it done in a very detailed, very thorough and, I think, remarkably bipartisan way.

This Congress may at times have been very partisan. In the last week I think we have truly pulled the wagon together, the American people's wagon, in a remarkably solid way.

I also have to say that John Hiley did a very able job representing the President. And at one point last night we were sitting right over here with ALAN SIMPSON and LAMAR SMITH working on the illegal immigration bill. It was a truly bipartisan effort to scrub the bill and, I think, went from many, many changes to a very narrow range of changes and did it in a way that was very intelligent and very professional. I commend not just John but all the staff he brought with him from the executive branch.

I would also say that Martha Foley very ably represented the interests of the President. That is the way it should be in our constitutional system. Remember, our Founding Fathers designed, in the Constitution, they saw themselves as engineers. They wanted a machine so inefficient that no dictator could make it work. So they put part of the power over here, and we get elected every 2 years and we all pay a lot of attention, every morning, to what the American people think. Then across the way they created the Senate to represent the States, where we represent the people and where this is the people's House in the constitutional model, that is the States House, and only one-third of the Senators are up. And so their view is different than ours. And where we are a new body every 2 years, they are a continuing body. And they never quite change their rules.

They are deliberately and legitimately slower. When the country becomes more liberal, they do so more slowly. When the country becomes more conservative, they do so more slowly. That is the way it should be. Then the Founding Fathers took part of the power and put it downtown, and they elected an Executive every 4 years. That Executive has the power of the veto. And as we on our side found occasionally, it is a very powerful weapon.

On the other hand, back when we were in the minority and we had a Republican President, we thought it was a wonderful weapon. I think all of us in this House have learned a little more about this process in the last 2 years.

And then, just to make it really complicated, the Founding Fathers put a little building right over there called the Supreme Court which watches all of us. And their deliberate design was to create a system so complex and so cumbersome that no dictator could seize power and force it to happen and to create a system so cumbersome that no temporary tidal wave of popularity could force us to do dumb things that were not changeable.

Some days it is very frustrating. Some days it is very partisan. And then occasionally it matures and it comes together and people listen to each other and you have a few weeks, as we did this summer, when in one short week we reformed the health insurance system so every American had a chance to go out and change jobs without preconditions. In 1 short week, we passed the minimum wage. I would say to my friends, the Democratic Party, you won a great victory. Some of us swallowed more than we wanted to, yet it was clearly the American people's will. And the system worked exactly as it is supposed to.

In that same short week, we reformed welfare, ending an entitlement after 61 years. And for some it was a bitter defeat and for others it was wonderful victory. Yet at the end of the week, everyone had won something and everyone had somehow felt accommodated that the process was working.

Now we are here tonight. I could not say enough about Chairman LIVINGSTON, the team he assembled, the tremendous staff that Jim Dyer leads and the way in which this committee has served, saving $53 billion in domestic spending for the American people, the most successful Committee on Appropriations from a taxpayer's standpoint since World War II. The gentleman from Louisiana [Mr. LIVINGSTON] clearly played the lead role week in and week out and carried that burden.

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And I would say candidly, without the tough negotiations, the hard work and the willingness of the gentleman from Wisconsin [Mr. OBEY] to fight for his team but to fight within the process, this would not have happened, and I say to the gentleman, "DAVE, I commend you."

And I would say across the way, if I might, we have two great giants in the Senate, MARK HATFIELD, who we will all miss, who whether one agreed or disagreed, whether it was early in his career as a young boy governor reformer, whether it was as one of earliest opponents of the Vietnam war as an act of conscience, whether it was the vote last year against the balanced budget, because he honestly voted out of conscience, or whether it was working with him as we all did the last week, a remarkable tribute to the American system.

And his counterpart, I think probably the wiliest, the most clever and certainly the most knowledgeable Member of the Senate, BOB BYRD, who is just a giant who people will study for many centuries and say: That personifies the Senate at its most cagey, its most obstinate, and at the same time cherishes the ideals of why we have a Senate, even if we in the House often wonder why we have a Senate.

And they, of course, look over here and wonder why we have a House, and that is how the Founding Fathers intended. And I would say of Keith Kennedy and that fine staff, they were absolutely invaluable.

Illegal immigration. A tremendous breakthrough for all Americans who really do believe we must remain open as a land of legal migration, a beacon of hope for the whole planet, but we cannot be open for those who would break the law and come here. And yet tempered to some extent; we would argue about the tempering by very tough negotiations with the White House and with our friends, the Democrats.

The defense bill: I would just say to my colleagues watching what is happening in the Middle East, and I say this as an Army brat, we in this Congress stood firm for our men and women in uniform, and we have provided them on a bipartisan basis with better equipment, better training and better resources, and it was the right thing for us to do for those who risked their life for America. And I am proud of the gentleman from Florida [Mr. YOUNG], and I am proud of the gentleman from Pennsylvania [Mr. MURTHA], and I am proud of everybody who has worked on that, and I am proud of the gentleman from South Carolina [Mr. SPENCE], and I am proud of the gentleman from California [Mr. DELLUMS] and everybody who works on the Committee on National Security, and the two committees have worked together for a better America and for the young men and women who serve us.

On health care I have to say fighting to balance the budget, saving money, the gentleman from Illinois [Mr. PORTER] was a giant for research, for the National Institutes of Health, for breast cancer research, and I say to the gentleman, "JOHN, we all owe you something," and those who get ill 20 years from now, who are saved by miracles of research that are undreamed of today, can look back to this Congress which said, yes, we will pinch pennies where it is wise, but we will not stint on the research that will save lives in the future. I thank the gentleman from Illinois for his leadership.

On parks I would just have to say that the gentleman from Ohio [Mr. REGULA] has done a tremendous job on the Interior bill, we worked very closely together, and I thank all my friends on both sides of the aisle, and I thank, I hope, the other body which I do not think yet acted, that we may actually get a bipartisan parks bill through before the evening is out or before next week is out because it is good for America and there are a lot of things

we can agree on on strengthening parks.

And finally, all of us are going home to a country that has the scourge of drugs and violent crime, and I just want to thank the gentleman from Kentucky [Mr. ROGERS] for his tremendous leadership in doing the right things to strengthen the FBI and the Drug Enforcement Administration and all the things that are happening there.

And as we think about what is happening in the Middle East, I want to thank our good friend, the gentleman from Alabama [Mr. CALLAHAN] for his leadership on the foreign operations bill. It is a very hard task, and no one thanks them for doing it, but it is for America's future and for our role in the world, and we are grateful.

Let me just say in closing I know some of my friends never quite got over my becoming Speaker, but that is all right in the historical process. I know that others were delighted that I was Speaker. I know that the American people will choose November 5. This is the peoples' House. It has been great to work with everyone, I think we are closing on the right bipartisan note, I think we do have accomplishments all of us can be proud of, from every background, from every part of the country, in both parties.

This is one of the earliest times we have adjourned, I think the earliest since I have been here that we will adjourn, and I just want to say in what is quite unusual this early in this season:

I wish all of you a very good time at home, a very safe journey whichever party you are in, whatever your campaign. I hope all of you have a very good future, and while it's very, very early, since we are not formally going to be in session, I actually wish all of you a very Merry Christmas. Thank you very, very much.

Mr. SMITH of Texas. Mr. Speaker, division C shall be considered as the enactment of the conference report (Rept. 104–828) on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with certain modifications to title V of the conference report.

The legislative history of division C shall be considered to include the joint explanatory statement of the committee of conference in Report 104–828, as well as the reports of the Committees on the Judiciary, Agriculture, and Economic and Educational Opportunities of the House of Representatives on H.R. 2202

(Rept. 104–469, parts I, II, and III), and the report of the Committee on the Judiciary of the Senate on S. 1664 (Rept. 104–249).

The following records the disposition in division C of the provisions in title V of the conference report. (The remaining titles of the conference report have not been modified.) Technical and conforming amendments are not noted.

Section 500: Strike.

Section 501: Modify to amend section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) to insert the provisions in section 501(c)(2) of the conference report relating to an exception to ineligibility for benefits for certain battered aliens. Strike all other provisions of section 501.

Section 502. Modify to authorize States to establish pilot programs, pursuant to regulations promulgated by the Attorney General. Under the pilot programs, States may deny drivers' licenses to illegal aliens and otherwise determine the viability, advisability, and cost effectiveness of denying driver's licenses to aliens unlawfully in the United States.

Section 503. Strike.

Section 504. Redesignate as section 503 and modify to include only amendments to section 202 of the Social Security Act, and new effective date. Strike all other provisions.

Section 505. Redesignate as section 504 and modify to amend section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide that the Attorney General shall establish a procedure for persons applying for public benefits to provide proof of citizenship. Strike all other provisions.

Section 506. Strike.

Section 507. Redesignate as section 505.

Section 508. Redesignate as section 506 and modify. Strike subsection (a) and modify requirements in subsection (b) regarding report of the Comptroller General.

Section 509. Redesignate as section 507.

Section 510. Redesignate as section 508. Modify subsection (a) and redesignate as an amendment to section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (b).

Section 511. Redesignate as section 509. Modify to change references to "eligible aliens" to "qualified aliens" and make other changes in terminology.

Section 531. No change.

Section 532. Strike.

Section 551. Modify to reduce sponsor income requirement to 125 percent of poverty level. Strike subsection (e) of Immigration and Nationality Act (INA) section 213A as added by this section. Make other changes to conform INA section 213A as added by this section to similar provision enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (c).

Section 552. Modify to amend section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to include the provisions in section 552(d)(1) and 552(f). Strike all other provisions.

Section 553. Strike.

Section 554. Redesignate as section 553.

Section 561. No change.

Section 562. Strike.

Section 563. Redesignate as section 562.

Section 564. Redesignate as section 563.

Section 565. Redesignate as section 564.

Section 566. Redesignate as section 565 and modify to strike (4).

Section 571 through 576. Strike and insert sections 221 through 227 of the Senate amendment to H.R. 2202, as modified.

Section 591. No change.

Section 592. Strike.

Section 593. Redesignate as section 592.

Section 594. Redesignate as section 593.

Section 595. Redesignate as section 594.

The SPEAKER pro tempore (Mr. DREIER). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Speaker, I offer a motion to recommit the conference report accompanying H.R. 3610.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. COLEMAN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COLEMAN moves to recommit the conference report to accompany the bill, H.R. 3610, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 37, answered "present" 1, not voting 26, as follows:

[Roll No. 455]

YEAS—370

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blilley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chambliss
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Collins (GA)
Collins (IL)
Combest
Condit
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Rush
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—37

Barcia
Barton
Becerra
Beilenson
Burr
Chabot
Chenoweth
Coble
Coburn
Coleman
Cooley
Cox
DeFazio
Duncan
Hall (TX)
Hefley
Hoekstra
Hyde
Istook
Jacobs
Kanjorski
Kaptur
Klink
Klug
Largent
Nadler
Neumann
Rohrabacher
Roybal-Allard
Salmon
Sanford
Scarborough
Schroeder
Sensenbrenner
Stearns
Stockman
Tiahrt

ANSWERED "PRESENT"—1

Dornan

NOT VOTING—26

Baker (LA)
Berman
Blumenauer
Boucher
Cardin
Collins (MI)
Conyers
Dellums
Durbin
Filner
Flake
Fowler
Frank (MA)
Green (TX)
Hancock
Hayes
Heineman
LaFalce
Lincoln
Lipinski
Menendez
Myers
Quillen
Taylor (NC)
Waters
Waxman

☐ 2215

The Clerk announced the following pair:

On this vote:

Mr. Berman for, with Mr. Menendez against.

Mr. SENSENBRENNER and Mr. BEILENSON changed their vote from "yea" to "nay."

Mr. SERRANO changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to House Resolution 546, H.R. 4278 is considered as passed and the motion to reconsider is laid on the table.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report to accompany H.R. 3610.

The report will be stated.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1996.)

Mr. INOUYE. Mr. President, I want to take this opportunity to discuss the conference agreement for the Department of Defense appropriations bill. This is a very good agreement, one that I believe all Members should support.

The conference agreement provides $243.9 billion, an increase of $9.3 billion from the amount requested, and $500 million more than appropriated last year. The amount is nearly $1 billion less than provided by the Senate. While the total bill is lower than that passed by the Senate, the conference agreement protects the priorities of the Senate.

I believe as my colleagues review the bill they will see that the conferees, under the leadership of Senator STEVENS, forged a compromise which fulfills our constitutional requirement to provide for the common defense.

This bill in many ways improves the administration's budget request. First, the bill increases funding for operations and maintenance by $700 million to protect readiness. This includes: $600 million for facilities renovation and repair; $150 million for ship depot maintenance, to fund 95 percent of the Navy's identified requirement; $148 million for identified contingency costs for overseas operations, such as Bosnia; and $165 million for the President's counterdrug initiatives.

Second, the bill adds $590 million to fully fund health care costs identified by the surgeons general and DOD health affairs. This will allow our men and women in uniform access to the health care that they deserve.

Third, it recommends $137.5 million for breast cancer research, $45 million for prostate cancer research, and $15 million for AIDS research.

Fourth, the bill has fully provided for the pay and allowances of our military personnel, including a 3-percent pay raise and a .4 percent increase in quarters allowances.

Clearly, these few examples demonstrate that the conferees have responded to the needs of our men and women in uniform.

The bill also provides $43.8 billion for procurement of equipment, an increase of $5.6 billion above the request. This increase will provide for many of the high priority needs identified by our commanders in the field.

The administration identified several issues in the House bill that it opposes. The conferees have responded to nearly all of its concerns, rejecting restrictive legislative provisions, and funding administration priorities.

Chairman STEVENS and the managers on the part of the House have done a masterful job in keeping this bill clean. It safeguards our national defense, the priorities of the Senate, and rejects controversial riders.

In summary, Mr. President, this is a very good bill. I am strongly in favor of its recommendations and I sincerely believe it should have the bipartisan support of the Senate.

Mr. President, I signed the conference report—with reservation. I want my colleagues to understand that I have no reservations regarding the agreement on defense matters.

I do have reservations on the process by which several extraneous matters have been added to the DOD conference report. I understand that this was done in the interest of time. However, I must say that I do not think it is appropriate for entire appropriation bills—which have never been brought before the Senate—to be incorporated into a conference report.

I intend to vote for this measure because of the many worthy programs funded. I do so with some regret for certain measures which have been incorporated. And I hope that the next Congress will not follow this approach.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Order of Business—Omnibus Consolidated Appropriations: By unanimous consent, the House agreed to consider the conference report to accompany H.R. 3610, making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read; and that upon adoption of the conference report notwithstanding any rule of the House to the contrary, H.R. 4278, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, be considered as passed. Page H12033

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3610, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997, AND PASSAGE OF H.R. 4278, OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report to accompany the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read, and upon adoption of the conference report, notwithstanding any rule of the House to the contrary, the bill, H.R. 4278, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes, be considered as passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

HOUSE VOTE ON CONFERENCE REPORT ON H.R. 3610 AND SUBSEQUENT PASSAGE OF H.R. 4278

The SPEAKER pro tempore (Mr. DREIER). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Speaker, I offer a motion to recommit the conference report accompanying H.R. 3610.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. COLEMAN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COLEMAN moves to recommit the conference report to accompany the bill, H.R. 3610, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 37, answered "present" 1, not voting 26, as follows:

[Roll No. 455]

YEAS—370

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chambliss
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Collins (GA)
Collins (IL)
Combest
Condit
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Rush
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—37

Barcia
Barton
Becerra
Beilenson
Burr
Chabot
Chenoweth
Coble
Coburn
Coleman
Cooley
Cox
DeFazio
Duncan
Hall (TX)
Hefley
Hoekstra
Hyde
Istook
Jacobs
Kanjorski
Kaptur
Klink
Klug
Largent
Nadler
Neumann
Rohrabacher
Roybal-Allard
Salmon
Sanford
Scarborough
Schroeder
Sensenbrenner
Stearns
Stockman
Tiahrt

ANSWERED "PRESENT"—1

Dornan

NOT VOTING—26

Baker (LA)
Berman
Blumenauer
Boucher
Cardin
Collins (MI)
Conyers
Dellums
Durbin
Filner
Flake
Fowler
Frank (MA)
Green (TX)
Hancock
Hayes
Heineman
LaFalce
Lincoln
Lipinski
Menendez
Myers
Quillen
Taylor (NC)
Waters
Waxman

□ 2215

The Clerk announced the following pair:

On this vote:

Mr. Berman for, with Mr. Menendez against.

Mr. SENSENBRENNER and Mr. BEILENSON changed their vote from "yea" to "nay."

Mr. SERRANO changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to House Resolution 546, H.R. 4278 is considered as passed and the motion to reconsider is laid on the table.

H.RES.546 As passed by the House (Engrossed), September 28, 1996

H. Res. 546
In the House of Representatives, U.S.,
September 28, 1996.

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a joint resolution waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for fiscal year 1997. The joint resolution shall be debatable for one hour equally divided and controlled by the majority leader and the minority leader or their designees. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to commit.

Sec. 2. Upon the adoption of this resolution it shall be in order to consider in the House a joint resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for counting in Congress of the electoral votes for President and Vice President cast in December 1996. The joint resolution shall be debatable for one hour equally divided and controlled by the majority leader and the minority leader or their designees. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to commit.

Sec. 3. A resolution providing that any organizational caucus or conference in the House of Representatives for the One Hundred Fifth Congress may begin on or after November 15, 1996, is hereby adopted.

Sec. 4. A resolution providing for the printing of a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Fifth Congress as a House document, and for the printing and binding of three thousand additional copies for the use of the House, of which nine hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House, is hereby adopted.

Sec. 5. Each committee of the House that is authorized to conduct investigations may file reports to the House thereon following the adjournment of the second session sine die.

Sec. 6. Reports on the activities of committees of the House in the One Hundred Fourth Congress pursuant to clause 1(d) of rule XI may be printed as reports of the One Hundred Fourth Congress.

Sec. 7. The Speaker and the minority leader may accept resignations and make appointments to commissions, boards, and committees following the adjournment of the second session sine die as authorized by law or by the House.

Sec. 8. The chairman and ranking minority member of each standing committee and subcommittee may extend their remarks in the Congressional Record and include a summary of the work of their committee or subcommittee.

Sec. 9. All Members may extend their remarks in the Congressional Record on any matter occurring prior to the adjournment of the second session sine die.

Attest:

Clerk.

PART 1 OF 2 PARTS

104TH CONGRESS
2D SESSION

H.R. 4278

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1996
Received

AN ACT

Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current

fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

TITLE IV—RELATED AGENCIES

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $19,372,010,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1998, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and

reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,873,382,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided,* That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1988: *Provided further,* That not less than $1,268,000 shall be for the Social Security Advisory Board: *Provided further,* That unobligated balances at the end of fiscal year 1997 not

needed for fiscal year 1997 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $310,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, $234,895,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determina-

tion Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 520. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the Railroad Retirement Board and the Office of Inspector General of the Railroad Retirement Board;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and

has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this

section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The three-member Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before September 30, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government

through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 521. CORRECTION OF EFFECTIVE DATE.—Effective on the day after the date of enactment of the Health Centers Consolidation Act of 1996, section 5 of

that Act is amended by striking "October 1, 1997" and inserting "October 1, 1996".

TITLE VI—GENERAL PROVISIONS

958

SEC. 664. ELECTRONIC BENEFIT TRANSFER PILOT.

Title 31, United States Code, is amended by inserting after section 3335 the following new section:

"§ 3336. Electronic benefit transfer pilot

"(a) The Congress finds that:

"(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

"(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

"(3) A joint federal-state EBT system offers convenience and economies of scale for those states (and their citizens) that wish to deliver state-admin-

istered benefits on a single card by entering into a partnership with the federal government.

"(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states pursuant to section 6501 et seq. of this title.

"(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institutions as a financial agent of the Government, and the offering to the participating states of the opportunity to contract with the financial agent selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

"(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review."

SEC. 665. DESIGNATION OF FINANCIAL AGENTS.

1. 12 U.S.C. 90 is amended by adding at the end thereof the following:

"Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may select associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of electronic benefit transfer services (including State-administered benefits with the consent of the States), as defined by the Secretary.".

2. Make conforming amendments to 12 U.S.C. 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122 and to 31 U.S.C. 3122 and 3303.

TITLE VIII—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Federal Financial Management Improvement Act of 1996."

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the government and reduce the federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activi-

ties of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the "FASAB") has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838), the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. 803 IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the entity or organization responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the non-compliance including areas in which there is substantial but not full compliance;

(ii) the primary reason or cause of the noncompliance;

(iii) the entity or organization responsible for the non-compliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the time frames to implement such actions.

(c) COMPLIANCE IMPLEMENTATION.—

(1) DETERMINATION.—No later than the date described under paragraph (2), the Head of an agency shall determine whether the financial management systems of the agency comply with the re-

quirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) any other information the Head of the agency considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 120 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(3) REMEDIATION PLAN.—

(A) If the Head of an agency determines that the agency's financial management systems do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into substantial compliance.

(B) If the determination of the head of the agency differs from the audit compliance find-

ings required in subsection (b), the Director shall review such determinations and provide a report on the findings to the appropriate committees of the Congress.

(4) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems cannot comply with the requirements of subsection (a) within 3 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

SEC. 804. REPORTING REQUIREMENTS.

(a) REPORTS BY THE DIRECTOR.—No later than March 31 of each year, the Director shall submit a report

to the Congress regarding implementation of this Act. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE INSPECTOR GENERAL.—Each Inspector General who prepares a report under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) shall report to Congress instances and reasons when an agency has not met the intermediate target dates established in the remediation plan required under section 3(c). Specifically the report shall include—

(1) the entity or organization responsible for the non-compliance;

(2) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the non-compliance, the primary reason or cause for the failure to comply, and any extenuating circumstances; and

(3) a statement of the remedial actions needed to comply.

(c) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United

States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section 3(a) of this Act, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of applicable accounting standards for the Federal Government.

SEC. 805. CONFORMING AMENDMENTS.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting "and the Controller of the Office of Federal Financial Management" before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking "and' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) a listing of agencies whose financial management systems do not comply substan-

tially with the requirements of Section 3(a) the Federal Financial Management Improvement Act of 1996, and a summary statement of the efforts underway to remedy the noncompliance; and"

(c) INSPECTOR GENERAL ACT OF 1978.—Section 5(a) of the Inspector General Act of 1978 is amended—

(1) in paragraph (11) by striking "and" after the semicolon;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996."

SEC. 806. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term "agency" means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term "Federal accounting standards" means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term "financial management systems" includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term "financial system" includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term "mixed system" means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

SEC. 807. EFFECTIVE DATE.

This title shall take effect for the fiscal year ending September 30, 1997.

SEC. 808. REVISION OF SHORT TITLES.

(a) Section 4001 of Public Law 104–106 (110 Stat. 642; 41 U.S.C. 251 note) is amended to read as follows:

"SEC. 4001. SHORT TITLE.

"This division and division E may be cited as the 'Clinger-Cohen Act of 1996'.".

(b) Section 5001 of Public Law 104–106 (110 Stat. 679; 40 U.S.C. 1401 note) is amended to read as follows:

"SEC. 5001. SHORT TITLE.

"This division and division D may be cited as the 'Clinger-Cohen Act of 1996'."

(c) Any reference in any law, regulation, document, record, or other paper of the United States to the Federal Acquisition Reform Act of 1996 or to the Information Technology Management Reform Act of 1996

shall be considered to be a reference to the Clinger-Cohen Act of 1996.

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1997".

DIVISION C—ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

SEC. 1. SHORT TITLE OF DIVISION; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS OF DIVISION; SEVERABILITY.

(a) SHORT TITLE.—This division may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this division an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this division.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this division, for purposes of titles I and VI of this division, the terms

"alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(d) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Subtitle B—Deterrence of Document Fraud

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Subtitle B—Criminal Alien Provisions

(e) SEVERABILITY.—If any provision of this division or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this division and the application of the provisions of this division to any person or circumstance shall not be affected thereby.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 of this division made and in effect no later than 1 year after the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a) of this division) in, at a minimum, 5 of the 7 States with the highest estimated population

of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A) of this division; and

(3) of the machine-readable-document pilot program (described in section 403(c) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2) of this division.

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404 of this division.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b) of this division) or the machine-readable-document pilot program (described in section 403(c) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2) of this division, respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient resources to provide appropriate services under a pilot program for the person's or

entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immi-

gration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch,

that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I–9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and

Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I–9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a) of this division) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably ap-

pears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be

deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1) of this division, using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such

an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under section 404(b) of this division, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION —

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b) of this division, the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c) of this division, the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c) of this division. The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of em-

ployment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) of this division regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact

through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may

restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures described in paragraphs (3)

and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers

seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and em-

ployment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative

nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) of this division consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number,

and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) of this division which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, in-

cluding instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the pe-

riod of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand

the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with informa-

tion regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term 'qualified alien' includes—

"(1) an alien who—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any

court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for—

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

"(2) an alien—

"(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without

the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.".

SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) IN GENERAL.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the

viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).

SEC. 503. INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for

which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

SEC. 504. PROCEDURES FOR REQUIRING PROOF OF CITIZENSHIP FOR FEDERAL PUBLIC BENEFITS.

Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended—

(1) by inserting "(1)" after the dash, and

(2) by adding at the end the following:

"(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner.".

SEC. 505. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any post-

secondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 506. STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

(b) REPORT ON COMPUTER MATCHING PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate com-

mittees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(c) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this section the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

SEC. 507. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 508. NO VERIFICATION REQUIREMENT FOR NON-PROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(d) NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.".

SEC. 509. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO ALIENS WHO ARE NOT QUALIFIED ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to aliens who are not qualified aliens (as defined in section 431(b) of the Personal Responsibility and Work

Opportunity Reconciliation Act of 1996) in order to provide such benefits to individuals who are United States citizens or qualified aliens (as so defined). Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

SEC. 510. TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS UNDER THE FOOD STAMP PROGRAM.

Effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, subclause (I) of section 402(a)(2)(D)(ii) (8 U.S.C. 1612(a)(2)(D)(ii)) is amended to read as follows:

"(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the

period beginning April 1, 1997, and ending August 22, 1997.".

Subtitle B—Public Charge Exclusion

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(c)(2) of this division a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

Subtitle C—Affidavits of Support

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Section 213A (8 U.S.C. 1183a), as inserted by section 423(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended to read as follows:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable.

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as de-

fined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable after such time as the alien (i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under subparagraph (B), and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as pro-

vided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during any such period.

"(B) QUALIFYING QUARTERS.—For purposes of this section, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

"(i) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

"(ii) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under clause (i) or (ii) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under

section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during the period for which such qualifying quarter of coverage is so credited.

"(C) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act.

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate non-governmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other ap-

propriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action

against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such

requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(f) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or

"(ii) does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United

States Code, that the copies are certified copies of such returns.

"(ii) FLEXIBILITY.—For purposes of this section, aliens may demonstrate the means to maintain income through demonstration of significant assets of the sponsored alien or of the sponsor, if such assets are available for the support of the sponsored alien.

"(iii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the

demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a)(1) and section 422(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(a)(1), 1632(a)(1)) are each amended by inserting "and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996" after "section 423".

(2) Section 423 of such Act (8 U.S.C. 1138a note) is amended by striking subsection (c).

(c) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a

standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 552. INDIGENCE AND BATTERED SPOUSE AND CHILD EXCEPTIONS TO FEDERAL ATTRIBUTION OF INCOME RULE.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) is amended by adding at the end the following new subsection:

"(e) INDIGENCE EXCEPTION.—

"(1) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

"(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in

the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

"(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

"(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a

member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

"(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits

"(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same

household or family eligibility unit as the individual who was subjected to such battery or cruelty.".

SEC. 553. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631)) for purposes of determining eligibility for, and the amount of, benefits shall be

considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or fac-

simile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial_license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 564. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631). Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits described in section 213A(d)(2)(B) of the Immigration and Nationality Act (as amended by section 551(a) of this division) for the alien and the alien's dependents and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in subsection (a)(1) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 (8 U.S.C. 1183)

is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 565. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 552 of this division) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

Subtitle F—General Provisions

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 593. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continu-

ation of eligibility if the notice under this section is not provided.

SEC. 594. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of

Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make

grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to

provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent

with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or doc-

uments issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load impli-

cations of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

ORDERS FOR MONDAY, SEPTEMBER 30, 1996

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, September 30; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; the Senate then proceed to the amendable continuing resolution, which will come from the House later this evening, for debate only, no amendments in order prior to the hour of 2 p.m.

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

WAIVING CERTAIN ENROLLING REQUIREMENTS IN H.R. 4278—HOUSE JOINT RESOLUTION 197

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 197, which was received from the House, and further, the joint resolution be considered read three times and passed, the motion to reconsider be laid upon the table.

Mr. STEVENS. Reserving the right to object, what is that?

Mr. LOTT. That is regarding hand enrollment of the omnibus appropriations bill.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

The joint resolution (H.J. Res. 197) was considered, ordered to a third reading, read for a third time, and passed.

Mr. LOTT. I yield the floor.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 4278, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4278) making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill.

H.J.R.197 As finally approved by the House and Senate (Enrolled)

H. J. Res. 197
One Hundred Fourth Congress

of the

United States of America
A T T H E SECOND S E S S I O N
Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six

Joint Resolution
Waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for fiscal year 1997.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) Waiver.--The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any appropriation measure of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution.

(b) Certification of Enrollment by Committee on House Oversight.--The enrollment of any such measure shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC. 2. APPROPRIATION MEASURE DEFINED.

For purposes of this joint resolution, the term "appropriation measure" means a bill or joint resolution that includes provisions making general or continuing appropriations for the fiscal year ending September 30, 1997.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

OMNIBUS CONSOLIDATED APPROPRIATIONS, 1997

The Senate continued with the consideration of the bill.

Mr. HATFIELD. Mr. President, I believe that the pending business is the omnibus appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I thank the Chair.

Mr. President, the Senate now has, as the Chair has indicated, under consideration the fiscal year omnibus appropriations bill which will conclude our action on the six fiscal year 1997 appropriations bills that have not been enacted into law, and they are: No. 1, Commerce, Justice, State, and related agencies; No. 2, the Defense appropriations bill; No. 3, the foreign operations appropriations bill; No. 4, the Interior and related agencies appropriations bill; No. 5, the Labor-HHS appropriations bill; and No. 6, the Treasury-Postal Service appropriations bill.

As Senators are aware, members of the House and Senate Appropriations Committee and their staffs worked around the clock at the end of last week to reach a bipartisan agreement with the administration on all the outstanding issues included in these bills. Our colleagues in the House adopted this bill Saturday by an overwhelming rollcall vote of 370 to 37, and the President has indicated he will sign the bill as soon as it reaches his desk.

I know that many Senators have questions and concerns about this legislation. Senator BYRD and I will be here throughout the day to address those matters as best we can. I hope and expect that when we reach a vote on final passage later today, a large majority of the Senate will vote for this legislation.

Mr. President, this will be the last appropriations measure that I will manage here on the Senate floor. For the past 16 years as chairman or ranking minority member of the full committee, I have stood here with Senator BYRD, Senator Stennis, and Senator Proxmire as we have brought to the Senate the 13 annual appropriations acts, supplementals, rescissions bills and continuing resolutions. It has been an extraordinary experience. The appropriations process has been the crucible of debate on enormous range of issues, great and small. We have carried on through the revolutionary 1981 reconciliation process, the Gramm-Rudman-Hollings Act, budget summits, and Government shutdowns. Despite it all, year in and year out, this Congress has acted on appropriations bills and sent them to the President. It is our principal constitutional duty to do so.

Mr. President, I cannot adequately express how honored I am to have been a part of this process. I owe an enormous debt to all of my colleagues with whom I have served, both here in the Senate and in the House. I am privileged to have enjoyed relationships across the aisle in both bodies that have immeasurably enriched my life, and I can only hope that I have managed to return those gifts in some way.

All of us on the Committee on Appropriations, both here and in the House, are served by an extraordinary staff. These highly capable men and women are the best there are. Before I leave Washington for Oregon later this month—I started to say later today; that perhaps is only wishful thinking at this moment—I hope to be able to thank each one personally for their contributions.

It would be impossible, Mr. President, to make a comprehensive recitation of the provisions of this legislation, and I will not try. I believe that this bill, which I hold in my hand, represents our completed product which is, obviously, a rather enormous package. I believe that various summary descriptions have been distributed. The text of the legislation is printed in the RECORD and copies are available here on the floor and in cloakrooms and in Senators' offices.

Mr. President, I wonder if the Senator from Alaska will respond to a request that he amend his unanimous-consent agreement to be recognized following my brief presentation in order to permit the ranking member, Senator BYRD, to make his opening statement as well.

Mr. STEVENS. I have just conferred with Senator BYRD, and I agree. I do amend my request that I be recognized

after the Senator from West Virginia completes his statement.

The PRESIDING OFFICER. Is there objection to the amended request? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I will yield the floor, but before I do so, I, again, want to personalize my remarks, Senator BYRD being on the floor, to say that this was a joint effort. And with Senator BYRD's vast background and expertise in the procedures of the Senate, the history of the Senate, the legislative role of the Senate, I, again, express my deep appreciation for his collaboration, his cooperation, his spirit of friendship, and the demonstration of that friendship day in and day out in achieving our mutual responsibilities to bring this bill to the floor, like all previous bills.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Oregon, [Mr. HATFIELD], who is here today managing his last appropriations bill. I will have more to say during the day, I am sure, on that line.

The bill now before the Senate contains the results of very intense and difficult negotiations over the past week, and particularly over the past weekend, between the two Houses, with the administration participating with advice and suggestions. These negotiations included not only the chairman and ranking members of each of the affected Appropriations Subcommittees, but also the representatives of the House and Senate Republican and Democratic leadership, as well as the President's very able Chief of Staff, Leon Panetta, and the Director of the Office of Management and Budget, Frank Raines, and their staffs.

As Senators are aware, these negotiations were necessary because of the inability of Congress and the administration to reach agreement on six of the thirteen fiscal year 1997 appropriations bills. Over the past months, the President indicated that he would not agree to sign these appropriations bills unless funding for a number of priorities was increased by some $6.5 billion and unless certain controversial legislative riders were dropped.

And so, we found ourselves in Congress faced with having to deal with the President s requests in a very short period of time if we were to reach agreement on the six remaining appropriations bills by the beginning of fiscal year 1997, which starts at the hour of midnight.

In addition, the administration proposed a number of urgent appropriations, including some $1.1 billion to fight terrorism and improve aviation security and safety, as well as over $500 million in firefighting assistance for Western States and $400 million to assist the victims of Hurricanes Fran and Hortense.

Mr. President, I congratulate all of those Members and staffs who have worked literally around the clock over the past week, and certainly over the past weekend, in order to reach this agreement and have it prepared for consideration in the House on Saturday evening when it was agreed to, and by the opening hours of this day here in the Senate. I particularly wish to recognize the efforts of the chairman and ranking member of the House Appropriations Committee. Mr. Livingston has proved himself to be a very able and articulate chairman—and I have enjoyed immensely the opportunity to work with Mr. LIVINGSTON—he along with his equally able ranking member, Mr. OBEY.

If there were not a DAVID OBEY in the Congress, Congress would have to create one. He reminds me, in a way, of that irascible Senator McClay who was a Member of the first Senate when it met in 1789. Mr. OBEY is very knowledgeable and extremely able. And so both of these men, Mr. LIVINGSTON and Mr. OBEY deserve great credit for their work on this resolution.

They, together with my dear friend and colleague, the Senator from Oregon, who is the chairman of the Senate Appropriations Committee, Mr. HATFIELD, deserve the lion's share of the credit for this agreement.

I know that Senator HATFIELD, as would I, would have preferred to have had each of the fiscal year 1997 appropriation bills enacted separately rather than having them conglomerated into this massive omnibus bill. Senators should not be placed in the position that we find ourselves in at this moment. We should not be backed up against the wall here on the last day of the fiscal year, facing a Government shutdown unless we adopt this massive resolution. No Senator, and I dare say no staff person, has had the time to carefully review the thousands of programs funded in this resolution, or to read and comprehend the many non-appropriations, legislative matters contained in this resolution. What we are faced with is having to rely on those members and staffs in the House and Senate with jurisdiction over each of the provisions in this resolution. To my knowledge they, along with the Office of Management and Budget and other executive branch personnel, have approved each item and provision in their respective areas.

While I applaud the efforts of all those who have worked so hard on this measure, I nevertheless abhor the fact that it, once again, has come to this. We must redouble our efforts in future Congresses to get our work done, despite the very real differences among ourselves and with the administration. The leaders of the Senate have almost impossible burdens in meeting the requests of Senators throughout every session. I urge my colleagues, on both sides of the aisle, to commit themselves to working with both leaders in ways that will enable the next Congress not to have to consider such massive, omnibus legislation as the one now before the Senate.

Mr. President, as the distinguished chairman of the committee, Senator HATFIELD, has stated, this resolution contains the necessary appropriations for fiscal year 1997 for each of the six remaining appropriation bills which have not yet been enacted into law. Namely, Title I of the resolution provides the fiscal year 1997 appropriations for the following appropriation bills: Commerce/Justice/State/ and the Judiciary; Department of Defense; Foreign Operations; Interior; Labor-HHS; and Treasury Postal.

Titles II, III, and IV of H.R. 4278 contain legislation that results in offsets totaling some $3.3 billion. Those provisions include so-called BIF-SAIF; SPECTRUM sales; and certain PAYGO savings.

Title V contains other appropriations for various departments and agencies totaling some $850 million, as well as a number of general provisions.

Finally, I should note that division C of the resolution contains the agreement on immigration reform.

Chairman HATFIELD has highlighted the important priorities contained in this resolution and, therefore, I will not repeat them.

I hope that the Senate will proceed expeditiously and that we may be able to complete action on this measure in time to send it to the President for him to sign before the hour of midnight. I shall have more to say, of course, during the day.

I thank the distinguished Senator from Alaska [Mr. STEVENS] for his characteristic courtesy in yielding to me, and I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have the greatest respect for the chairman and ranking member of our full committee, the Appropriations Committee. I certainly do apologize to them for seeking the floor ahead of them, because I knew they were coming. But I wanted to make certain that I did retain the right to alert the Senate to a very difficult problem as we proceed to consider this bill.

First, let me say I know that this is the last bill to be handled by the Senator from Oregon. He and I went on the Appropriations Committee on the same day. I have sat beside him for so many years now working on matters affecting appropriations, and we have both served with the distinguished Senator from West Virginia in a way that most people would never understand.

There is a deep friendship among those of us who worked through long nights trying to figure out how to solve the problems of keeping this Government going and at the same time pursue the objectives of policy enunciated by our leaders. It is not an easy thing.

Both the Senator from Oregon and the Senator from West Virginia have spent many more hours in conference on this bill than any other member of the Appropriations Committee, and

they certainly deserve our great respect and thanks for all the work they have done to get us to this point.

As the Senator from West Virginia just said, this bill absolutely must be signed tonight. It is our intention to see to it that that takes place. I do give both the Senator from Oregon and the Senator from West Virginia great credit for what they have done and the manner in which they have handled this bill.

As a postscript, I also say I certainly do agree with the Senator from West Virginia—and I think the Senator from Oregon does too; I know he does—this is not the way to handle appropriations bills, and we must find a way to deal with our procedure to assure that bills from appropriations committees, that each bill is considered on its own merits and it goes to the President in a way that expresses the will of the Congress, and the President can express the will of the executive branch. Under our traditional system of checks and balances, that must be preserved in order to assure the freedom of this country. So I intend to work with the Senators to achieve that goal. I do, again, apologize to them for seeking the floor ahead of them because I know they are entitled to present their positions in the very beginning.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mrs. FEINSTEIN. Mr. President, I rise to speak on the continuing resolution and, specifically, the immigration bill, which deals with illegal immigration and which has been added as a portion of that bill.

Few issues are more clearly and unequivocally the responsibility of the Federal Government than the issue of immigration, whether it be lawful or unlawful. Legal immigration, the threads from which our Nation's rich tapestry is woven, is a matter of national policy, and, in fact, no nation on Earth has as a liberal policy and takes in more people from other countries each year than does the United States of America.

The ability to absorb newcomers becomes a question of resources, a reflection of our values, values of self-sufficiency, responsibility, respect for our laws, family unity, and the legacy of this country as a Nation of immigrants.

Illegal immigration, however, is a matter of law enforcement—whether it is enforcing our borders, enforcing our laws against working illegally or hiring someone to work illegally. It is the Federal Government's responsibility to enforce these laws.

Unfortunately, this job has not been done well over the years, and the prohibitions against illegal immigration, while on the books, have meant very little in reality. The cost of the failure to act on this responsibility has been very high.

Warning signals have been coming for years:

Communities are demanding action against: the growing crowds of illegal workers looking for day labor on street corners; lawsuits demanding Federal reimbursement for the cost of incarcerating, educating or providing health care for illegal aliens. "English only" laws are being discussed, expressing concerns about the inability of teachers to teach in schools. Many in California have dozens of different languages. As a matter of fact, there has been a report that 67 different languages are spoken in a single elementary school. It is very difficult for teachers to teach under these circumstances. There is also a rise in discrimination, and even vigilantes at airports looking for illegal immigrants.

A study just released by the Public Policy Institute of California sheds some light on the rise in animosity toward illegal immigrants. The study shows that the level of illegal immigration into California during the 1980's was substantially higher than previously thought.

Researchers estimate that as many as 2.2 million illegal immigrants settled in California during the 1980's, their migration soaring along with the California economy, comprising as much as 22 to 31 percent of all newcomers to the State during that period.

This is the point. As the State's economy stalled in the 1990's, the research indicates, interestingly enough, that illegal immigration dropped to about 100,000 a year. So as the economy of a given area gets stronger, the job magnet attraction for illegal immigration increases. When an economy worsens, that job magnet attraction clearly decreases.

I came to this body in 1993 after having run for Governor of my State 3 years before. I knew then as I traveled through my State—and I learned it very clearly—in 1989 and in 1990 that this was going to be a growing issue, and that the need for change was becoming more urgent.

As a newcomer to this body, I stood in the Chamber on June 30, 1993, and told my colleagues that I believed we needed to take action to stem illegal immigration, that the impact on my State had become enormous, and that failure to do so would only bring about a backlash.

At that time, I introduced a bill to beef up our borders and stiffen penalties for document fraud and for employing illegal workers. I tried to get myself on the Immigration Subcommittee of the Judiciary Committee, where I have served with the distinguished Presiding Officer these past 2 years. But this body did not act. The House did not act.

Within a year, in California, organizers were circulating petitions to put proposition 187 on the ballot—by far, the most draconian and punitive anti-immigration measure seen in this country for many decades, and for the first time it targeted children. It took the approach of requiring that teachers and doctors report anyone suspected of being here illegally.

Essentially, if a youngster were in school and looked different or talked different and the teacher suspected they might be illegal, it was that teacher's law-given obligation to report that youngster to the INS. If that youngster was born in this country and therefore a citizen but the parents might have been born in another country and came here illegally, it was that teacher's obligation to report that youngster.

Most amazingly so, the same prerequisites and obligations were imposed on doctors and health care workers. Therefore making it a real risk, if a child had measles or chicken pox, to even take that child to a doctor. Believe it or not, that proposition passed with a substantial majority in the State, and it won in most minority communities. As a matter of fact, even in those communities where it did not win, it received a substantial plurality.

A poll taken by the Los Angeles Times, right after the election, asked voters why they supported proposition 187. Nearly 80 percent of the initiative's supporters said it was to send a message to Washington. More than half said they hoped this would force Washington to do something about illegal immigration. Less than 2 percent—believe it or not—cared for the specific measure that denied education to illegal children in that now infamous initiative.

I did not support that measure, but the message was unmistakably clear. People should not have to force the Federal Government to live up to its responsibilities to enforce our borders and our laws. Period. We do not have the luxury of debating this issue for another 2 years or 4 years. Rather, we have the responsibility to take action now. And the bill in this continuing resolution does offer strong reform. This is not a perfect bill, but its major thrust is to stop illegal immigration. And carried out and enforced, I believe it can make a major step forward in that direction.

Let me just quickly talk for a few moments about some of the key provisions. Mr. President, both you and I strongly supported the provision to add 1,000 new border patrol agents each year for the next 5 years and allow the Attorney General to increase support personnel at the border by 300 per year, over the same period. This effectively doubles the strength of the Border Patrol.

I think this works. Since 1993, Border Patrol, along our southwest border, has increased by 50 percent in personnel. And, as a result, apprehensions of illegal immigrants rose more than 60 percent in 1 month at the beginning of this year. Clearly, the presence of added Border Patrol makes a difference in controlling illegal immigration.

This bill improves border infrastructure, authorizing $12 million for new equipment and technologies for border control, including building a triple fence in appropriate areas, and new roads. This would be in one of the most highly traveled and difficult to patrol areas along the southwest border.

The bill adds 600 new INS investigators in 1997 alone to enforce our laws. I have heard critics criticize this bill, saying it does not do enough in that direction. However, there will be 150 more investigators to investigate employer violations, 150 to investigate criminal aliens, and 300 designated to investigate visa overstays in 1997.

You and I know that one-half of the people who come into our country illegally have visas and they just simply overstay that visa. And the visa, up to this point, has had no teeth. If they disappear into the fabric of the society, it is very difficult to find them to enforce that visa. This bill dedicates 300 new INS investigators to visa overstays. It is the first real effort this Congress has made to control one of the biggest problem areas in illegal immigration.

And the bill allows the Attorney General to establish an automated entry and exit control system, to match arriving and departing aliens and identify those who overstay their visas.

It precludes a person who overstays his or her visa from returning to this country for up to 10 years. This gives meaning to a visa. In a sense, in a

great sense, I am sorry we have reached this day and age in our very free society. But, you know, there is one thing I deeply believe and that is, we are a country of laws. We do not have the liberty to pick and choose which laws we enforce or do not enforce. But the departments of our Government should be bound to enforce the laws that are on the books.

We, if we do not like those laws, have the ability and the opportunity to change those laws. I am very disappointed this bill does not increase penalties for employers who violate the law as the Senate bill did, but penalties do exist. I have just taken a look at those penalties. As I mentioned earlier, there are also 150 INS agents, investigators specifically designated to investigate employers. The penalties essentially go from $250 to $10,000 in civil penalties for each alien, increasing with the number of offenses. And, on top of these fines, if the employer has a pattern of violations, he or she can also be subject to a maximum of $3,000 per alien and 6 months in prison for each transaction. And the Attorney General may also issue an injunction against the employer for repeated offenses.

If you think about it, these are strong penalties. But what is the problem? The problem is they have not been enforced. So this bill, once again, must be enforced if it is to have teeth.

Let me speak of worker verification. This is another disappointment because the heart of any effective system to prevent the job magnet from working is verification of documents that show legal authority to work. Any employer who can have their prospective employee, while being interviewed, present up to 29 documents, really cannot tell which is real and which is false. I know that. I have been in that position. I know how difficult it is to tell. This bill establishes three pilot programs for employment verification in five of the highest-impact States. So this is a step forward.

I want to speak for just a moment about document fraud, because probably there is no more greater problem in the United States in this area than document fraud. It is wholesale. It is rife.

It is just all over the place. Just recently, INS shut down a major document fraud ring in Santa Ana, CA. They confiscated 22,000 fake green cards, Social Security cards and driver's licenses. These were all first-rate forgeries, and they were meant to be sold in California and throughout three other States. It is a major underground industry in my State, and this bill does begin to deal with this problem.

It reduces the number of documents that can be used to establish an individual's employment eligibility, and it increases the maximum penalties for document fraud from 5 to 15 years in prison. That is the maximum, and it sets security standards for key identification documents, such as birth certificates and driver's licenses, to prevent fraud and counterfeiting.

If I had my way, we would cut the number of documents down to a basic number and make every green card, every Social Security card and every birth certificate counterfeit-resistant.

So the compromise in this bill is not all I wanted or think we need, but, again, it will be light years better than the situation we now have with employers having to struggle to recognize up to 29 different documents.

The bill also stiffens penalties for aliens illegally entering or attempting to enter the United States, and makes high-speed flight from an INS checkpoint a felony punishable by up to 5 years in prison. I think most Members of this Senate have seen the results of high-speed chases, certainly in my State, where people can die by the dozens in car crashes, in overcrowded vans, as innocent victims of high-speed-pursuit chases by law enforcement. And, of course, one very notorious incident resulted in law enforcement officers in a county taking out their frustrations physically upon some of the people who were being carried in the van.

Let me just for a moment speak about title V. This was a controversial title. It included some provisions for illegal immigrants and several provisions for legal immigrants. It was meant to tighten up income requirements and do some other things. Basically, I very much agree with the changes made to title V—with some exceptions, and I am prepared to support it. There is one area which was not changed and with which I have a major problem, and that is the section that deals with refugee assistance. A provision was deleted from the conference report that would have corrected a glaring inequity in the allocation of refugee assistance funds.

Under the funding formulas in the current law, funds for refugee assistance are not allocated on the basis of need or numbers or where the refugees are. My State, California, has 60 percent of all of the refugees in the United States of America. We receive $31 per refugee under this bill, while other States receive as much as $497 per refugee. That is just plain wrong. It is not the way this Government should exist, with cushy deals for some States and other States really ending up down and out.

This provision costs California $7 million in Federal funds. The withdrawal of the language that I submitted, to see to it that refugee dollars went based on where the refugees are, is not included in the immigration bill. It went with some kind of a political plum. I certainly intend to readdress this issue at the first available opportunity in the next Congress.

In conclusion, Mr. President, I must say, I am very pleased that the Gallegly amendment is out of this bill. I also think that fair changes have been made to the immigration bill, and I particularly thank the members of the Immigration Subcommittee. I think both you and I would agree that the markup of this bill on the Senate side was something very unusual. Members listened to each other, and it went on hour after hour, day after day. I think we produced a very good bill on the Senate side.

This bill has been changed somewhat. I think it still remains a very strong Federal tool giving the Departments of the Federal Government both the license they need, as well as the tools they need, to see that we do what we should do: guarantee that the borders of our country are enforced against illegal immigration.

I, for one, being the product of legal immigrants, really believe that it is important that the richness of our tapestry continue to be woven through people who come to this country from many other places. The fact that the legal immigration quotas remain as they are, extraordinarily broad, and I think liberal, is important, and that we say to the people of this Nation, "We are a nation of laws, and we will abide by them."

I thank the committee. I particularly thank the chairman of the Immigration Subcommittee, Senator SIMPSON, who worked very hard and very diligently, who has studied this issue and which legislation bears his name. I think he has been a person of great integrity and credibility on the issue for a long, long time. When he retires from this body, I guess at the end of this year, he will leave a legacy of fairness and a striving for laws in this area which are sustained by that credibility and integrity.

Finally, I want to address sponsor income requirements. In addition to being enforceable, sponsor contracts must also be realistic. I support raising the income requirement for sponsors of immigrants.

The purpose of the sponsor income requirement is to ensure that people who sponsor immigrants into this country have the ability to provide for them. Tell me how someone supports a family of two on $10,360 per year—which is the current poverty-level requirement.

A person can barely support himself or herself on $10,360 per year—that's why it's called the poverty level.

This bill makes what I think is a modest change in the income requirement: If you have an income of $12,950 per year for a family of two, you can bring your spouse and minor children into this country.

California—and all States who bear the burden of illegal immigration—need this bill. I strongly urge my colleagues to support this legislation by voting yes.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, we are coming on to the end of this session. It is a very, very important session. I think we have accomplished a lot in this Congress. We have made changes, seen major changes in how the budget is going to be handled. We now have the President of the United States talking, for the first time—a Democratic President talking for the first time—in 60 years about balancing the budget. I do not think we have any choice in the matter. We have to move toward a balanced budget.

But we have to see change in welfare reform. For the first time we have actually done something to entitlement programs. We have certainly passed a whole raft of other bills that are outlined in the newspapers almost on a daily basis. I think people are amazed what a terrific and important Congress this has been.

I would like to just take a few minutes this morning to address some of the measures in the omnibus bill before the Senate. One such measure is the vast bulk of the immigration conference report. The American people expect the Federal Government to control our country's borders. We have not yet done so. The American people expect Congress and the President to strengthen the national effort against illegal immigration.

Despite the last-minute political gamesmanship of the President, we have included in the omnibus measure provisions dealing with the problem of illegal immigration. This omnibus measure includes the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with certain modifications to title V of the conference report. The legislative history of the immigration portion of this measure includes the legislative history of H.R. 2202 and S. 1664, with their accompanying committee reports and floor debates and, in addition, a joint explanatory statement of the committee of conference in Report 104-828.

The American people should make no mistake about it. There is no thanks owed to President Clinton for this achievement.

On August 2, 1996, President Clinton wrote to Speaker Gingrich. Remarkably, he said unequivocally he would veto this bill even with the significantly modified Gallegly provision on public education for illegal aliens, a compromise which was not even yet at that point in final form. Republican conferees removed that provision from the proposed conference report, a draft of which was initially circulated on September 10, 1996. It was the only issue upon which the President said he would veto this bill.

The President had 2 weeks before the actual conference to register other objections to the draft conference report. Yet, only after the conference committee met and filed its report did the President interpose final objections related to title V of the conference report, which addresses immigrants' financial responsibilities. The President was apparently willing to shut down the Government or kill the immigration bill on his last-minute demands. The immigration measure in this appropriations bill now contains further concessions to the President. We have finally cleared away the obstructions, and it is my understanding that he no longer has any major objections.

This bill is an important bill. It cracks down on illegal immigration. Among other things, it builds up and strengthens the Border Patrol. It authorizes 5,000 new agents and 1,500 new support personnel for the Border Patrol over the next 5 years. This increase basically doubles the size of the Border Patrol. The proposal adds as many as 450 investigators and related personnel to combat illegal alien smuggling into our country over 3 years. The bill provides 300 personnel to investigate those who overstay their visas and thus remain illegally in our country.

The conference report requires the Attorney General to establish an automated entry and exit control system to match arriving and departing aliens and to identify visa overstayers. It authorizes acquisition of improved equipment and technology for border control, including helicopters, four-wheel drive vehicles, night vision scopes and sensor units, just to name a few things.

The bill adds civil penalties to existing criminal penalties against aliens illegally entering our country. Criminal and civil penalties for document fraud are increased. Criminal penalties against those who smuggle aliens into our country are also increased. High speed flight from an INS checkpoint is a felony punishable by up to 5 years imprisonment under this bill.

The bill makes it illegal to falsely claim American citizenship with the purpose of obtaining any Federal or State benefit or service or for the purpose of voting or registering to vote in any Federal, State or local election.

This bill gives the INS, the Immigration and Naturalization Service, wiretap authority in alien smuggling and document fraud cases.

The bill broadens the definition of "aggravated felony" for purposes of our immigration laws, even beyond the new Terrorism Act, to include crimes of rape and sexual abuse of a minor. It lowers the fine threshold for money laundering from $100,000 to $10,000. It decreases the imprisonment threshold for theft, violence, racketeering, and document fraud from 5 years to 1 year. That is the threshold. The broadened definition of aggravated felony adds new offenses related to gambling, bribery, perjury, revealing the identity of undercover agents, and transporting prostitutes. What does this mean? More criminal aliens will be deportable and fewer will be eligible for waivers of deportation.

To assist in the identification and removal of deportable criminal aliens, the bill authorizes the registration of

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OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

aliens on probation or parole; requires that the criminal alien identification system be used to assist Federal, State, and local law enforcement agencies in identifying and locating removable criminal aliens; and authorizes $5 million per year from 1997 to 2001 for the criminal alien tracking center. The bill also provides that funds under the State Criminal Alien Assistance Program may be used for costs of imprisoning criminal aliens in State or local facilities.

This bill also provides that the fee for adjustment of status be increased to $1,000 and that at least 80 percent of those fees be spent on enhancing the Immigration and Naturalization Service's capacity to detain criminal aliens and others subject to detention. The bill also authorizes $150 million for detaining and removing deportable and inadmissible aliens.

To facilitate legal entry, this measure provides for increased full-time land border inspectors to ensure full staffing of border crossing lanes during peak crossing hours. The bill will result in the establishment of preinspection stations at a limited number of foreign airports.

These provisions are desperately needed to stem the tide of illegal immigration.

I note that I am not happy with all of the immigration bill's provisions, but I have to say, I do not think anybody is. The vast majority of them, however, are good provisions. But let me give you a couple of illustrations that I am not very happy about. It adds, for example, personnel for the enforcement of employer sanctions. I believe we ought to repeal employer sanctions outright as a costly, counterproductive failure. I cannot help but note that President Clinton has gone much further than even this bill proposes by signing an Executive order penalizing Federal contractors who violate the employer sanctions law. In doing so, he not only throws more good money after bad, he is inadvertently fostering more discrimination against those ethnic minorities in our society who look and sound different from the majority.

I am no fan of verification schemes, and I am skeptical that the pilot programs provided for in this bill will be worthwhile. Here again, the President is already using existing authority to implement verification projects, which I do not believe can work on a national scale.

Despite my great reluctance, I have agreed to allow the Attorney General to certify to Congress that she cannot comply with the mandatory criminal alien detention provisions of the recently enacted terrorism law, antiterrorism law, thereby obtaining a 1-year grace period which could be extended or can be extended under this bill for 1 additional year on top of that 1-year grace period. The Clinton administration has been tenacious in pleading with Congress to ease this criminal alien detention requirement. I would have preferred that the administration find facilities necessary to implement these provisions.

On balance, though, the immigration bill is a very worthy measure, and I am pleased that it has been included in the omnibus spending bill.

I ask unanimous consent a statement of legislative history be printed in the RECORD.

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

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

DIVISION C: STATEMENT OF LEGISLATIVE HISTORY

Division C shall be considered as the enactment of the Conference Report (Rept. 104-828) on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with certain modifications to Title V of the Conference Report.

The legislative history of Division C shall be considered to include the Joint Explanatory Statement of the Committee of Conference in Report 104-828, as well as the reports of the Committees on the Judiciary, Agriculture, and Economic and Educational Opportunities of the House of Representatives on H.R. 2202 (Rept. 104-469, Parts I, II, and III), and the report of the Committee on the Judiciary of the Senate on S. 1664 (Rept. 104-249).

The following records the disposition in Division C of the provisions in Title V of the Conference Report. (The remaining Titles of the Conference Report have not been modified.) Technical and conforming amendments are not noted.

Section 500: Strike.

Section 501: Modify to amend section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) to insert the provisions in section 501(c)(2) of the Conference Report relating to an exception to ineligibility for benefits for certain battered aliens. Strike all other provisions of section 501

Section 502: Modify to authorize States to establish pilot programs, pursuant to regulations promulgated by the Attorney General. Under the pilot programs, States may deny drivers' licenses to illegal aliens and otherwise determine the viability, advisability, and cost effectiveness of denying driver's licenses to aliens unlawfully in the United States.

Section 503: Strike.

Section 504: Redesignate as section 503 and modify to include only amendments to section 202 of the Social Security Act, and new effective date. Strike all other provisions.

Section 505: Redesignate as section 504 and modify to amend section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide that the Attorney General shall establish a procedure for persons applying for public benefits to provide proof of citizenship. Strike all other provisions.

Section 506: Strike.

Section 507: Redesignate as section 505.

Section 508. Redesignate as section 506 and modify. Strike subsection (a) and modify requirements in subsection (b) regarding Report of the Comptroller General.

Section 509. Redesignate as section 507.

Section 510. Redesignate as section 508. Modify subsection (a) and redesignate as an amendment to section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (b).

Section 511. Redesignate as section 509. Modify to change references to "eligible aliens" to "qualified aliens" and make other changes in terminology.

Section 531. No change.

Section 532. Strike.

Section 551. Modify to reduce sponsor income requirements to 125 percent of poverty level. Strike subsection (e) of Immigration and Nationality Act (INA) section 213A as added by this section. Make other changes to conform INA section 213A as added by this section to similar provision enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (c).

Section 552. Modify to amend section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to include the provisions in section 552(d)(1) and 552(f). Strike all other provisions.

Section 553. Strike.

Section 554. Redesignate as section 553.

Section 561. No change.

Section 562. Strike.

Section 563. Redesignate as section 562.

Section 564. Redesignate as section 563.

Section 565. Redesignate as section 564.

Section 566. Redesignate as section 565 and modify to strike (4).

Sections 571 through 576. Strike and insert sections 221 through 227 of the Senate amendment to H.R. 2202, as modified.

Section 591. No change.

Section 592. Strike.

Section 593. Redesignate as 592.

Section 594. Redesignate as 593.

Section 595. Redesignate as 594.

Mr. ABRAHAM. Mr. President, I would like to ask the Chairman of the Judiciary Committee a few questions to clarify the changes made in the asylum provisions of the Senate immigration bill when the House and Senate conferees adopted the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. These provisions are included in this omnibus appropriations measure. Senator HATCH was a conferee on this legislation and was deeply involved in the development of this provision.

Section 604 of the conference report would add to the Immigration and Nationality Act a new section providing that an alien may not apply for asylum unless he or she demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien's arrival in the United States. That section also includes two important exceptions—one for changed circumstances that materially affect the applicant's eligibility for asylum, and the other relating to the delay in filing an application. Would the Chairman explain the meaning of these exceptions?

Mr. HATCH. The conference report does include a 1-year time limit, from the time of entering the United States, on filing applications for asylum. Conferees also adopted important exceptions, both for changed circumstances that materially affect an applicant's eligibility for asylum and for extraordinary circumstances that relate to the delay in filing the application.

Like my distinguished colleague from Michigan, I too supported the Senate provision, which received overwhelming, bipartisan support in the Senate. In fact, that provision was

adopted by an amendment in the Judiciary Committee that passed by unanimous consent. The Senate provisions had established a 1-year time limit only on defensive claims of asylum, that is, those raised for the first time in deportation proceedings, and provided for a good cause exception.

Let me say that I share the Senator's concern that we continue to ensure that asylum is available for those with legitimate claims of asylum. The way in which the time limit was rewritten in the conference report—with the two exceptions specified—was intended to provide adequate protections to those with legitimate claims of asylum. I expect that circumstances covered by the Senate's good cause exception will likely be covered by either the changed circumstances exception or the extraordinary circumstances exception contained in the conference report language. The conference report provision represents a compromise in that, unlike the Senate provision, it applies to all claims of asylum, whether raised affirmatively or defensively.

Mr. ABRAHAM. Would you say that the intent in the changed circumstances exception is to cover a broad range of circumstances that may have changed and that affect the applicant's ability to obtain asylum?

Mr. HATCH. Yes. That exception is intended to deal with circumstances that changed after the applicant entered the United States and that are relevant to the applicant's eligibility for asylum. The changed circumstances provision will deal with situations like those in which the situation in the alien's home country may have changed, the applicant obtains more information about likely retribution he or she might face if the applicant returned home, and other situations that we in Congress may not be able to anticipate at this time.

Mr. ABRAHAM. It is my understanding that the second exception, for extraordinary circumstances, relates to legitimate reasons excusing the alien's failure to meet the 1-year deadline. Is that the case?

Mr. HATCH. Yes, the extraordinary circumstances exception applies to reasons that are, quite literally, out of the ordinary and that explain the alien's inability to meet the 1-year deadline. Extraordinary circumstances excusing the delay could include, for instance, physical or mental disability, unsuccessful efforts to seek asylum that failed due to technical defects or errors for which the alien was not responsible, and other extenuating circumstances.

Mr. ABRAHAM. If the time limit and the exceptions you have discussed do not provide sufficient protection to aliens with bona fide claims of asylum, I will be prepared to work with my colleagues to address that problem. Is my understanding correct that you too will pay close attention to how this provision is interpreted?

Mr. HATCH. Yes. Like you, I am committed to ensuring that those with legitimate claims of asylum are not returned to persecution, particularly for technical deficiencies. If the time limit is not implemented fairly, or cannot be implemented fairly, I will be prepared to revisit this issue in a later Congress. I would also like to let the Senator from Michigan know how much I appreciate his commitment and dedication on this issue.

Mr. ABRAHAM. Thank you. I would likewise thank the Chairman of the Judiciary Committee for his diligent efforts on this issue in conference and his explanation of the conference report's provisions.

Mr. HATCH. I will note, briefly, that the bill modifies the antiterrorism law's provisions on summary exclusion, in order to better assure that those who are bona fide asylees are not erroneously compelled to leave this country.

On a related point, the Clinton administration has recently announced its plans to cut refugee admissions next year to 78,000. I oppose this cut. In fiscal year 1995, the level was 110,000. Last year, the level of refugee admissions was set at 90,000. I believe we should set the same level of 90,000 refugee admissions for next year. A further cut is unwarranted, especially with the renewed steps against alien immigration embodied in the bill. Moreover, I think it sends the wrong signal to the world.

OMNIBUS CONSOLIDATED APPROPRIATIONS, 1997

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I want to speak on the bill that is before us and just on a very small portion of it, the immigration bill. Obviously, the immigration bill is not just a small portion of the bill that is before us. It is perhaps one of the most important aspects of the bill before us. But what I meant was, I do not want to speak to the appropriations part of the bill.

I want to voice my strong support for the illegal immigration bill. This has been included, as everyone knows, as part of the continuing resolution. Senator SIMPSON, chairman of the Immigration Subcommittee, has worked diligently to bring this bill forward.

I am very pleased to have worked with him in creating solutions to the immigration problems that our country is facing today and, also, to take time to compliment Senator SIMPSON for the hard work that he has given for the people of his State of Wyoming to the United States as a Member of the U.S. Senate. He is now retiring. Those of us who have served with him on the Judiciary Committee, and a considerable amount of time together with him on the Immigration Subcommittee, are surely going to miss his leadership in this area.

This bill that is before us even under these extraordinary circumstances of its being part of the omnibus bill, even under those circumstances, should not detract from the hard work that has gone on in this Congress on this legislation that Senator SIMPSON has put together. He has produced a very strong bipartisan bill that will help us make a huge impact on the problems of illegal immigration.

In the last 2 years, Senator SIMPSON has made a great effort to deal with illegal immigration. We have done it by providing over $1 billion in new funding. But we all know that comprehensive legislation, like the bill before us, is necessary before we are ever going to be successful, or whether or not even that additional billion dollars in the war on illegal immigrants is going to be successfully spent.

Provisions of the bill provide for more effective deportation measures, increased border and investigative staffing, and stricter employment and welfare standards. It is exactly measures such as these that are necessary to combat the growing problem of illegal immigration.

Illegal immigration is an issue that has been in the forefront of public debate for some time right now. It is a growing problem that affects even the smallest towns in the Midwest.

The problem became graphic to me in January 1995 when an Iowa college student named Justin Younie was murdered by an illegal alien who had been removed from the State of Iowa once before because of his illegal status. Unfortunately, this particular illegal alien came back to the United States and to my State of Iowa without any problems. That is the case with so many illegal aliens returning, only this time, this person, this illegal alien, ended up committing murder. This person has since been convicted of this horrible crime. That does not bring back the life of Mr. Younie. But it does set the stage for a very important provision that I have in this bill allowing local law enforcement people to be involved in the arrest of an illegal alien if the only thing they have done wrong is being in this country illegally. I know it is not understandable to people who for the last 20 years, there has been a regulation saying that local law enforcement people cannot arrest an illegal alien just because they are here illegally. But that is the situation.

We have another example beyond this murder of the reach of illegal immigration, and it was featured in the U.S. News & World Report of September 13, 1996, and on the cover story. It addressed illegal immigration and its effects on the small town of Storm Lake, IA. Specifically, the article focused on the meatpacking industry, which, since its opening in 1982, has experienced a large influx of illegal immigrants. The effects on the town of Storm Lake have been very significant. Along with a population increase has come increased crime rates, increased education expenditures, racial problems, and economic concerns causing great resentment within the community.

According to the article, the increase in illegal immigrants to the town can

be attributed to the job opportunities offered by this meatpacking industry. Apparently, workers are recruited by immigrants already working at the plant. Once these workers are recruited, they illegally cross the border, obtain a false identity, and begin work. As workers are injured, or the plant is raided by the INS, new workers are hired to fill the empty positions. This process ensures a continuous demand for workers which has been so steady that it has reportedly spawned a sort of underground railroad from Mexico to the town of Storm Lake, IA.

It is because of situations like these—the meatpacking story in Storm Lake and the murder of Justin Younie in Iowa—that the illegal immigration conference report is being discussed here today. Provisions in this act address illegal immigration problems at every level, from Border Patrol to deportation. The act takes direct steps to reduce crime associated with illegal immigration and provides States with incentives to do the same.

Among the hundreds of provisions in this bill are a number of initiatives that I fought for as a member of the Judiciary Committee and, as well, as a conferee. For instance, this bill allows the Attorney General to enter into agreements with local law enforcement, permitting, as I said, for the first time since 1977 local authorities to apprehend, detain, and transport illegal aliens. This is an especially important step for the interior States, such as my State of Iowa, that are distant from the borders.

Just a few weeks ago local police had to release a truckload of illegal aliens because the INS wouldn't—or, as they might say, "couldn't"—respond just then. But they used the argument that there were less than 20 illegals in the group. So it was too small of a group for them to mess around with. Obviously, it is better from that judgment to wait until they find their way into a job and into the underground economy, get lost, and then spend thousands of dollars more to apprehend the very same people. But they were in the custody for a short period of time of these local law enforcement people.

So it is obvious that local law enforcement needs more tools like we are now providing to fight illegal immigrants.

In addition, because of my insistence, the conference included a guarantee that each State will have at least 10 agents. This will help States like Iowa that do not have any agents right now when illegal immigration is growing at a rapid pace.

The conference committee also included a provision of mine to exempt nonprofits and churches from the time-consuming and costly paperwork of verification and deeming. Unfortunately, the administration made the mistake of demanding the provision be changed in the last-minute negotiations last week on title V.

I might say at this point that my staff got a call about 1:30 Saturday morning to discuss some changes in this language. That is not a very good way to write a piece of legislation. And we are going to pay the consequences for it on this because this resulting language is inferior to what I had agreed to in conference, and that was a bipartisan agreement.

At least on the face of it, nonprofits will be exempt from the new provision. But the question of when and how people can be served by nonprofits and any resulting paperwork requirement will unfortunately be left to regulations promulgated by the Attorney General. The former conference language that we had worked out provided protections from regulations. But the administration language does not. I think this will have to be remedied in legislation next year because we are going to have potential problems on this.

Nevertheless, I am satisfied with another provision concerning congressional participation.

This provision requires that when we proceed with the verification pilot projects for employers, Congress and the Federal Government will be a part of those projects. The only way that we are going to know if these really work or not is if we, in the Congress, are a part of them. That is a followup of my legislation, the first bill passed by a Republican Congress in 40 years, the first bill signed by President Clinton going way back to January of 1995, a bill where after 6 years we finally ended the exemption that Members of Congress as employers had from Federal law—civil rights, labor and safety legislation, among others, which we had exempted ourselves from that apply to the rest of the country.

That legislation has passed, so we are no longer exempt from those laws. There is no longer two sets of laws, one for Capitol Hill and one for the rest of the United States. There is one set of laws that applies equally.

When it comes to this verification pilot project for employers, it seems to me that we in the Federal Government ought to be participating in these projects and then we are going to know firsthand the redtape that small business or large business even has to go through to meet the requirements of our immigration law. Then in a few years when we go down the road to making a final decision whether or not this new verification procedure goes into place, we are going to do it not from the standpoint of just what our constituents are telling us, as so very important as that is, we are also going to know firsthand what is involved with this project and the impact it is going to have upon employers of America because we are employers in the sense that we, as Members of Congress, hire staff. And if the small business people ought to go through a certain process under this project, we ought to as well so we know firsthand what the situation is.

In conclusion, Mr. President, anyone who does not support this bill is just not serious about dealing with illegal immigration. Although many of the provisions of this bill could have been tougher, there has been a strong effort to achieve bipartisan support. I look forward to this bill becoming law, and I commend Senator SIMPSON for the incredible job he has done with this legislation.

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

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I ask unanimous consent to be permitted to proceed for 5 minutes as if in morning business.

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

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. GRASSLEY). The Chair recognizes the Senator from Indiana.

Mr. COATS. Mr. President, I defer to the chairman of the Appropriations Committee.

Mr. HATFIELD. If the Senator will withhold for a moment, we want to get a unanimous consent so we can adopt the appropriations bill.

Mr. COATS. I yield to my opportunity to be recognized by the Chair. I would be happy to withhold for a moment while the chairman of the Appropriations Committee and the ranking member discuss it.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Mr. President, the majority leader and the minority leader have worked out a unanimous-consent agreement.

The ranking member of the Appropriations Committee, Senator BYRD, and I have gone over this. And we also concur.

So, at this time, Mr. President, with Senator BYRD's presence on the floor, I would like to propound the unanimous-consent request.

I ask unanimous consent that final passage of H.R. 4278, the omnibus appropriations legislation, occur no later than 6 p.m. today, with the time between now and 6 p.m. equally divided between the two leaders, or their designees; and, further, that no amendments, motions, or points of order be in order.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Mr. President, reserving the right to object, I am wondering if I could slightly amend to allow this Senator no more than 5 or 6 minutes to speak on the matter that I was recognized for before the request occurred.

Mr. HATFIELD. I yield the floor for that purpose.

I would like to get the agreement first.

Mr. COATS. But, as stipulated, it would preclude my opportunity to do that. I am just wondering if the Senator would amend his unanimous-consent request so that this Senator, who had been recognized before the unanimous-consent request, would be allowed to speak as if in morning business for up to 8 minutes.

Mr. BYRD. Mr. President, reserving the right to object, the Senator will have no trouble getting time from his leader. The time is equally divided between the two leaders.

Mr. COATS. That would be acceptable to this Senator. I am not speaking on the continuing resolution. So I will speak as if in morning business. I want to make sure that I have the opportunity to get that time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I reserved the right to object.

Was this other matter resolved?

The PRESIDING OFFICER. I am sorry.

The Senator from West Virginia.

Mr. BYRD. Was the matter resolved to the satisfaction of the Senator from Indiana?

Mr. HATFIELD. We do not want to cut out the Senator from Indiana.

Mr. COATS. I want to make sure I have the opportunity to speak.

Mr. HATFIELD. I can assure the Senator from Indiana, as we have been speaking as if in morning business, with the colloquy that was just going on which the Senator from Indiana would like to engage in, I will have no objections to whatever parliamentary request he has to make in order to speak.

Mr. COATS. That is more than acceptable to this Senator.

Mr. KENNEDY. Mr. President, reserving the right to object ——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I believe that the minority leader will give me 5 minutes. But it is not on this related matter of the continuing resolution. It is from the minority leader's time. I wanted to have a continuing discussion on that measure. I need maybe 4 minutes or 5 minutes sometime.

So I would be glad to do whatever. The measure which they are managing is of the utmost importance. I wanted to get 5 minutes just to respond quickly to the matter. So I am glad to do it in whatever way the two leaders want to proceed.

The PRESIDING OFFICER. Is the body ready to put the question?

Mr. KENNEDY. Mr. President, I hope maybe that—reserving the right to object—out of that time we are going to

have the leader to be designated to have 5 minutes.

Mr. BYRD. I hope that the distinguished Senator will include that in his request.

Mr. HATFIELD. Could I include the same as I did for the Senator from Indiana?

Mr. KENNEDY. That would be fine.

Mr. HATFIELD. That the Senator from Massachusetts be recognized to make whatever motions necessary to get the 5 minutes after we get this approved.

I would have no objection.

Mr. BYRD. Do I understand the Senator wishes to have his 5 minutes on the continuing resolution?

Mr. KENNEDY. No, just on the earlier matter being discussed. I do not want to interrupt the two chairmen on this very, very important matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I further ask unanimous consent that following the vote on H.R. 4278, the Senate proceed to vote on the adoption of the DOD appropriations conference report, all without further action, and that all points of order be waived.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object, I very much advocate both of these requests. I did so in the conference earlier today, conference among Democrats. I feel that there should not be any amendments to the continuing resolution. I am not satisfied with everything that is in the resolution, but I do think the time has come to adopt the resolution without a great deal of debate this afternoon and without amendments because amendments would simply mean that the continuing resolution would go to conference, and I presume that the leader would probably take that continuing resolution down and call up the conference report, which is not amendable and therefore not conferenceable.

So it seems to me that the integrity of the Senate, the integrity of the legislative process within the Senate, the integrity of the Senate's right to amend and right to debate are all protected here, and that is what I am most interested in. We could offer amendments to the continuing resolution if we wanted. Consequently, any Senator could have objected to the request. We could debate at some length. I am sure that we Democrats do not want to be accused of shutting the Government down.

Therefore, it seems to me in the interest of all concerned—and as I say, in full view of the fact that the integrity of the process and integrity of the Senate's right to debate an amendment and amend have been fully protected—I have no objection, and I congratulate the Senator from Oregon and I also congratulate both leaders.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Finally, Mr. President, I ask unanimous consent that of the time allocated to Senator LOTT, 10 minutes be allocated to Senator MCCAIN.

Mr. BYRD. Mr. President, reserving the right to object, does the distinguished Senator wish to include Mr. COATS in that request? And I will ask that the Senator from Massachusetts be included.

Mr. HATFIELD. I would be very happy to incorporate 5 minutes to the Senator from Indiana.

Would the Senator like to include 5 minutes for the Senator from Massachusetts?

Mr. BYRD. I would like to have Mr. KENNEDY accorded 5 minutes in the request, from the time under the control of the minority leader.

Mr. HATFIELD. That would be then 10 minutes for Senator MCCAIN, 5 minutes for Senator KENNEDY, and 5 minutes for Senator COATS.

The PRESIDING OFFICER. Is there any objection?

Mr. PRYOR. Mr. President, reserving the right to object—I do not want to object—I do not think that I am going to ask to speak for 5 minutes, but at least if I could reserve 5 minutes in this process for myself I would appreciate very much the distinguished manager allowing me to speak.

Mr. BYRD. Include 5 minutes to come out of the time under the control of the minority leader.

Mr. HOLLINGS. Is that all right, 5 minutes also here for the Senator from South Carolina?

Mr. HATFIELD. Another 5 minutes for Senator PRYOR and 5 minutes for Senator HOLLINGS.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD. Mr. President, I thank all Senators and particularly those who have been so courteous as to yield allowing this request to be granted.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I again express great appreciation for the statement that was made by our friend and colleague, Senator PELL, who reviewed for the Senate the various provisions in this agreement related to education. I think all of us are once again enormously impressed, as I know the people that he represents are, by his extraordinary commitment to enhancing the quality of education for young people all across this country. He diminishes his own strength by not mentioning his own very important participation and involvement over the period of recent years in maintaining a strong priority in education which is really reflected in this budget.

As a member of that committee, I commend him for all he has done over a very long and distinguished career in the area of education, and I think his tireless desire to ensure that we have a bipartisan effort in the area of education has been always a trademark of his leadership as well. So I think all of us who will read the history of this discussion about development of the continuing resolution know full well that in the area of education he played a very significant and major role, and I know everybody in the Senate understands it and appreciates it.

Mr. President, exactly 2 years ago, the late Barbara Jordan, Chair of the Commission on Immigration Reform, submitted to Congress a comprehensive set of recommendations to address the illegal immigration crisis in America. At that time, Barbara Jordan said, "Our message is simple. The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in legal immigration."

The bill that the Republican leadership tried to ram hastily through the Congress was weak in addressing illegal immigration and reflected the antiworker, antifamily, anti-immigrant, antirefugee, and anti-environment agenda of the Republican right wing and was an extreme Republican assault on the American worker and on working families. It did more harm to the country than good.

But after extraordinary negotiation last week involving the White House, the Republican leadership, key Members of Congress, those features of the Republican bill that came out of their conference that assaulted legal immigrants and made it impossible for working Americans to reunite their families here are now gone. Gone, too, is the unacceptable Gallegly amendment which would have allowed States to expel immigrant children from public schools and dump them on the streets. This unwise amendment would do nothing to stem the tide of immigration. It was vigorously opposed by police groups and educators because of the harm it would do to our communities. Congress is right to reject this provision.

Although the worst provisions in this bill on legal immigrants are gone, it is still not the hard-hitting crackdown on illegal immigration it ought to be. Republicans rejected our efforts to include strong provisions to punish unscrupulous employers who hire illegal immigrant workers and then exploit them with cheap labor and unsafe workplace conditions knowing they will not protest such conditions.

This bill winks at this shameful sweatshop practice. Americans will continue to lose their jobs as long as unscrupulous employers can get away with hiring and abusing illegal workers. Clearly, stronger legislation is needed if we are serious about dealing effectively with illegal immigration. And I intend to renew this battle again next year.

In addition, the provisions in this bill related to refugees and due process of law represent an improvement over the recently enacted antiterrorism law. But they still do not go far enough in restoring judicial revue and giving persecuted refugees a fair opportunity to seek asylum in America.

Most of the credit for what is before us today as part of this continuing resolution goes to our respected friend and colleague, Senator Al SIMPSON. We will miss his able leadership, vision and courage on the complex and challenging issues of immigration.

As I have said on many different occasions, immigration is not a high-profile issue in the State of Wyoming. They are not inundated with illegal immigration. There are important historical strains of legal migration in Wyoming, but certainly it is not a State that is confronted with these types of issues. But the fact that Senator SIMPSON over a very long and distinguished career in the Senate was willing to take the time, make the effort and had the energy to master the very complex policies that are affected by immigration and refugee policies and asylum reflects great national service. He was always there to make sure that no matter where the political winds were blowing, we kept our eye on the ball on matters of immigration, illegal immigration, and refugees. He and I did not always agree, but we found common ground, and everyone on that committee always found that Senator SIMPSON was willing to listen and to find the broadest of coalitions in the best interests of our country. And again the provisions that are included in this legislation to a great extent reflect the long effort on his part to make sure that we were addressing these matters in a responsible way.

I know there are provisions that were excluded that he would have favored to have included but nonetheless I would like to think that the more positive aspects of the provisions that we have included can be traced in origin back over a long period of time to the work of Senator SIMPSON, the Jordan Commission, the Hesburgh Commission, and other efforts of the committee.

Senator SIMPSON took the Jordan Commission's recommendations, conducted extensive hearings on them in our subcommittee, visited each Senator individually to obtain their views on what needs to be done, and conducted a fair and open process of debate on the bill in the subcommittee. When the full Judiciary Committee considered the bill last spring, he and Senator HATCH gave all members a full opportunity to present their views. Over 150 amendments were debated over 8 days and all members of the committee feel that the result was a much better bill.

In a similar spirit of bipartisanship, the Senate debated the bill for 2 weeks in April and May and after full and fair debate and votes on numerous amendments the result was an outstanding tribute to the leadership of Senator SIMPSON. The bill passed 97 to 3, a remarkable capstone to the commitment of this extraordinary Senator over almost 2 decades to ensure that our immigrant heritage is carried forward. As a result of his efforts, the Nation will look ahead to the next century better able to draw on the positive contributions of immigration to our country, while equipped with more effective tools to combat the unlawful immigration that is so harmful to our country.

The subsequent course of this legislation was less satisfactory for those of us who care so deeply about preserving our immigrant heritage while cracking down on illegal immigration. After extraordinary bipartisanship in passing the legislation in both the House and Senate, Democrats were suddenly shut out. Republicans sought to convert the legislation into a partisan political document to aid the Dole Presidential campaign in California.

As a result, unusual steps were necessary to reinject bipartisanship in this important legislation. The events of the past few days and the agreement achieved early Saturday morning have produced a far better bill for the Nation than the Republican conference report on which the Senate was scheduled to vote today.

President Clinton provided the strong leadership needed to persuade Republican leaders to back away from their extreme positions and come to the table to work out genuine bipartisan legislation for the good of the country.

The agreement addresses illegal immigrant head on. It reverses the serious mistakes by the Republican leadership to use illegal immigration as a pretext to attack legal immigrants.

Entirely different considerations apply to legal immigrants. They come in under our laws, serve in our Armed Forces, pay taxes, raise their families, enhance our democracy, and contribute to our communities. The original Senate bill had rightly rejected harsh attacks on legal immigrants, and so does this agreement. That is a major victory.

First, this agreement drops harmful provisions that would have made the recent welfare reforms even harsher for legal immigrants. Having banned SSI, food stamps, Medicaid, cash assistance, and other services for legal immigrants in the welfare bill, the Republican immigration bill would have expanded the restrictions to include Head Start, job training, and English classes. This was wrong, and this agreement corrects this grave mistake.

The Republican bill would have shifted the rules in midstream for legal immigrants already in America and their sponsors. The bipartisan compromise, on the other hand, retains the formulation in the new welfare law, which applies primarily to future immigrants. Without this compromise, the Nation's hospitals, clinics, and community based organizations would have been overwhelmed, and would have lost millions of dollars in Federal help.

Second, the comprehensive welfare reforms made legal immigrants ineligible for many types of assistance. The Republican bill penalized the few legal immigrants who still qualify for assistance by threatening them with deportation if they actually used the assistance.

If there are immigrants who abuse welfare—or use it illegally—they should be deported. In fact, current laws permit this step, and we should enforce them.

But it is wrong to add to the harsh new welfare reforms by saying to legal immigrants who qualify for child care assistance that if they actually use it, they can be deported. No parent should face that choice—of leaving their children home alone while the parent works or risking deportation by obtaining child care. It was right to eliminate these deportation provisions under the new bipartisan agreement.

Finally, it was wrong for Republicans to insist on putting family sponsorship off limits to lower income working American families. Under the Republican bill, 40 percent of American citizens would have been denied the right to bring in their families. The Republicans try to claim that their party is the party of family values, but this bill was a flagrant denial of such values. Under the Republican proposal, for the first time in the Nation's long immigrant history, low-income working American citizens would have been denied the opportunity to have this spouses and young children join them in America.

Republicans argue that most Americans who sponsor family members are, in fact, former immigrants, who knew when they immigrated that they would be leaving families behind. The fact is, according to the General Accounting Office, 64 percent of those sponsoring their families in any given year are native-born American citizens who were never immigrants themselves.

Republicans also argue that if we do not set high income standards for sponsors, then low-income sponsors will be pushed onto welfare because they have to support themselves and the sponsored immigrant as well.

To guard against this possibility, the bipartisan agreement establishes an income test for sponsorship at 125 percent of the poverty level. The agreement requires sponsors to sign an enforceable sponsorship contract that requires sponsors to care for those they bring in. And it requires sponsors to prove they can meet the requirement by submitting their tax returns for the past 3 years.

This is the approach which the Senate adopted in May and which was actively supported by many Republicans, including Senator ABRAHAM, Senator DEWINE and others. In fact, in June, Jack Kemp urged congressional leaders to adopt this sponsorship formula. He wrote, "The Senate bill reasonably requires that sponsors have income equal to 125 percent of the Federal poverty level," and he called on Congress to oppose sponsorship formulas that imposed stiffer burdens on sponsorship.

The 125 percent requirement ensures that very few sponsors will be pushed onto welfare. Virtually all welfare programs require 100 percent of poverty or less in order for applicants to qualify. Those with incomes above 125 percent of the poverty level qualify for very few programs. And where they do, they normally qualify for only a few dollars of help.

The price tag that the Republican bill placed on family unity was unnecessary, harsh, and punitive. It was intended as a backdoor reduction in legal, family immigration. The Republican wealth test for sponsorship was 140 percent of the poverty level for those sponsoring their spouses or young children and 200 percent for those sponsoring their parents, adult children, or brothers and sisters. The Republican plan was anti-family. It said to working Americans that their jobs were not good enough to qualify them for sponsorship. This draconian, class-based proposal would have caused unfair hardship for working American families, and was rightly rejected as part of this bipartisan agreement.

In addition, this agreement contains three other worthwhile improvements. It provides assistance to immigrants who are victims of domestic violence. It continues assistance under the Ryan White Act for immigrants with HIV infection or battling AIDS. It allows nonprofit organizations, such as Catholic Charities, church social service programs, or community-based organizations to continue to assist communities with Government funds, without having to check the citizenship and green cards of everyone who walks in their doors.

Rather than making harsh welfare reforms even harsher for legal immigrants, this bipartisan agreement provides modest but needed improvements over those reforms for battered immigrants and for charities and other nonprofit organizations that are a lifeline to immigrant communities.

As President Kennedy wrote in his book, "A Nation of Immigrants":

> Immigration policy should be generous; it should be fair, it should be flexible. With such a policy we can turn to the world, and to our own past, with clean hands and a clear conscience. Such a policy would be but a reaffirmation of old principles. It would be an expression of our agreement with George Washington that "The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions; whom we shall welcome to a participation of all our rights and privileges, if by decency and propriety of conduct they appear to merit the enjoyment."

This bipartisan agreement is largely consistent with that goal. It takes a number of worthwhile steps to deal with the problems of illegal immigration, although much more significant steps could have been taken and should have been taken to deal with this serious problem. Equally important, this bill keeps the Nation's doors open, with reasonable limitation, for those who come here as legal immigrants and contribute to a stronger and better America, as they have done throughout the two centuries of our history. I commend all of those who have helped to develop this proposal and have it included in the underlying document.

I urge my colleagues to support this legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from South Dakota and 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

COMBATING ILLEGAL IMMIGRATION: AN OPPORTUNITY TO MAKE A DIFFERENCE

Mr. KYL. Mr. President, today, we will pass legislation we hope will significantly reduce illegal immigration in this country.

We could have passed this bill in the Senate last week. Unfortunately, partisan politics almost derailed efforts of the Congress, and particularly the efforts of the chairman of the Immigration Subcommittee, ALAN SIMPSON, who, under extraordinary circumstances, has worked long and hard to produce a bipartisan, far-reaching immigration bill.

That is because, in the end, the Clinton administration threatened to veto either the omnibus appropriations

bill—and shut down the Federal Government—or a stand-alone immigration bill unless some of our reforms were deleted from title 5 of the immigration conference report. It is interesting that the immigration conference report, with title 5 intact, passed the House last week with bipartisan support by a vote of 305–123. Notwithstanding this strong support, in order to ensure passage of this historic immigration measure, important provisions of title 5 have been deleted.

One of the most important provisions dropped from title 5 would have required that sponsors who bring their immigrant relatives into the United States earn 200 percent of poverty in order to bring in extended relatives or 140 percent of poverty when they sponsor their spouses or their minor children. Revised title 5 changed the income requirement for all sponsors to 125 percent of poverty. At that income level, the sponsor could already be participating in several welfare-related programs, including, but not limited to, food stamps, reduced school lunch, Medicaid for pregnant women and children under the age of 6, and the Women, Infants, and Children [WIC] program. In other words, the sponsors may well not be capable of supporting the immigrants they sponsor.

Another provision that was removed from title 5 would have clarified the definition of "public charge." Under the House-passed conference report, an immigrant could be deported—but would not necessarily be deported—if he or she received Federal public benefits for an aggregate of 12 months over a period of 7 years. That provision was dropped during Saturday's negotiations.

The House-passed conference report would have required that public housing authorities verify the status of individuals who obtain public housing benefits. Individuals would have had 3 months to verify their status with a public housing authority or they would be required to vacate the unit. Revised title 5 will give an illegal alien 18 months to vacate the housing unit. In addition, revised title 5 will now give discretionary authority to public housing authorities to determine whether or not they will verify if someone in this country has a legal right to federally-assisted housing. This doesn't make sense to me since, in my home State of Arizona, officials of the Maricopa County Housing Authority alone estimate that 40 percent of the people receiving housing assistance in the county are illegal aliens. In Maricopa County, there are 1,334 section 8 units and 917 units available. There are over 6,500 individuals on the waiting list there.

There are other provisions in title 5 that shouldn't have been dropped from the immigration conference report. It is my hope that in the future, partisan politics will play a smaller role than it did on Saturday in efforts to effectively reform our Nation's immigration laws.

Having said that, I do believe it would be a great disservice to the people of Arizona and the rest of the Nation if this illegal immigration conference report were not to pass the Congress during the 104th Congress.

In Arizona's Tucson sector alone, the U.S. Border Patrol has apprehended more than 300,000 illegal aliens this year. It is estimated that for every illegal immigrant arrested, four slip through undetected. These undetected entrants are costing Arizonans millions of dollars. In fact, the State of Arizona estimates that it spends over $200 million each year on the medical care, education, and incarceration of undocumented immigrants. That's about equal to what the State spends each year to run Arizona State University.

With this immigration bill, we have the opportunity to lift this financial burden off the States by forcing the Federal Government to take responsibility for reducing illegal immigration, and to reimburse States for many of the illegal immigration-related costs they incur.

Perhaps most importantly for Arizona, under the immigration conference report, our borders will be better secured. One of my amendments to the bill will increase the number of border patrol agents by 5,000 over 5 years, nearly doubling the current number of agents. An increased border patrol presence in Arizona will help cities and towns such as Nogales, Naco, and Douglas, which have experienced surges in illegal immigration and border-related crime.

The immigration bill will also require that the security features on the border-crossing card be improved to counter fraud. There will be new monetary and civil penalties for illegal entry. In addition, every illegal immigration apprehended will be fingerprinted. Preinspection at foreign airports of passenger bound for the U.S. will be increased. The bill creates a mandatory, expedited removal process for aliens arriving without proper documentation, except if they have a credible fear of persecution in their home countries. Penalties for alien smugglers will be increased and deportation of criminal aliens will be expedited.

In addition to beefing up our borders, the bill cracks down on those individuals who overstay their visas. Half of those who temporarily enter the country legally remain here illegally. The bill requires that an entry-exit control system be developed to track those individuals. Visas overstayers will also be ineligible to return to the U.S. for a number of years, depending on how long they overstayed their visas.

The immigration bill also provides for mandatory detention of most deportable, criminal aliens and requires that those aliens be deported within 90 days. The bill also authorize $150 million for the costs of detaining and removing deportable or inadmissible aliens and increases the number of detention spaces to 9,000 by the end of 1997.

Finally, this immigration bill will remove many of the incentives for illegal entry. The Immigration and Naturalization Service estimates that 10 percent of the workforce in Arizona is made up of illegal aliens. H.R. 2202 sets up three pilot projects, to be implemented in high illegal immigration States, that will determine the employment eligibility of workers and thereby reduce the number of illegal aliens trying to get U.S. jobs.

While I may well vote against the omnibus bill to which this legislation is attached and while I am very disappointed about the last minute changes to the immigration part of the bill, I nevertheless believe that part of the omnibus bill should be passed. I am confident that this legislation is the keystone we will build upon in the future.

IMMIGRATION REFORM

Mr. ABRAHAM. Mr. President, I rise in support of the illegal immigration reform bill as it has emerged from conference.

At the outset, I want to applaud the fact that, after considerable debate, this Congress has chosen to separate the issues of illegal and legal immigration. We should not lump legal immigrants, who play by the rules, together with illegal immigrants, who break them. Moreover, in my judgment, the best way to preserve our tradition of legal immigration is to address the public's concerns about illegal immigration. That is part of the reason why I support the bill before us today.

I would also like to applaud the changes recently made to the bill's income requirements for persons who wish to sponsor an immigrant. As reported out of conference, section 551 of the bill would have required individuals to earn at least 140 percent of the poverty line to sponsor a spouse or minor child, and to earn at least 200 percent of the poverty line to sponsor any other immigrant—for example, a parent. The effect of this provision would have been to block many middle-class Americans from sponsoring their close relatives.

Section 551 has been revised, however, to provide that an individual who wishes to sponsor an immigrant must either earn at least 125 percent of the poverty line or obtain a cosigner who earns that much. I strongly support this change, as the revised section 551 arguably provides sponsors with more flexibility than does current law.

Nevertheless, I would like to outline a number of my concerns with this bill.

To begin with, Mr. President, I am concerned about the verification pilot projects included in this bill. These projects constitute the first steps toward a National Identification System.

This legislation mandates three pilot projects of 4-year duration.

Now, as it stands these tentative steps are reversible. We have basically postponed the day of reckoning on this issue for 4 years. But this is an issue that I believe does not warrant field study.

Americans should not be subjected to a national identification system, period. Any such system will put people's jobs, property, and rights at risk of bureaucratic incompetence and abuse for no good reason. We can solve our problems without such a system, and that is what we must do to preserve our traditions of individual liberty.

In addition, I am concerned about this legislation's provisions on federalized documents.

The bill would bar Federal agencies from accepting birth certificates and drivers' licenses that do not meet new Federal standards.

This will force States to conform to Federal standards in issuing these documents, because States' citizens will want to be able to use them for Federal purposes.

It is an intrusion into an area properly subject to State control and another step toward a national identification system. It is unnecessary and it should not be undertaken.

Mr. President, I also have reservations concerning the bill's provisions on the deportability of criminal aliens. If these provisions are adopted, they will significantly weaken many of the important reforms this Congress adopted last session in the Anti-terrorism and Effective Death Penalty Act to facilitate deportation of criminal aliens.

As I have made clear throughout consideration of the immigration bill, I draw a sharp distinction between immigrants who come to this country to make better lives for themselves and those who come to break our laws and prey upon our citizens.

I have made no secret of my strong concerns about the conference report's repeal of important provision this Congress enacted into law in the Anti-terrorism Act last spring. Along with my colleague Senator D'AMATO, I have sent a letter to the immigration conferees outlining these concerns, which I would like briefly to mention here.

First the draft conference report unconditionally restores immigration judges' ability to grant so-called hardship or section 212(c) waivers to large categories of criminals who have committed serious felonies. When Congress enacted section 212(c) in 1952 as part of the Immigration and Nationality Act, it made clear that it was to apply only to those cases where extenuating circumstances clearly require such action."

Unfortunately, unelected and irresponsible immigration judges have completely and permanently ended deportation proceedings against thousands of convicted felons under this provision.

The Anti-terrorism Act corrected this outrage by barring individuals from using section 212(c) if they had been convicted of aggravated felonies, firearms, and narcotics crimes, or repeated serious offenses.

But now the conference report would restore these waivers for all criminal aliens other than aggravated felons. Repeat offenders, illegal firearms and narcotics dealers and, most shocking of all, terrorists, all would now be able to have deportation proceedings against themselves terminated.

And, even in those cases when a waiver is not granted, the request itself will delay the deportation process and make it harder to detain criminal aliens pending deportation. That means that more criminal aliens will be released and will never be found again to be deported.

Why has this pernicious invitation to immigration judges to abuse their power been restored? I have heard no explanation. Yet, if it is because my colleagues now believe that these judges can be trusted not to abuse their discretion recent experience shows otherwise.

Even now, with section 212(c) eliminated by the Anti-terrorism Act, some immigration judges are granting the relief for criminal aliens who are in exclusion proceedings.

This plainly defies the clear meaning of the statute. The Anti-terrorism Act applies to aliens who are deportable for having committed certain crimes. It contains no reference to any proceedings in which the immigrant might be engaged, be they exclusion or deportation proceedings. The choice of proceedings is irrelevant. It is the commission of proscribed felonies on American soil that dictates the criminal alien's removal.

Fortunately, by establishing a unified system for removing aliens who do not comply with our laws, the conference report eliminates the availability of this particular misconstruction. But its restoration to the same immigration judges who devised this misconstruction of the authority to grant these waivers to large classes of criminals is simply incomprehensible.

Removal of these felons will be made even more difficult under the conference report because the bill significantly weakens the Anti-terrorism Act's requirements relating to the detention of criminal aliens. Under that act the Attorney General was required to detain all criminal aliens who have committed certain serious crimes, pending deportation.

The conference report would allow the Attorney General to release large categories of these individuals, on certifying that insufficient space exists to detain them, for 2 full years.

Again, the question is why? The Justice Department has not stated in any formal communication to Congress that there is currently or will be in the near future insufficient detention space to detain these and other dangerous individuals. Indeed, the Department not only failed to volunteer that it had any such problem, it made no such statement even in response to a letter asking for any concerns the Department might have about the Anti-terrorism Act's criminal aliens provisions. The closest the Department came was to suggest that it was theoretically possible that such a shortage might develop at some point.

Such hypothetical concerns are no reason at all to grant the Attorney General the authority to release thousands of convicted criminals back into the population, to prey on our people and perhaps never be caught again, let alone deported. If the Attorney General needs that authority because the Immigration and Naturalization Service projects an immediate shortage of detention space, the Department knows how to ask for it. If it did, we could then assess the plausibility of the projection, as well as whether the matter could be better addressed by providing additional detention space instead. We also could ask why no request for additional space had been forthcoming.

The conference report's decision to grant this unilateral release authority without even the justification that the Department, albeit late in the day, has said it needs to have that authority on account of an imminent shortage, is frankly incomprehensible to me.

As I believe is clear, Mr. President, I have some rather serious problems with this legislation. However, we face a more serious problem, for which this legislation, even with its flaws, is needed.

I am speaking, of course, of the problem of illegal immigration. This bill contains a number of provisions that I believe are crucial to our fight to bring illegal immigration under control.

For example, the bill includes the Kyl-Abraham amendment adopted in committee. This amendment will increase by 1,000 the number of Border Patrol agents in each of the next 5 fiscal years (1997-2001).

The bill also would sharply increase penalties for alien smuggling and document fraud.

In addition, the bill includes a revised form of an Abraham amendment to impose stiff sanctions on visa-overstayers, who make up fully one-half of the illegal aliens in this country.

I regret that the "good cause" exception in my amendment was omitted from final bill. But visa-overstayers must be punished like anyone else who breaks the rules.

Finally, this legislation makes those who sponsor aliens into the country legally responsible for their support, and allows the Government to collect reimbursement for any welfare moneys spent.

In sum, Mr. President, I am concerned that identification provisions in this legislation are leading us on a path away from America's well-worn road of personal liberty toward a bureaucratic nightmare. And I am worried that this bill will allow too many criminals to stay in this country.

But we are in the midst of a serious conflict. We cannot allow law-breakers into our country. And that is exactly what an illegal immigrant is: someone who willingly and knowingly flouts our laws.

This legislation makes needed reforms to our immigration system so that we may deal more efficiently with these lawbreakers. To my mind this is an important step toward a more fair and open immigration system.

Ms. MIKULSKI. Mr. President, I will vote for the Omnibus Appropriations bill today.

I will vote for this bill because the funding levels it provides will help to meet the day to day needs of working Americans and their families.

This bill addresses Democratic priorities. Democrats are working for health security, paycheck security, personal security and national security. The American people have made clear that these Democratic priorities are theirs as well. So I am pleased that this bill provides support for programs in each of these areas.

Let me speak first about health security. I am pleased that health programs will receive increased funding so that scientists and researchers can continue to search for the cure for diseases like cancer, Alzheimer's and Parkinson's disease. Funding for the National Institutes of Health is increased. Funding for breast cancer research, AIDS and childhood immunization all receive needed funds to continue critical life saving work.

This funding is particularly important for Maryland, both in terms of the number of jobs generated by the NIH and the impact of the research. Institutions such as Johns Hopkins and the University of Maryland fund critical research programs through the NIH. Keeping the funding at needed levels for the NIH will truly save lives and save jobs in Maryland.

Democrats also value economic security, and know that support for education is a key part of the opportunity structure that will create jobs now and in the future. I strongly support the education spending levels in this bill. The bill increases education spending over Fiscal year 1996 levels for key programs, including Goals 2000, Safe and Drug Free Schools, Title I, the PELL Grant program, and the TRIO Program.

For my State of Maryland, this means additional funds for cash-strapped local school districts. Maryland will receive nearly $7 million for Goals 2000 reforms. These funds will enable local school districts to implement curriculum reform efforts to raise academic standards.

I am pleased that funding for safe and drug free schools has increased. Maryland will receive over $7 million to help combat crime and drugs in schools. Title I is an important program to help disadvantaged students learn basic reading and math skills. Maryland will receive $91 million for title I funding. Pell Grant funding has increased to $2,700 for low-income college students. This means more funds will be available for thousands of Maryland college students.

The funding levels for the TRIO program have increased. TRIO provides college opportunities like Upward Bound to minority students. TRIO provides thousands of minority students in Maryland with access to higher education.

In addition to increased education funding levels, the omnibus spending bill increases funding for the Department of Labor's job training program and dislocated worker assistance program. I strongly support these initiatives, because thousands of Maryland residents will continue to receive job training assistance and help with job search and relocation assistance.

Programs that help to provide personal security are also well funded by this legislation. These programs help ensure that our communities will be safer and our children will be better protected from drugs and crime.

Perhaps most significant is that funding for the COPS program is preserved. This program has been one of the great successes in fighting crime. Thanks to this program, over 900 new police officers are patrolling the streets in Maryland's cities and towns. I am a strong supporter of this program because it is making a real difference—protecting our communities by putting more cops on the beat. This bill also includes more money to fund the Violence Against Women Act, and funds to fight juvenile crime and keep our kids away from drugs through drug prevention programs.

This bill also addresses important national security concerns. It funds the President's antiterrorism initiatives. It is a sad day that we must face the reality that terrorism has come to our communities. We must ensure that we do not experience another Oklahoma City. The best way to fight terrorism is to prevent it. This legislation takes concrete steps to prevent terrorism by upgrading the security of our public buildings, increasing our intelligence capability, and expanding the number of criminal investigators to fight and prevent terrorism.

So key Democratic priorities are well-funded in this legislation. People will be safer in their homes and their communities, critical health research will be supported, and education and training so vital to a promising economic future will be provided. These are mainstream American values, and I am pleased to see that these values are implicit in this legislation.

In addition to providing appropriations for the agencies and Departments of the Federal Government for which individual appropriations were not approved, this bill also contains a major authorizing program. I refer to the illegal immigration bill. I am pleased that the negotiations on this portion of the bill have produced a measure which is tough on those who violate our immigrations laws, but which is not punitive to those who have entered this country legally.

The illegal immigration legislation will strengthen our efforts to prevent undocumented immigrants from entering our country and obtaining employment. It will increase border patrols, create a voluntary pilot program for employment verification, and require additional INS investigators.

I had strong reservations about the conference report on this bill because of provisions which would have denied Federal assistance to legal immigrants. After all, legal immigrants have played by the rules, they pay taxes just like any U.S. citizen, and they contribute to the economy. I am pleased that the concerns I had have been addressed in this final compromise measure.

Under this compromise, we now focus on putting a halt to illegal immigration, which was our goal when we passed the Senate version of the bill. It is especially important that the so-called Gallegly amendment was dropped. Many of us were strongly opposed to this provision which would have denied a public education to illegal immigrant children. Children should not be punished for the errors of their parents.

I am very disappointed that we were not able to include the Senate-passed provisions for those seeking political asylum. The United States has always reached out to those fleeing persecution. The Leahy amendment which the Senate approved would have made sure that people seeking asylum were treated fairly. It would have given them the time they needed to present their case, and ensured that no Immigration official could send them back to their country without a fair hearing. It is disappointing that this good provision was not included in the measure. I hope we will be able to take care of this problem in the next Congress.

This omnibus appropriations bill represents the triumph of mainstream values. It rejects extremism. It addresses the concerns of America's families. The funding it provides for programs important to personal security, to national security, to economic security, and to health security ensure that we keep the promises we have made to help our working families and senior citizens. So I will vote to support this bill, and hope my colleagues will join me.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION PROGRAMS

Mr. SPECTER. Mr. President, the bill that is before the Senate today provides $71.087 billion in discretionary budget authority for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1997. Mandatory spending totals $219.5 billion, an increase of $19 billion over the fiscal 1996 levels.

The conference agreement provides substantial increases in education programs—$3.5 billion over last year. Medical research is increased by more than $820 million, and workplace safety programs by almost $79 million over the 1996 appropriated levels.

While I support the funding levels for programs within my subcommittee's jurisdiction, as I stated on Saturday, I am concerned with the process which produced this omnibus appropriations bill. I am concerned because the procedure undercut the traditional appropriations process. The Labor, Health and Human Services, and Education bill never even came to the Senate floor because it was anticipated that it would be very contentious and that many diverse amendments would be offered. Last year's bill was not finished until April 25, but on that bill Senate HARKIN and I came forward with a bipartisan amendment to add $2.7 billion so that we could have adequate funding for Labor, Health and Human Services, and Education. We demonstrated that the subcommittee chairman and ranking member can work together in a harmonious manner and really get the job done. But this year on the Senate floor, we have seen biding wars to gain political advantage by adding funding and legislation to appropriations bills. This led us to a position where we have had to go to this single omnibus bill, and where we had to negotiate with the White House to produce a bill the President would agree to before the end of the fiscal year today.

As I have said, I am proud of the work, the bipartisan, work done on the Labor, Health and Human Services portion of this bill. I want to thank the distinguished Senator from Iowa, Senator HARKIN, for his hard work and help in bringing this bill through the committee and through the negotiations with the House and the administration.

The important programs funded within this subcommittee's jurisdiction provide resources to improve the public health and strengthen biomedical research, assure a quality education for America's children, and job training activities to keep this Nation's work force competitive with world markets. I'd like to take the time and mention several important accomplishments of this bill.

BIOMEDICAL RESEARCH

For the National Institutes of Health, the bill before us contains nearly $12.747 billion, an increase of $820 million, or 6.9 percent, above the fiscal year 1996 level. These funds will be critical in catalyzing scientific discoveries that will lead to new treatments and cures, that in turn will reduce materially the cost of health care. Few activities of Government provide greater promise for improving the quality, and reducing the costs, of health care for all Americans than our investment in medical research.

SUBSTANCE ABUSE EDUCATION AND PREVENTION

Substance abuse prevention and treatment programs are increased by $207 million over 1996. The bill includes $1.310 billion for the substance abuse block grant which provides funds to States for substance abuse prevention, treatment and rehabilitation. Recognizing that drug prevention education needs to start when children are young, to teach children the skills they need to resist drug use, the bill also provides a $90 million increase for the Safe and Drug Free Schools and Communities Program.

AIDS

This bill contains over $3 billion for research, education, prevention, and services to confront the AIDS epidemic, including a nearly $239 million increase for Ryan White. The bill provides $217 million for AIDS drug assistance programs to assist states in providing the new generation of protease inhibitor drugs to persons with HIV.

HEALTHY START

Low birth weight is the leading cause of infant mortality. Infants who have been exposed to drugs, alcohol or tobacco in the mother's womb are at-risk for prematurity and low birth weight. I became directly involved in Healthy Start after visiting hospitals in Pittsburgh and Philadelphia and seeing one-pound babies, whose chances for survival were very slim. For Healthy Start, the bill provides $96 million, $20 million more than the President requested, to continue the campaign to cut infant mortality rates in half and to give low birth weight babies a better chance at survival.

WOMEN'S HEALTH

The committee continues to place a very high priority on women's health. The bill before the Senate contains an increase of $15 million for breast and cervical cancer screening, these increases will: expand research on the breast cancer gene, accelerate the development of new diagnostic tests, and speed research on new, more effective methods of prevention, detection, and treatment. Funding for the Office of Women's Health has also been raised to $12.5 million to continue the National Action Plan on Breast Cancer and to provide health care professionals with a broad range of women's health related information.

VIOLENCE AGAINST WOMEN

The bill contains $123 million for programs authorized under the Violent Crime Reduction Act. The bill before the Senate contains the full amount authorized for these programs, including $60 million for battered women's shelters, $35 million for rape prevention programs, $8 million for runaway youth and $12.8 million for community schools.

Domestic violence, especially violence against women, has become a problem of epidemic proportions. The Department of Justice reports that each year women are the victims of more than 4.5 million violent crimes, including an estimated 500,000 rapes or other sexual assaults.

But crime statistics do not tell the whole story.

I have visited women's shelters in Harrisburg and Pittsburgh, where I saw, first hand, the kind of physical and emotional suffering so many women are enduring.

HEAD START

Head Start receives an increase of $412 million for a total of almost $4 billion.

EDUCATION

The future promise of any nation is dependent on the capabilities of its youth and increased funding for education is an investment in the future. This bill provides an increase of $3.513 billion over fiscal year 1996 education program levels. This is the highest level of support in our Nation's history. The bill funds title I at $7.7 billion, $470 million over last year and increases by $141 million funding for the Goals 2000 Program. Education for the handicapped is increased by $791 million over last year and vocational and adult education is increased by $146 million. The maximum Pell grant is increased by $230 to $2,700 per student. The bill increases the TRIO Program by $37 million and Education, Research, Statistics and Improvement programs are increased by $248 million.

JOB TRAINING

In this Nation, Mr. President, we know all too well that high unemployment wastes valuable human talent and potential, and ultimately weakens our economy. The bill before us today provides $4.7 billion for job training programs, including a $60 million increase for Job Corps. These funds will help improve job skills and readjustment services for disadvantaged youth and adults.

SCHOOL TO WORK

The committee recommends $400 million for school to work programs within the Department of Labor and Education. These important programs will help ease the transition from school to work for those students who do not plan to attend 4-year institutions.

WORKPLACE SAFETY

The bill increases workplace safety programs by $79 million over the 1996 levels. While progress has been made in this area, there is still far too many work-related injuries and illnesses. The funds provided will continue the programs that inspect business and industry, weed out occupational hazards and protect workers pensions.

NUTRITION PROGRAMS FOR THE ELDERLY

For the congregate and home delivered meals program, the bill provides $469 million, or nearly $19 million above the request. In some areas of the country, there are long waiting lists for home-delivered meals. The resources provided by this bill will go a long way to ensure that the most vulnerable segment of the elderly population receive proper nutrition.

LIHEAP

The bill provides $1 billion for Low Income Heating Assistance for this winter and $1 billion in advance for next winter. This is a key program for low income families in Pennsylvania and other cold weather States in the Northwest. Funding supports grants to States to deliver critical assistance to low income households to help meet higher energy costs.

CLOSING

There are many other notable accomplishments, but for the sake of time, I mentioned just some of the highlights, so that the Nation may grasp the scope and importance of this bill.

I have voted against the omnibus appropriations bill as a protest to the procedures which I discussed at some length in floor statements today and last Saturday, September 28, 1996.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough budget year.

ILLEGAL IMMIGRATION

Mr. KOHL. Mr. President, I rise today in support of the conference report to H.R. 2202, legislation to combat the problem of illegal immigration. As you know, this measure has been included in the omnibus appropriations bill for fiscal year 1997.

The conference report is an important step forward in our Nation's fight against illegal immigration to this country. As a member of the Senate Judiciary Committee and a conferee to the negotiations with the House, I am pleased to have been part of the hard work, commitment and bipartisanship that yielded this good, balanced bill, of which we can all be proud. My friends, TED KENNEDY and ALAN SIMPSON, deserve much of the credit.

Mr. President, this legislation provides the Immigration and Naturalization Service [INS] and other law enforcement officials with new resources to prevent aliens from entering or staying in the country illegally: 1,000 new border patrol agents for each of the next 5 years, additional INS investigators to combat alien smugglers and visa overstayers, and enhanced civil penalties for illegal entry, to name just a few.

The conference report also gives the INS and businesses tools to keep American jobs and paychecks out of the hands of illegal aliens—tools to prevent illegal aliens from securing employment that rightfully belongs to American citizens or legal immigrants who have played by the rules and respect the law. Specifically, this legislation provides for three pilot programs to move us toward a workable employer verification system and a framework for the creation of more fraud resistant documents. The original Senate approach, which included more privacy and antidiscrimination protections, was preferable to the one adopted by the conference; however, the pilot projects in this bill still deserve a try. We desperately need a more effective verification system, Mr. President.

Finally, I am pleased that the conference report includes my amendment on mail-order brides. This amendment launches a study of international matchmaking companies, heretofore unregulated and operating in the shadows. These companies may be exploiting people in desperate situations. The study is not aimed at the men and women who use these businesses for legitimate companionship. Instead, it is a very positive and important step toward gathering the information we need so that we can determine the extent to which these companies contribute to the very troubling problems of domestic violence against immigrant women and immigration marriage fraud.

To be sure, there are provisions in this bill which I do not support. The triple fence mandate has Congress micromanaging the INS and unnecessarily waiving important environmental laws. And I regret very much that the Senate positions on summary exclusion and asylum reform did not prevail in the final compromise bill. Lastly, we could have done more to protect the integrity of the workplace, both by enhancing the Department of Labor's ability to enforce employer sanctions and by rejecting the Senate-passed "intent standard" which may jeopardize the rights of American citizens and legal immigrants.

Despite these flaws, this bipartisan legislation deserves our support. The United States is a product of an immigration tradition marked by generosity, compassion and commitment to hard work. In adopting these important changes, we are protecting that tradition by fighting the deeds of those who wish to exploit it.

Thank you.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to the immigration provisions that are now included in the continuing resolution.

It should come as no surprise that it took nearly 5 months after the Senate passed this bill for the House and Senate conferees to finally be appointed. It should not surprise us that our colleagues on the other side of the aisle initially drafted this conference report amongst themselves, and refused to allow a single democratic amendment to be offered during the conference committee. Some changes were made when the conference report was merged with the omnibus continuing resolution, but the basic provisions were developed in a very partisan process.

And finally, it should come as no surprise that the Senate is considering this legislation in the middle of the campaign season. Rather than offering any surprises, the circumstances surrounding us is a clear confirmation that this legislation is less about combating illegal immigration than it is about trying to score political points.

Let me begin by observing that there is clearly no demonstrable support in this Congress, nor in this country, for reducing levels of legal immigration.

Such reductions were stripped from the House bill and omitted from the Senate bill. I have said repeatedly that there is some abuse of our legal immigration system and we should take appropriate steps to repair this process.

But it is clear that a large majority of this body and the other house believes in continuing our longstanding national policy of allowing families to reunite, of continuing to allow foreign skilled workers to be sponsored by businesses, universities and research facilities, and ensuring that the United States continues to be a safe haven for those fleeing persecution from around the world.

Mr. President, for anyone who has witnessed the evolution of this legislation, from its inception last spring to the conference report language included in the continuing resolution that is before us today, it is obvious that the commitment of those of us opposing this conference report to combating illegal immigration is just as strong as those who are supporting this legislation.

As virtually every expert on this issue agrees, combating illegal immigration must be a two-pronged strategy. The first part of that strategy is border enforcement, particularly along the southwestern border where tens of thousands of illegal immigrants cross into the United States each year.

I have supported President Clinton's increases in the U.S. border patrol and I support the further increases contained in this legislation.

But a comprehensive strategy must also account for those illegal immigrants who enter the United States legally, usually on a student or a tourist visa, and then remain here unlawfully. This, we know, represents up to one-half—one-half Mr. President—of our illegal immigration problem.

So how do you address this problem, known as the visa overstayer problem. Some of my colleagues advocate installing a worker verification system, where employers would have to verify the eligibility status of each worker they hire with the Federal Government.

I have long opposed this approach for a variety of reasons. I think it will be a costly burden for our Nation's employers. I think it will lead to an inordinate amount of mistakes resulting in too many law-abiding Americans being denied job opportunities for the wrong reasons. I have concerns that the privacy protections for these workers are inadequate.

And that is why the worker verification proposal in this conference report causes me serious concern.

It has been pointed out that the verification pilot programs in this bill are purely voluntary. Voluntary for whom, Mr. President? It is voluntary for the employers, sure. But not the employees.

Workers do not get a choice of whether or not their name is fed into some Federal Government computer to verify whether or not they are eligible to work in the United States.

Interestingly, both in the Judiciary Committee and here on the Senate floor, concern was expressed that these verification proposals could lead to some sort of national identification document. The sponsors of this bill scoffed at such a notion. They said there was nothing in this bill that would create such a document nor require Americans to carry one.

Well, let's just take a look at the final agreement. The legislation before us requires that one of the worker verification pilot programs, which must involve millions of United States citizens in at least 5 States, include the use of (quote) "machine readable documents."

Now keep in mind that this conference report already imposes a massive Federal mandate on the States by requiring them to only issue birth certificates and driver's licenses that conform to Federal standards.

Let me repeat that, Mr. President. Under this legislation, the State of Wisconsin will have to issue drivers licenses based on guidelines set forth by the Department of Transportation.

If the DOT tells Wisconsin to add a costly new security feature to their licenses, Wisconsin will have to comply. It does not matter how much it costs. It does not matter what sort of burden that places on the State agency. And it certainly does not matter if the State of Wisconsin concludes that such a security feature will cost far more than any benefit it will derive.

I see that the conference report has added language that the Federal Government shall make grants available to the States to help pay for this new mandate. I am sure that is of little comfort to the states. It is clear that considering our fiscal constraint right now, the chances of these grants actually being made available through the appropriations process is an uphill battle to say the least.

And that is why this provision continues to draw strong opposition from the National Conference of State Legislatures and the National Association of Counties. So clearly all the talk we have heard over the last 2 years about taking power out of the hands of Washington bureaucrats and placing it back in the hands of the States and local governments was little more than political grandstanding.

Those were empty words, Mr. President, pure and simple.

The federalization of these documents was a part of the Senate-passed immigration bill. But now we have this new twist, that one of the verification programs is to utilize (quote) "machine-readable documents."

That means that in those States that are included in this pilot program, the applicable State agency will also be responsible for ensuring that their drivers licenses or other such documents are embroidered with a machine-readable social security number.

Mr. President, these verification and birth certificate provisions alone are enough to oppose this legislation. But there are a number of other provisions that were jammed into this conference report that make little if any sense.

Let's look at the triple fence we are now going to build between Mexico and Southern California. This is to be a 14-mile-long fence with three separate tiers to make it as difficult and painful as possible for intruders to navigate. The conference report authorizes $12 million for the initial construction of this wall.

But according to INS, the fence and roads in between the three tiers will likely have a final price tag of between $80 and $100 million by the time construction is completed.

One hundred million dollars, Mr. President, for a 14-mile-long fence. That works out to be $4,100 a yard, Mr. President; $4,100 for one yard of fence and road. I'd like to know who's getting that Government contract.

But it gets worse. During Senate consideration of this legislation, language

was added to the bill that made sure that INS had some input as to where these barriers were erected.

That language has magically disappeared. Instead, the bill provides for the construction of the 14-mile long triple fence, (quote) "starting at the pacific ocean and extending eastward".

It doesn't matter if INS believes the fence would be more effective a half-mile away from the ocean. Of course, if I am an illegal immigrant and see a huge wall starting at the ocean and extending eastward, I might just throw a life preserver on and swim around it. I'm sure this triple fence will follow in the footsteps of the other great physical barriers, such as the Berlin Wall and the great Maginot Line.

Mr. President, when this bill left the U.S. Senate last April, there was one provision that I thought would make a marked difference in terms of focusing in on the 50 percent of illegal immigrants who come here by legal means, the so-called visa overstayers.

It was a provision authored by myself and the junior Senator from Michigan Senator ABRAHAM. The Abraham-Feingold language, for the first time ever, imposed tough new penalties on those who come here on a legal visa and remain in the United States long after the visa has expired.

It required the Attorney General to implement an automated system of tracking the arrival and departure of nonimmigrant aliens, permitting for the first time computer identification of nonimmigrants who overstay their visas. And finally, it authorized over 300 new investigators each year for 3 years dedicated solely to the purpose of identifying these visa overstayers.

That bipartisan proposal represented the sort of sensible targeted approach to combating illegal immigration that could be supported by Senators of all partisan and ideological persuasions. Our strategy for combating illegal immigration should not be about building walls, or creating a national worker verification system, or placing a brigade of marines on the southwestern border, or telling an immigrant family that they cannot bring a parent, a child or a spouse into this country.

It should be about identifying who is and who is not playing by the rules, and sending a strong message that there are severe penalties that will be enforced against those who choose to break our laws.

Unfortunately, a change was made to the Abraham-Feingold language in the conference report that I believe greatly undermines the effectiveness of this provision.

The Senator from Michigan and I very carefully crafted our language to provide a broad-based exception from these penalties for any individual who could demonstrate good cause for remaining in the United States without authorization. Why were we so careful to include this exception, Mr. President? Quite simply, there are many good reasons why an individual might not leave the United States immediately after their visa expires.

Perhaps they have become ill. Perhaps a family member has become ill. Maybe they need a short extension to raise the money to leave the country. There are a variety of reasons, some legitimate, some not. But our language would have put the burden on the nonimmigrant to demonstrate good cause to the INS. Instead, this conference report wipes out that important exception, and essentially only provides an exception to a nonimmigrant who has remained in the United States because they have a claim for readjustment of status pending at INS.

That Mr. President, is troublesome,

And I have serious concerns that this will result in countless nonimmigrants being subject to harsh penalties for no fault of their own. That is yet another example of sound policy being thrown to the wayside for no apparent legitimate reason.

Finally, Mr. President, I want to address the asylum provisions in this legislation that the Senator from Vermont, Senator LEAHY, has so eloquently shown to be very troublesome.

America has a proud history of representing a safe haven for those who believe in democracy and who have been tormented for embracing particular political and religious viewpoints. It should continue to do so.

We have had, no doubt, serious problems and abuses with our asylum system. In the past, too many nonmeritorious claims have been filed, and the result has been a massive backlog of pending claims that has prevented or delayed more legitimate claims from being processed.

I do not believe, however, that sort of abuse is adequate justification to place countless obstacles in front of those who have legitimate asylum claims. Moreover, before we consider passing any heavy-handed reforms, we should remember that the Clinton administration has made tremendous progress in reforming the asylum system in just the past year or so.

As a result of these new reforms, in the past year alone, new asylum claims have been cut in half and INS has more then doubled their productivity in terms of processing new claims. Mr. President, these promising reforms are in their infancy and we should be very careful not to mandate any new restrictions that will impede the progress INS is now making and prevent legitimate claims from being considered in as expedited fashion as possible.

The summary exclusion provisions in this legislation are unnecessarily harsh and make little sense. This provision states that if you are living in a country where you are being persecuted, if the regime you are living under is oppressive, and you are forced to falsify your papers in order to gain safe passage to the United States—this legislation says that you are unwelcome in the United States. It literally shuts the door on thousands of asylum seekers who find themselves in this position.

Mr. President, I do not understand what the authors of this language could possibly be thinking. Often we hear the well-publicized cases of persons seeking asylum in this country, whether it is Fidel Castro's daughter or members of the Cuban national baseball team.

But most people who are seeking asylum aren't relatives of celebrities, or famous national athletes. Often, they are working people, who are being imprisoned and often tortured for their religious or political views. How can we expect these people to walk into a government agency in their home country and obtain the necessary paperwork to leave that country? We can't Mr. President, and that is why I am afraid that this provision will have disastrous consequences for a great many individuals seeking political asylum in the United States.

Mr. President, to conclude, the conference report before us has turned into little more than an incoherent and unjustifiable attack against immigrants and refugees. There are 100 senators in this body who are genuinely committed to reducing illegal immigration and punishing those who choose to break our laws.

Unfortunately, I think it is clear that what some of our colleagues could not do directly in terms of reducing legal immigration is being accomplished indirectly. You can do it by cracking down on legal immigrants who use welfare. You can do it by cracking down on persecuted individuals seeking asylum. You can do it in a host of ways, and I am afraid that is exactly what this conference report has accomplished.

Thank you Mr. President and I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I, too, want to take just a few moments to thank a few people who worked to achieve this final product.

It is unlike any appropriations bill I ever saw. It may not be perfect, but this one is large. It has been involved in a long process.

I think the result is good, and we are going to get our work done. There is not going to be the threat of having to go with the extra continuing resolutions, dragging it out, and the threats of potential Government shutdowns or any of that sort of thing. We got the work done. That is a very important feature.

I want to say that it could not have happened without the extraordinary leadership, the calmness, the demeanor, and the knowledge of the chairman of the committee, Senator MARK HATFIELD. This is, obviously, the last appropriations bill he will handle in his career. I have said this about him before, but I think it is certainly true here tonight. He has certainly fought the good fight, he has finished the race with this monumental achievement here, and he has kept the faith with himself, his constituents, and with the Senate. I thank you very much for the great work that you have done on this bill and some other bills, Mr. Chairman.

Also, to the ranking member, Senator BYRD. I have found that he has always unfailingly been available, cooperative, and helpful in this and all matters. He is in many ways the conscience of the Senate. He reminds us of things we need to do and the way we should act, and he knows so much about what is in this bill, as in every bill. We appreciate the very fine cooperation from the ranking member of the Appropriations Committee.

And to the very fine staff—Keith Kennedy, Jim English. It just wouldn't have been possible without all the many long hours that they have put in. They have to be exhausted. I don't know how many nights they went without much sleep, or any sleep. I know that sort of thing has happened before, but I have never seen it to the degree that I have this time up close. They did great work, and we thank you very much for that work.

I just have to mention the subcommittee chairman and ranking member who worked so hard. They have had to make compromises, and they are not very happy with some of it. But the chairman of the Subcommittee on Commerce, Justice, and State, Senator JUDD GREGG, and the

ranking member, Senator FRITZ HOLLINGS, and the chairman of the Subcommittee on Defense, TED STEVENS, did a great job.

This is one of the best parts of this whole effort, in my opinion. The defense bill provides what is needed for the defense of our country. TED STEVENS really stayed with it, and, also, of course, his partner in managing this legislation, the Senator from Hawaii, Senator INOUYE.

Senator MITCH MCCONNELL on the Foreign Operations Subcommittee had two of the thorniest issues of all to work out. Yet, we came to an agreement with regard to the funding and with regard to the language concerning the Mexico City issue. Without Senator MCCONNELL's efforts and without the long hours, it would not have happened; and the ranking member there, Senator PAT LEAHY.

The Interior Committee, Senator SLADE GORTON and the distinguished Senator from West Virginia had a very important part in getting that package together. There was a lot of language that was controversial there.

Senator SPECTER and Senator HARKIN on the very large subcommittee portion—Labor, Health and Human Services.

And, finally, the Treasury-Postal Service, Senator SHELBY and Senator KERREY. Senator SHELBY was there with us at about 1 a.m. on Saturday morning because there were some unresolved issues.

There are many members of my own staff that I would like to have their names put in the RECORD because of the long hours that they put into working with different sections of this bill: My chief of staff, David Hoppe, and Alison Carroll, my deputy chief of staff, who is here with me today. Also, Bill Gribbin, Susan Connell, Mike Solon, Susan Irby, Randy Scheunemann, Rolf Lundberg, and Kyle McSlarrow.

I emphasize this point: We came to an agreement. We have a very large bill to keep the Government operating. We did add $6.5 billion more than what had come out of committees, but it was paid for.

We had some very important additions that were put in because of disasters, particularly the effort that we made to provide assistance in the Western States and for the damage from Hurricane Fran. We added $350 million to amounts already appropriated, guaranteeing at least $500 million would be available for relief of victims of Hurricane Fran. That is thanks to Senator HELMS, because he knew what the people of North Carolina needed and what would be necessary to repair the damage from that tremendous storm.

When you go through the places where additions were made, many of them are the right things to do to stand up for what should be done for this country.

For the National Institutes of Health, we provided a total of $12.7 billion, which is over the President's request.

A variety of education programs, including Head Start and the Safe and Drug-Free Schools program had increases.

Title I is now at $7.7 billion.

We added additional funding for college education, for loans and for grants.

We added additional funding to the Justice Department to implement the Violence Against Women Act and programs to fight crime.

When you go through this list, there are many, many programs where the additions will serve the American people well. It is the right thing to do. I am pleased to be able to support this legislation.

I think it has the right mood about it, the right tone about it, and it has been bipartisan. It will, I think, serve us well as we go into the session next year.

Mr. President, I am inclined to look upon this legislation, H.R. 4278, the omnibus consolidated appropriations bill, like an expected father who is suddenly presented with quadruplets. It is an awful lot to take at one time.

And yet, the more familiar you become with the enormous package, the more there is to like.

First and most important, we accomplished what the American people wanted us to do: We avoided a fiscal crisis that would have led to a government shutdown at midnight tonight.

For the record, I have to note that it would have been far preferable if we had passed the various appropriation bills one by one, instead of in this huge and unwieldy package. But what was not to be.

We all know what happened to many of those bills here in the Senate, and why I had to take them down, and why it was pointless for me to even bring up some of them. All that we can leave to the historians of the Congress.

What is now before us is a bipartisan package, worked out in long—very long—face-to-face deliberations between the Republican leadership of the House and Senate and senior administration officials.

If I attempted to individually name all those who played crucial roles in its development, I might be mistaken for a Senator filibustering the FAA bill. So I will note particularly Chairman MARK HATFIELD's diligent pursuit of an acceptable outcome, knowing that he will share the credit with the other members of his committee who worked, sometimes through the night, to get this work done and well done.

Enormous as this legislation is—it spends some $600 billion, including $6.5 billion more than congressional Republicans had originally planned to spend—it is deficit neutral. It is paid for. We refused to add to the Nation's debt.

Working within that understanding, we managed to devote almost $1 billion to the fight against terrorism. We came up with $8.8 billion to combat drug abuse and the drug traffic. We allotted $650 million for fire emergencies in our western States.

And because of the relentless efforts of Senator HELMS, we added $350 million to amounts already appropriated, guaranteeing that at least $500 million will be available for relief of victims of hurricane Fran. Thanks to Senator HELMS, the people of North Carolina will have to resources to rebuild from the storm, especially in the hard-hit city of Raleigh.

For the National Institutes of Health, we provided a total of $12.7 billion—almost $400 million over the President's request.

A variety of education programs also fared well in this legislation. The Head-start program is now up to almost $4 billion. The Safe and Drug-Free Schools program is at $556 million. Title 1, our basic program of aid to schools with large numbers of poor children, now stands at $7.7 billion.

Student aid at the college level has dramatically increased by $3.3 billion to a total, in both grants and loans, of $41.6 billion. The annual Pell Grant will have its largest one-year increase ever, to a maximum of $2,700.

This is more than just a spending bill, however. It is an important anticrime bill. That is why we directed resources to the Department of Justice, with special attention to implementing the Violence Against Women Act.

Mr. President, the American people did not want us to adjourn for the year without tackling the problem of illegal immigration. This bill is our tough answer to that demand.

It tightens border enforcement by doubling the border patrol and authorizing a triple fence barrier along our southern border. It cracks down on alien smuggling. It will speed up the exclusion and deportation of illegal aliens, and it funds 2,700 detention cells. By the way, that's 2,000 more than the President wanted.

This bill includes our entire Defense appropriation, the foundation of our national security effort. And it includes funding for the international activities which are essential for the continuance of what we have won at such great cost: peace through strength.

It is not a perfect bill. But in all my years in the House and Senate, I have never yet seen a perfect appropriation bill. It is, however, a good bill, thoughtfully constructed and prudently funded. It is a necessary bill, which the American people expect us to pass without delay.

With pride in what we have accomplished, and with relief in what we have avoided, I urge all my colleagues to support this legislation.

Mr. President, I urge my colleagues to vote for this legislation.

I yield the floor, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (H.R. 4278) was ordered to a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—84

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Gorton	Moseley-Braun
Bennett	Graham	Moynihan
Biden	Grassley	Murkowski
Bingaman	Harkin	Murray
Bond	Hatch	Nickles
Boxer	Hatfield	Nunn
Bradley	Heflin	Pell
Breaux	Helms	Pressler
Bryan	Hollings	Pryor
Bumpers	Hutchison	Reid
Byrd	Inouye	Robb
Chafee	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Santorum
Conrad	Kempthorne	Sarbanes
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Daschle	Kohl	Smith
DeWine	Lautenberg	Snowe
Dodd	Leahy	Stevens
Domenici	Levin	Thompson
Dorgan	Lieberman	Thurmond
Exon	Lott	Warner
Feinstein	Lugar	Wellstone
Ford	Mack	Wyden

NAYS—15

Ashcroft	Feingold	Inhofe
Brown	Frahm	Kyl
Burns	Gramm	McCain
Coats	Grams	Specter
Faircloth	Gregg	Thomas

NOT VOTING—1

Campbell

The bill (H.R. 4278) was passed.

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

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report to accompany H.R. 3610.

The report will be stated.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1996.)

Mr. INOUYE. Mr. President, I want to take this opportunity to discuss the conference agreement for the Department of Defense appropriations bill. This is a very good agreement, one that I believe all Members should support.

The conference agreement provides $243.9 billion, an increase of $9.3 billion from the amount requested, and $500 million more than appropriated last year. The amount is nearly $1 billion less than provided by the Senate. While the total bill is lower than that passed by the Senate, the conference agreement protects the priorities of the Senate.

I believe as my colleagues review the bill they will see that the conferees, under the leadership of Senator STEVENS, forged a compromise which fulfills our constitutional requirement to provide for the common defense.

This bill in many ways improves the administration's budget request. First, the bill increases funding for operations and maintenance by $700 million to protect readiness. This includes; $600 million for facilities renovation and repair; $150 million for ship depot maintenance, to fund 95 percent of the Navy's identified requirement; $148 million for identified contingency costs for overseas operations, such as Bosnia; and $165 million for the President's counterdrug initiatives.

Second, the bill adds $590 million to fully fund health care costs identified by the surgeons general and DOD health affairs. This will allow our men and women in uniform access to the health care that they deserve.

Third, it recommends $137.5 million for breast cancer research, $45 million for prostate cancer research, and $15 million for AIDS research.

Fourth, the bill has fully provided for the pay and allowances of our military personnel, including a 3-percent pay raise and a.4 percent increase in quarters allowances.

Clearly, these few examples demonstrate that the conferees have responded to the needs of our men and women in uniform.

The bill also provides $43.8 billion for procurement of equipment, an increase of $5.6 billion above the request. This increase will provide for many of the high priority needs identified by our commanders in the field.

The administration identified several issues in the House bill that it opposes. The conferees have responded to nearly all of its concerns, rejecting restrictive legislative provisions, and funding administration priorities.

Chairman STEVENS and the managers on the part of the House have done a masterful job in keeping this bill clean. It safeguards our national defense, the priorities of the Senate, and rejects controversial riders.

In summary, Mr. President, this is a very good bill. I am strongly in favor of its recommendations and I sincerely believe it should have the bipartisan support of the Senate.

Mr. President, I signed the conference report—with reservation. I want my colleagues to understand that I have no reservations regarding the agreement on defense matters.

I do have reservations on the process by which several extraneous matters have been added to the DOD conference report. I understand that this was done in the interest of time. However, I must say that I do not think it is appropriate for entire appropriation bills—which have never been brought before the Senate—to be incorporated into a conference report.

I intend to vote for this measure because of the many worthy programs funded. I do so with some regret for certain measures which have been incorporated. And I hope that the next Congress will not follow this approach.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Union Calendar No. 336

104TH CONGRESS
2D SESSION

H. R. 3755

[Report No. 104–659]

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1997, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 1996

Mr. PORTER, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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A BILL

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1997, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and

Education, and related agencies for the fiscal year ending September 30, 1997, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall

be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $19,422,115,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

In addition, $25,000,000, to remain available until September 30, 1998, for continuing disability reviews as

authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,899,797,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided,* That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1998: *Provided further,* That not less than $1,500,000 shall be for the Social Security Advisory Board.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $160,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.

In addition to funding already available under this heading, and subject to the same terms and conditions, $250,073,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $21,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social

Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

TITLE V—GENERAL PROVISIONS

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

104TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
104–659

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, 1997

JULY 8, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. PORTER, from the Committee on Appropriations, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3755]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Departments of Labor, Health and Human Services (except the Food and Drug Administration, Indian Health Service, and the Office of Consumer Affairs), and Education (except Indian Education), Armed Forces Retirement Home, Corporation for National and Community Service, Corporation for Public Broadcasting, Federal Mediation and Conciliation Service, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on Disability, National Labor Relations Board, National Mediation Board, Occupational Safety and Health Review Commission, Physician Payment Review Commission, Prospective Payment Assessment Commission, Railroad Retirement Board, the Social Security Administration, and the United States Institute of Peace for the fiscal year ending September 30, 1997, and for other purposes.

INDEX TO BILL AND REPORT

SUMMARY OF ESTIMATES AND APPROPRIATIONS

The following table compares on a summary basis the appropriation including trust funds for fiscal year 1996, the budget estimate for fiscal year 1997, and the Committee recommendations for fiscal year 1997 in the accompanying bill.

1997 LABOR, HHS, EDUCATION APPROPRIATIONS BILL

[In millions of dollars]

	Fiscal year—			1997 committee compared to—	
	1996 comparable	1997 budget	1997 committee	1996 comparable	1997 budget
Department of Labor	$11,345	$12,721	$11,344	−1	−$1,377
Department of Health and Human Services:					
Public Health Service:					
Health Resources and Services Administration	3,257	3,293	3,260	+3	−33
Centers For Disease Control	2,112	2,239	2,187	+75	−52
National Institutes of Health	11,928	12,377	12,747	+819	+370
Substance Abuse and Mental Health Services Administration	1,883	2,098	1,849	−34	−249
Retirement Pay and Medical Benefits for Commissioned Officers	167	176	176	.....	.....
Health Care Policy and Research	125	144	125	+0	−19
Subtotal, Public Health Service	19,472	20,327	20,344	+872	+17
Health Care Financing Administration	146,687	165,328	164,858	+18,171	−470
Administration for Children and Families	32,367	36,328	34,421	+2,054	−1,907
Administration on Aging	829	828	811	−18	−17
Office of the Secretary	222	219	203	−19	−16
Total, HHS current year	199,577	223,030	220,637	+21,060	−2,393
Advances	30,955	34,800	33,800	+2,845	−1,000
Department of Education	25,230	28,034	25,231	+1	−2,803
Related Agencies	35,468	38,198	37,158	+1,690	−1,040
Social Security Administration	34,399	37,070	36,125	+1,726	−945
Grand Total, current year	271,620	301,983	294,370	+22,750	−7,613
Advances	40,635	44,925	43,900	+3,265	−1,025
Current year total using 602(b) scorekeeping	264,191	293,570	285,611	+21,420	−7,959
Mandatory	200,943	220,068	219,950	+19,007	−118
Discretionary	63,248	73,502	65,661	+2,413	−7,841

DISCRETIONARY

[In millions of dollars]

	Fiscal year—			1997 committee compared to—	
	1996 comparable	1997 budget	1997 committee	1996 comparable	1997 budget
Department of Labor	$9,419	$10,802	$9,425	+$6	−$1,377
Department of Health and Human Services	28,881	31,233	29,837	+956	−1,396
Department of Education	21,512	26,820	22,757	+1,245	−4,063
Related Agencies	3,860	4,647	3,910	+50	−737
Scorekeeping Adjustments	−424	0	−269	+155	−269
Total discretionary	63,248	73,502	65,661	+2,413	−7,841

TOTAL APPROPRIATIONS FOR LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION PROGRAMS

In addition to the amount included in the bill, very large sums are automatically appropriated each year for labor, health and human services, social security and education programs without consideration by the Congress during the annual appropriation process. The principal items in this category are the unemployment compensation, social security, Medicare, and railroad retirement funds, federal payments for interest subsidy, default and servicing costs for the Federal Family Assistance Loan program and full cost of loans made under the Direct Student Loan Program. The detailed estimates for the trust fund and permanent appropriations are reflected in the table appearing at the back of this report, a summary of which is included in the following table:

TOTAL INCLUDING PERMANENT APPROPRIATIONS AND TRUST FUNDS

[In millions of dollars]

	Fiscal year—		
	1996	1997	Change
Annual appropriation bill, current year	$271,620	$294,370	+$22,750
Annual appropriation bill, advances	40,635	43,900	+3,265
Permanent appropriations	606,780	644,392	+37,612
Deduct interfund payments	−79,931	−79,194	+737
Total	839,104	903,468	+64,364

HIGHLIGHTS OF THE BILL

In reaching the overall ceiling of $287,931,000,000 in budget authority and $291,835,000,000 in outlays, and the discretionary ceiling of $65,661,000,000 in budget authority and $69,480,000,000 in outlays, for activities under the jurisdiction of the Subcommittee on the Departments of Labor, Health and Human Services and Labor and Related Agencies, the Committee reviewed programs and made clear priority decisions. These decisions were made appreciably more difficult due to the general lack of reliable data as to the effectiveness of programs. Throughout the bill, the Committee has decided to restrain the growth or eliminate programs which cannot demonstrate their effectiveness. Consistent with the intent of the Chief Financial Officer's Act, the Government Performance and Re-

sults Act, and the Administration's many management initiatives, the Committee remains committed to supporting those programs that are effective and paring back or eliminating those that are not.

The Committee has provided increases for programs such as the Job Corps; block grants such as Preventive Health, Maternal and Child Health, Social Services, Community Services and Child Care and Development; health prevention activities within the Centers for Disease Control and Prevention; Ryan White AIDS funding; health research and training within the National Institutes of Health; health professions training, and broad based support for innovation in education. The maximum Pell Grant is increased by $30 to $2,500, the highest in history and TRIO is increased by $37 million. Work-study programs are increased 10% to $685,000,000.

The bill also continues the Committee's efforts to support reform and budget restraint by terminating the funding for 39 programs with a total fiscal year 1996 funding of $1 billion.

Bill Total.—The bill appropriates $285,611 million in budget authority for the departments of Labor, Health and Human Services and Education and Related Agencies and is within the Subcommittee's 602(b) allocation.

Mandatory programs.—The bill provides $219,949 million for entitlement programs in fiscal year 1997. 77% of the funding in the bill is for these mandatory costs. Between fiscal year 1996 and 1997 entitlement spending increased by $19 billion while the Committee was reducing discretionary accounts by $4.4 billion from fiscal year 1995 levels. Funding requirements for these activities are determined by the basic authorizing laws. Mandatory programs include general fund support for the Medicare and Medicaid programs, Aid to Families with Dependent Children, Supplemental Security Income, Black Lung payments, and the Social Services Block Grant. The following chart indicates the funding levels for the major mandatory programs in fiscal years 1996 and 1997 and the growth in these programs.

[Dollars in thousands]

Program	Fiscal year—			Percent
	1996	1997	+/− 1996	
Department of Labor:				
Black Lung Disability Trust Fund	$996,606	$1,007,644	$11,038	1
Department of Health and Human Services				
Health Care Financing Administration:				
Medicaid current law benefits	91,140,563	98,141,139	7,000,576	8
Medicare Payments to Health Care Trust Funds	63,313,000	60,079,000	(3,234,000)	−5
Administration for Children and Families:				
Aid to Families with Dependent Children	12,999,000	11,713,000	(1,286,000)	−10
Child Support Enforcement	1,068,000	1,225,000	157,000	15
Social Service Block Grant	2,381,000	2,480,000	99,000	4
Department of Education:				
Federal Family Education Loan Program	3,279,000	2,322,000	(957,000)	−29
Federal Direct Student Loan Program	706,000	683,000	(23,000)	−3
Federal Family Education Loan Liquidating Account	303,000	.....	(303,000)	n/a
Related Agencies				
Social Security Administration:				
Special Benefits for Disabled Coal Miners	665,396	630,070	(35,326)	−5

[Dollars in thousands]

Program	Fiscal year—			Percent
	1996	1997	+/−1996	
Supplemental Security Income	25,605,512	28,682,115	3,076,603	12

Discretionary programs are funded at $65,661 million, an overall freeze level of funding.

Department of Labor.—The bill appropriates $11,344 million for the Labor Department, a reduction of $1 million below fiscal year 1996 and $1,377 million below the amount requested by the President. This funding level includes $3,992 million in federal funds to carry out the provisions of the Job Training Partnership Act. The Committee recommends an increase in funding for the Job Corps of $92 million to support the cost of operating new centers. The bill funds summer youth employment, youth and adult training, and dislocated worker assistance at the same level as last year. Funding of $350 million is provided for school-to-work activities funded in the Departments of Labor and Education.

Occupational Safety and Health Administration.—The Committee recommends funding for OSHA at $298 million, $43 million below the request and $6 million below last year's level. Within OSHA, compliance assistance is funded at last year's level while funding for Federal enforcement is reduced by 3% . This shift is consistent with the policy adopted by the Committee last year. The bill also includes a prohibition against the development or issuance of any proposed or final standard or guideline on the subject of ergonomic protection.

Department of Health and Human Services.—The bill appropriates $218,067 million which is $1,396 million below the President's request and $17,025 million above the fiscal year 1996 level. Funding for discretionary programs of $29,836 million is $1,396 million below the President's request and $956 million above last year's level.

Health Resources and Services Administration.—Funding for HRSA programs is $3,080 million, $3 million above last year and $33 million below the President's request. Within HRSA, the consolidated health centers funding is at $802 million, an increase of $44 million, health professions training is funded at $292 million, an increase of $34 million, Ryan White AIDS Care Act programs are funded at $812 million, $55 million above last year and $18 million below the President's request.

National Institutes of Health.—The Committee proposes $12,747 million for biomedical research activities at the National Institutes of Health. This funding level represents an increase of $371 million over the President's request and $820 million over last year. This funding level indicates the very high priority that the Committee places on the activities of NIH. The Committee has maintained its policy of resisting disease specific earmarks in the bill, believing that decisions as to appropriate levels of funding and appropriate avenues of research are best left to the scientists. The bill also commits the federal government to the construction of a new clinical center at NIH with an initial funding level of $90 million.

Social Security Administrative Costs.—Funding for the cost of administering the Social Security programs is $6,309 million, $445 million over last year and $272 million below the President's request.

BLACK LUNG DISABILITY TRUST FUND

The bill includes authority to obligate $1,008,000,000 from the Black Lung Disability Trust Fund in fiscal year 1997. This is an increase of $10,638,000 above the fiscal year 1996 comparable level and the same as the budget request.

The total amount available for fiscal year 1997 will provide $496,665,000 for benefit payments, and $45,979,000 and $356,000 for administrative expenses for the Departments of Labor and Treasury, respectively. Also included is $465,000,000 for interest

payments on advances from the general fund of the Treasury. In fiscal year 1996, comparable obligations for benefit payments are estimated to be $505,494,000, while administrative expenses for the Departments of Labor and Treasury respectively are $47,112,000 and $756,000. Interest payments on advances are estimated at $444,000,000 for fiscal year 1996.

The Trust Fund pays all black lung compensation/medical and survivor benefit expenses when no responsible mine operator can be assigned liability for such benefits, or when coal mine employment ceased prior to 1970, as well as all administrative costs which are incurred in administering the benefits program and operating the Trust Fund.

It is estimated that 77,000 people will be receiving black lung benefits financed from the Trust Fund by the end of fiscal year 1997. This compares with an estimated 81,500 receiving benefits in fiscal year 1996.

The basic financing for the Trust Fund comes from a coal excise tax for underground and surface-mined coal. Additional funds come from reimbursement payments from mine operators for benefit payments made by the Trust Fund before the mine operator is found liable, and advances from the general fund, estimated at $373,000,000 in fiscal year 1997. The advances to the Fund assure availability of necessary funds when liabilities may exceed other income. The Omnibus Budget Reconciliation Act of 1987 continues the current tax structure until 2014.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

The bill provides $20,923,000 for mandatory payments necessary to compensate the Social Security system for cash benefits paid out but for which no payroll tax is received. This amount is the same as the budget request and $1,718,000 below the comparable fiscal year 1996 appropriation. These funds reimburse the Old Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds for special payments to certain uninsured persons, costs incurred administering pension reform activities and interest lost on the value of benefit checks issued but not negotiated. This appropriation restores the trust funds to the position they would have been had they not borne these costs properly charged to the general funds.

The amount provided includes $2,823,000 for the cost of special payments to a declining population of uninsured persons who were at least 72 years of age in 1968 and attained retirement age before they could accumulate sufficient wage credits to qualify for benefits under the normal retirement formulas. This account also includes $1,100,000 for reimbursements to the trust funds for administrative costs incurred in providing private pension plan information to individuals and $17,000,000 to reimburse the trust funds for the value of the interest for benefit checks issued but not negotiated.

ADDITIONAL ADMINISTRATIVE EXPENSES

The bill provides $10,000,000 for mandatory administrative expenses related to the Coal Industry Retiree Health Benefit program which Social Security must administer under the law. This amount is the same as the budget request and the same as the comparable fiscal year 1996 appropriation. The Energy Policy Act of 1992 combined two existing United Mine Workers of America pension plans into a single fund and required that certain coal mine operators pay health benefit premiums for the new combined plan. Social Se-

curity assigned retired coal miners covered by the combined plan to coal operators and must now provide requested earnings records to mine operators and process appeals of assignments. The funding is available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

The bill provides $460,070,000 for special benefits for disabled coal miners, the same as the budget request and $25,326,000 below the comparable fiscal year 1996 appropriation. This amount does not include $160,000,000 in advance funding provided in this bill for the first quarter of fiscal year 1998 or $170,000,000 in advance funding for fiscal year 1997 which was provided in the fiscal year 1996 appropriations Act.

The appropriation provides cash benefits to miners who are disabled because of black lung disease and to widows and children of miners. The Social Security Administration was responsible for taking, processing, and paying claims for miners benefits filed from December 30, 1969 through June 30, 1973. Since that time, SSA has continued to take claims but forwards most to the Department of Labor for adjudication and payment. The SSA will continue to pay benefits and maintain the beneficiary roll for the lifetime of all persons who filed during its jurisdiction. During fiscal year 1997, SSA expects to provide benefits to 127,000 miners, widows, and dependents who will receive a basic benefit rate of $448.60.

SUPPLEMENTAL SECURITY INCOME PROGRAM

The bill provides $19,444,556,000 for the Supplemental Security Income (SSI) program, not including $9,260,000,000 in fiscal year 1997 funding provided in the fiscal year 1996 appropriations Act and not including $9,690,000,000 in advance funding provided in the bill for the first quarter of fiscal year 1998. The appropriation represents an increase of $899,044,000 over the comparable fiscal year 1996 appropriation and $164,444,000 below the budget request.

These funds are used to pay Federal cash benefits to approximately 6,505,000 aged, blind, and disabled persons with little or no income. The maximum monthly Federal benefit payable in fiscal year 1997 is expected to be $483 for an individual and $725 for an eligible couple. In addition to federal benefits, the SSA administers a program of supplementary State benefits for those States which choose to participate. The funds are also used to reimburse the trust funds for the administrative costs of the program.

The SSI appropriation includes $100,000,000 for beneficiary services, a decrease of $76,400,000 below the comparable fiscal year 1996 appropriation and $79,000,000 below the budget request. Subsequent to issuing the fiscal year 1997 budget request, the President signed into law P.L. 104–121 which eliminates SSI payments to drug addicts and alcoholics who qualify for assistance primarily on the basis of their addiction beginning January 1, 1997. As a result, the President's budget requests funding for beneficiary services related to benefit payments which will terminate following the first quarter of the fiscal year. However, many individuals who will be removed from the SSI rolls are expected to reapply for benefits on the basis of other disabling conditions. Therefore, the Commit-

tee has included funds to continue providing services related to payments to drug addicts and alcoholics through the first quarter of the year and sufficient funding to process expected reapplication for benefits by individuals removed from the rolls pursuant to P.L. 104–121. Within the beneficiary services activity, the bill provides the budget request of $41,000,000 to reimburse State vocational rehabilitation services agencies for successful rehabilitation of SSI recipients.

The bill also contains $7,000,000 for research and demonstration activities conducted under section 1110 of the Social Security Act, the same as the budget request and a decrease of $1,200,000 below the fiscal year 1996 appropriation. The Commissioner testified during the fiscal year 1997 budget hearings that less than 1% of disability insurance claimants are rehabilitated through the state vocational rehabilitation agencies. Accordingly, the Committee intends that research and demonstration funds be used solely for demonstrations involving private organizations investigating the cost effectiveness to the trust funds of providing early intervention and rehabilitation for work-related disability. The Committee is particularly interested in models of service which can demonstrate substantially better results for disabled individuals than the state rehabilitation system.

The bill provides an additional $25,000,000 to process continuing disability reviews (CDRs) related to the SSI caseload as authorized by P.L. 104–121, an increase of $10,000,000 above the comparable fiscal year 1996 appropriation.

The bill does not provide funding for administrative activities related to welfare reform as proposed in the budget request. The Committee notes that the requested $250,000,000 appropriation has never been authorized in law, and the Administration has not transmitted to Congress a proposal for such an authorization.

LIMITATION ON ADMINISTRATIVE EXPENSES

The bill provides a limitation on administrative expenses for the Social Security Administration (SSA) of $6,172,311,000 to be funded from the Social Security trust funds, an increase of $367,376,000 over the comparable fiscal year 1996 appropriation and $99,843,000 below the budget request. The Committee notes that the request includes an additional $250,000,000 for administrative activities related to welfare reform which are not authorized in law and for which the Administration has not submitted an authorization proposal. In addition, the request includes funding of $100,000,000 for continuing disability reviews (CDRs) in excess of the amount authorized to be appropriated in current law.

The amount provided in the bill is sufficient to enable the Agency to fully meet defined performance targets for the improvement of service in 14 specific areas as submitted to the Committee during the fiscal year 1997 budget hearings. This large increase in funding will support continuing initiatives to streamline the disability determination process and fully automate agency administrative functions.

The Committee has provided these increases in funding despite its grave concern that the Agency failed to meet 11 of 12 performance goals for fiscal year 1995 and testified during the fiscal year

1997 budget hearings that it will likely fail to meet its performance goals for fiscal year 1996. The Committee remains concerned that the recent multi-billion investment in the automation and re-engineering processes has not been adequately linked to direct improvements in service, productivity and efficiency and has not resulted in attainment of modest performance goals. The Committee will continue to monitor the Agency's progress in meeting these goals, and future funding will be conditioned on the Agency's ability to produce measurable improvements in service and productivity.

The bill provides not less than $1,500,000 within the limitation on administration shall be available for the Social Security Advisory Board.

Disability initiative

Funding previously provided separately for the disability re-engineering initiative is requested and provided within the regular limitation on administration for fiscal year 1997.

Automation initiative

The bill provides $250,073,000 for the fourth year of the 5-year automation initiative, an increase of $83,073,000 over the comparable fiscal year 1996 appropriation and $49,927,000 below the budget request. This initiative is designed to fully automate the Social Security Administration within five years and to supply all agency personnel with ergonomically appropriate furniture according to a consent decree. The Committee reiterates its concern that the Congress's previous $475,000,000 investment in automation activities has not produced expected improvements in service and productivity. The Committee continues to provide substantial resources for this initiative with the expectation that the Agency will fully attain the 1997 performance goals reported during the fiscal year 1997 budget hearings.

Continuing disability reviews

The bill provides an additional $160,000,000 for continuing disability reviews (CDRs) above the base amount of $200,000,000 provided in the regular limitation on administration. This amount represents an increase of $100,000,000 over the fiscal year 1996 appropriation and $100,000,000 below the budget request. The amount provided is the full amount authorized by law, and the Committee notes that the budget request, which was submitted prior to enactment of P.L. 104–121, exceeds authorized funding for CDRs by $100,000,000. The Committee has provided this funding with the expectation that processing of additional CDRs will reduce trust fund liabilities far in excess of the cost of such processing.

Welfare reform

The bill does not provide funding for the requested $250,000,000 administrative initiative related to welfare reform. The request for appropriations is not authorized in law, nor has the Administration proposed legislation which would authorize such appropriations. Accordingly, the bill does not include the proposed funding.

Software development

In the past, the Committee has expressed concerns about the Agency's long-term operational and service delivery systems and has urged SSA to work with an industry-based consortium with experience institutionalizing software processes and methods and dedicated to improving software productivity. The Committee is pleased to note that SSA is focusing on those concerns and urges that work proceed as expeditiously as possible.

Chronic Fatigue Syndrome

The Committee remains concerned about reports that SSA disability determination personnel lack appropriate knowledge of diagnosis and impact on functional ability of Chronic Fatigue Syndrome (CFS). The Committee directs the SSA to provide a summary of its internal CFS-related education activities conducted during the past fiscal year to the Chronic Fatigue Syndrome Interagency Coordinating Committee. The Committee further encourages SSA to investigate obstacles faced by individuals with CFS who apply for disability benefits and to maintain updated medical information throughout all levels of the application process.

OFFICE OF INSPECTOR GENERAL

The bill provides $4,801,000 for the Office of the Inspector General, the same as the comparable fiscal year 1996 appropriation and $1,534,000 below the budget request. The bill also provides authority to expend $21,014,000 from the Social Security trust funds for activities conducted by the Inspector General, the same as the comparable fiscal year 1996 limitation and $75,000 below the request. Because this office was created in 1995 and was not fully operational until 1996, the Committee has not reduced funding for this account in accord with its bill-wide policy regarding administrative activities.

COMPARISON WITH BUDGET RESOLUTION

Section 308(a)(1)(A) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), as amended, requires that the report accompanying a bill providing new budget authority contain a statement detailing how the authority compares with the report submitted under section 602 of the Act for the most recently agreed to concurrent resolution on the budget for the fiscal year. This information follows:

[In millions of dollars]

	Sec. 602(b)		This bill	
	Budget authority	Outlays	Budget authority	Outlays
Discretionary:				
General purposes	65,600	69,442	65,625	69,525
Violent Crime Trust Fund	61	38	61	38
Mandatory	222,270	222,355	222,328	222,340

Note.—The amounts in this bill are technically in excess of the subcommittee section 602(b) subdivision. However, pursuant to Public Law 104–121, the Contract with America Advancement Act of 1996, increases to the Committee section 602(a) allocation, based on additional funding for Social Security Continuing Disability Reviews in reported bills, are authorized. This bill includes additional funding for such reviews. After the bill is reported to the House, the Chairman of the Committee on the Budget will provide an increased section 602(a) allocation consistent with the increased funding for continuing disability reviews in the bill. That new allocation will eliminate the technical difference prior to floor consideration.

The bill provides no new spending authority as described in section 401(c)(2) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), as amended.

In accordance with section 308(a)(1)(C) of the Congressional Budget Act of 1974 (Public Law 93–344), as amended, the following information was provided to the Committee by the Congressional Budget Office:

FIVE-YEAR PROJECTIONS

In compliance with section 308(a)(1)(C) of the Congressional Budget Act of 1974 (Public Law 93–344), as amended, the following table contains five-year projections associated with the budget authority provided in the accompanying bill:

	(In millions of dollars)
Budget authority in the bill	234,073
Outlays:	
1997	206,951
1998	33,429
1999	6,974
2000	854
2001	82

FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

In accordance with section 308(a)(1)(D) of the Congressional Budget Act of 1974 (Public Law 93–344), as amended, the financial assistance to State and local governments is as follows:

	(In millions of dollars)
Budget authority	125,499
Fiscal year 1997 outlays resulting therefrom	105,369

TRANSFER OF FUNDS

Pursuant to clause 1(b), rule X of the House of Representatives, the following table is submitted describing the transfers of funds provided in the accompanying bill.

The table shows, by Department and agency, the appropriations affected by such transfers.

APPROPRIATION TRANSFERS RECOMMENDED IN THE BILL

Account to which transfer is to be made	Amount	Account from which transfer is to be made	Amount
Department of Health and Human Services: Administration on Aging:		Department of Labor: Employment and Training Administration:	
Aging Services Programs	$373,000,000	Community Service Employment for Older Americans	$373,000,000
Employment Standards Administration:		U.S. Postal Service:	
Special Benefits	(1)	Postal Service fund	(1)
Department of Labor: Employment Standards Administration:			
Salaries and expenses	26,071,000	Black lung disability trust fund	26,071,000
Departmental management:			
Salaries and expenses	19,621,000	Black lung disability trust fund	19,621,000
Office of Inspector General	287,000	Black lung disability trust fund	287,000

[1] Indefinite.

COMPLIANCE WITH RULE XIII, CL. 3 (RAMSEYER RULE)

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 6408 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989

SEC. 6408. OTHER MEDICAID PROVISIONS.

(a) INSTITUTIONS FOR MENTAL DISEASES.—

(1) * * *

* * * * * * *

(3) MORATORIUM ON TREATMENT OF CERTAIN FACILITIES.—Any determination by the Secretary that Kent Community Hospital Complex in Michigan or Saginaw Community Hospital in Michigan is an institution for mental diseases, for purposes of title XIX of the Social Security Act shall not take effect until [December 31, 1995] *December 31, 2000, or the first day of the first quarter on which the Medigrant plan for the State of Michigan is effective under title XIX of such Act.*

* * * * * * *

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1997—Continued

[In thousands of dollars]

Agency and item	FY 1996 comparable	FY 1997 Budget	Recommended in bill	Bill compared with 1996 comparable	Bill compared with 1997 Budget
PENSION BENEFIT GUARANTY CORPORATION					
Program Administration subject to limitation (Trust Funds)	(10,557)	(12,043)	(135,720)	(+125,163)	(+123,677)
Services related to terminations not subject to limitations (non-add)	(127,933)	(128,496)	.....	(-127,933)	(-128,496)
Total, PBGC	(138,490)	(140,539)	(135,720)	(-2,770)	(-4,819)
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement of wage and hour standards	99,751	118,704	97,756	-1,995	-20,948
Office of Labor-Management Standards	23,992	29,084	23,512	-480	-5,572
Federal contractor EEO standards enforcement	56,171	65,460	55,048	-1,123	-10,412
Federal programs for workers' compensation	73,159	80,222	71,696	-1,463	-8,526
Trust funds	(1,003)	(1,057)	(983)	(-20)	(-74)
Program direction and support	10,622	11,386	10,410	-212	-976
Total, salaries and expenses	264,698	305,913	259,405	-5,293	-46,508
Federal funds	263,695	304,856	258,422	-5,273	-46,434
Trust funds	(1,003)	(1,057)	(983)	(-20)	(-74)
SPECIAL BENEFITS					
Federal employees compensation benefits	214,000	209,000	209,000	-5,000	.....
Longshore and harbor workers' benefits	4,000	4,000	4,000	.....	.....
Total, Special Benefits	218,000	213,000	213,000	-5,000	.....
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	949,494	961,665	961,665	+12,171	.....
Employment Standards Admin., salaries & expenses	27,193	26,071	26,071	-1,122	.....
Departmental Management, salaries and expenses	19,621	19,621	19,621	.....	.....
Departmental Management, inspector general	298	287	287	-11	.....
Subtotal, Black Lung Disablty. Trust Fund, apprn	996,606	1,007,644	1,007,644	+11,038	.....
Treasury administrative costs (indefinite)	756	356	356	-400	.....
Total, Black Lung Disability Trust Fund	997,362	1,008,000	1,008,000	+10,638	.....
Total, Employment Standards Administration	1,480,060	1,526,913	1,480,405	+345	-46,508
Federal funds	1,479,057	1,525,856	1,479,422	+365	-46,434
Trust funds	(1,003)	(1,057)	(983)	(-20)	(-74)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1997—Continued

[In thousands of dollars]

Agency and item	FY 1996 comparable	FY 1997 Budget	Recommended in bill	Bill compared with 1996 comparable	Bill compared with 1997 Budget
RAILROAD RETIREMENT BOARD					
Dual benefits payments account	239,000	223,000	223,000	-16,000	.....
Less income tax receipts on dual benefits	-17,000	-9,000	-9,000	+8,000	.....
Subtotal, Dual Benefits	222,000	214,000	214,000	-8,000	.....
Federal payment to the Railroad Retirement Account	300	300	300	.....	.....
Limitation on administration:					
Consolidated account	.....	(90,558)	(87,898)	(+87,898)	(-2,660)
Retirement	(72,955)	.....	.....	(-72,955)	.....
Unemployment	(16,737)	.....	.....	(-16,737)	.....
Subtotal, administration	(89,692)	(90,558)	(87,898)	(-1,794)	(-2,660)
Special management improvement fund	(657)	.....	.....	(-657)	.....
Total, limitation on administration	(90,349)	(90,558)	(87,898)	(-2,451)	(-2,660)
Inspector General	(5,656)	(5,750)	(5,268)	(-388)	(-482)
SOCIAL SECURITY ADMINISTRATION					
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	22,641	20,923	20,923	-1,718	.....
ADDITIONAL ADMINISTRATIVE EXPENSES 1/	10,000	10,000	10,000	.....	.....
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	660,215	625,450	625,450	-34,765	.....
Administration	5,181	4,620	4,620	-561	.....
Subtotal, Black Lung, FY 1997 program level	665,396	630,070	630,070	-35,326	.....
Less funds advanced in prior year	-180,000	-170,000	-170,000	+10,000	.....
Total, Black Lung, current request, FY 1997	485,396	460,070	460,070	-25,326	.....
New advances, 1st quarter FY 1997 / 1998	170,000	160,000	160,000	-10,000	.....

1/ No-year availability for these funds related to sections 9704 & 9706 of the Internal Revenue Code of 1986.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1997—Continued

[In thousands of dollars]

Agency and item	FY 1996 comparable	FY 1997 Budget	Recommended in bill	Bill compared with 1996 comparable	Bill compared with 1997 Budget
SUPPLEMENTAL SECURITY INCOME					
Federal benefit payments	23,548,636	26,559,100	26,559,100	+3,010,464	.....
Beneficiary services	176,400	179,000	100,000	-76,400	-79,000
Research and demonstration	8,200	7,000	7,000	-1,200	.....
Administration 1/	1,817,276	2,018,973	1,961,015	+143,739	-57,958
Automation investment initiative	55,000	104,927	55,000	.....	-49,927
Subtotal, SSI FY 1997 program level	25,605,512	28,869,000	28,682,115	+3,076,603	-186,885
Less funds advanced in prior year	-7,060,000	-9,260,000	-9,260,000	-2,200,000	.....
Subtotal, regular SSI current year, FY 1996 / 1997	18,545,512	19,609,000	19,422,115	+876,603	-186,885
Additional CDR funding	15,000	260,000	25,000	+10,000	-235,000
SSI reforms (welfare)	.....	250,000	.....	.....	-250,000
Total, SSI, current request, FY 1996 / 1997	18,560,512	20,119,000	19,447,115	+886,603	-671,885
New advance, 1st quarter, FY 1997 / 1998	9,260,000	9,690,000	9,690,000	+430,000	.....

1/ Figures include amounts for the SSI disability initiative previously displayed as a separate line item.

LIMITATION ON ADMINISTRATIVE EXPENSES					
OASDI trust funds	(2,667,238)	(2,835,077)	(3,091,183)	(+423,945)	(+256,106)
HI/SMI trust funds	(864,099)	(918,418)	(846,099)	(-18,000)	(-72,319)
SSI	(1,817,276)	(2,018,973)	(1,961,015)	(+143,739)	(-57,958)
Social Security Advisory Board	.....	.....	(1,500)	(+1,500)	(+1,500)
Subtotal, regular LAE	(5,348,613)	(5,772,468)	(5,899,797)	(+551,184)	(+127,329)
DI disability initiative	(289,322)	.....	.....	(-289,322)	.....
OASDI automation	(112,000)	(195,073)	(195,073)	(+83,073)	.....
SSI automation	(55,000)	(104,927)	(55,000)	.....	(-49,927)
Subtotal, automation initative	(167,000)	(300,000)	(250,073)	(+83,073)	(-49,927)
TOTAL, REGULAR LAE	(5,804,935)	(6,072,468)	(6,149,870)	(+344,935)	(+77,402)
Additional CDR funding	(60,000)	(260,000)	(160,000)	(+100,000)	(-100,000)
SSI reforms (welfare)	.....	(250,000)	.....	.....	(-250,000)
TOTAL, LAE	(5,864,935)	(6,582,468)	(6,309,870)	(+444,935)	(-272,598)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1997—Continued

[In thousands of dollars]

Agency and item	FY 1996 comparable	FY 1997 Budget	Recommended in bill	Bill compared with 1996 comparable	Bill compared with 1997 Budget
OFFICE OF INSPECTOR GENERAL					
Federal funds	4,801	6,335	6,335	+1,534	.....
Trust funds	(10,037)	(21,089)	(21,089)	(+11,052)	.....
Portion treated as budget authority	(10,977)	.....	.....	(-10,977)	.....
Total, Office of the Inspector General:					
Federal funds	4,801	6,335	6,335	+1,534	.....
Trust funds	(21,014)	(21,089)	(21,089)	(+75)	.....
Total	(25,815)	(27,424)	(27,424)	(+1,609)	.....
Total, Social Security Administration:					
Federal funds	28,513,350	30,466,328	29,794,443	+1,281,093	-671,885
Current year FY 1996 / 1997	(19,083,350)	(20,616,328)	(19,944,443)	(+861,093)	(-671,885)
New advances, 1st quarter FY 1997 / 1998	(9,430,000)	(9,850,000)	(9,850,000)	(+420,000)	.....
Trust funds	(5,885,949)	(6,603,557)	(6,330,959)	(+445,010)	(-272,598)
Trust funds considered BA	(875,076)	(918,418)	(846,099)	(-28,977)	(-72,319)

OTHER INDEPENDENT AGENCIES

Social Security Administration (SSA)—Administrative Expenses. The Subcommittee bill unnecessarily increases budgetary resources related to SSA administrative expenses subject to the current discretionary caps by $100 million above the President's request.

While increasing the President's request by $100 million, the Subcommittee has increased the amount allocated to the Old Age Survivors and Disability Insurance (OASDI) trust funds by $258

million and reduced the amounts allocated to the Supplementary Security Income (SSI) appropriation and the Hospital Insurance/ Supplementary Medical Insurance trust funds by $158 million. By not distributing the increase based on workload estimates across all funding sources, the Subcommittee action has the effect of reducing budget authority at the same time that it increases spending. The Administration strongly objects to this scorekeeping gimmick to mask new spending. Only by making estimates consistent with SSA's cost analysis system can there be assurance that the OASDI trust funds and the general fund bear their fair shares of the administrative costs of SSA's programs. The Administration's scoring of the appropriations bill will reflect the appropriate allocation of these funds.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That, in addition, such amounts as may be nec-

essary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, ~~$19,422,115,000~~ *$19,357,010,000*, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

~~In addition, $25,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.~~

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1998, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work required by welfare reform, as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than ~~$5,899,797,000~~ *$5,820,907,000* may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided,* That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1998: *Provided further,* That not less than ~~$1,500,000~~ *$1,268,000* shall be for the Social Security Advisory Board: *Provided further, That unobligated balances at the end of fiscal year 1997 not needed for fiscal year 1997 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.*

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

~~In addition to funding already available under this heading, and subject to the same terms and conditions, $160,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.~~

In addition to funding already available under this heading, and subject to the same terms and conditions, $310,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work required by welfare reform, as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, ~~$250,073,000~~ *$226,291,000*, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social

Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL -

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $21,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 525. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the Railroad Retirement Board and the Office of Inspector General of the Railroad Retirement Board;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been

currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this sec-

tion or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL:—The three-member Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before September 30, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Manage-

ment for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the

entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

Calendar No. 589

104TH CONGRESS
2d Session

SENATE

REPORT
104–368

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATION BILL, 1997

SEPTEMBER 12, 1996.—Ordered to be printed

Mr. SPECTER, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 3755]

The Committee on Appropriations, to which was referred the bill (H.R. 3755) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 1997, and for other purposes, reports the same to the Senate with amendments and recommends that the bill as amended do pass.

Amount of budget authority

Amount of House bill	$285,217,745,000
Amount of Senate bill under House bill	22,925,000
Total bill as reported to Senate	285,194,820,000
Amount of adjusted appropriations, 1996	263,772,305,000
Budget estimates, 1997	293,595,292,000
The bill as reported to the Senate:	
Over the adjusted appropriations for 1996	21,422,515,000
Under the budget estimates for 1997	8,400,472,000

27–056 cc

CONTENTS

SUMMARY OF BUDGET ESTIMATES AND COMMITTEE RECOMMENDATIONS

For fiscal year 1997, the Committee recommends total current year budget authority of $285,194,820,000 for the Department of Labor, Health and Human Services, and Education, and Related Agencies. Of this amount, $65,898,000,000 is discretionary and $219,296,820,000 is mandatory funding.

ALLOCATION CEILING

Consistent with Congressional Budget Office scorekeeping, the recommendations result in full use of the $65,723,000,000 in discretionary budget authority pursuant to section 602(b) of the Congressional Budget Act of 1974, as amended. In addition, the recommendations include $175,000,000 in budget authority for the Social Security Administration to conduct continuing disability reviews provided consistent with Public Law 104–124 and Public Law 104–193.

HIGHLIGHTS OF THE BILL

Drug abuse.—A total of $2,497,821,000 is included for drug abuse prevention treatment, and research activities, an increase of 6.8 percent over the amount provided in 1996, including $556,000,000 for safe and drug free schools and communities, an increase of $90,000,000 over 1996.

Crime activities.—The bill recommends $123,000,000 for violent crime reduction activities, more than double the 1996 enacted level and the House allowance; included is $60,000,000 for battered women's shelters.

Teen pregnancy prevention initiative.—The bill includes $11,000,000 for teen pregnancy prevention initiatives, combining activities of the Centers for Disease Control, family planning, and adolescent family life programs.

Pell grants.—The Committee bill includes $5,342,000,000 for the Federal Pell Grant Program. The amount provided will allow the increase in the maximum Pell grant to be raised to $2,500, an increase of $30 over the 1996 amount.

Education for individuals with disabilities.—The Committee bill provides $3,262,315,000 to ensure that all children have access to a free appropriate education and that all infants and toddlers with disabilities have access to early intervention services.

Rehabilitation services.—The Committee bill provides $2,516,447,000 for rehabilitation programs, an increase of $60,355,000 above the amount provided in 1996. These funds are essential for individuals with disabilities seeking employment.

Family planning.—The Committee bill recommends by the last request level $198,452,000, for the family planning program. These

funds support primary health care services at over 4,000 clinics nationwide.

National Institutes of Health.—The Committee bill includes $12,414,580,000 for the National Institutes of Health, an increase of $487,018,000 above the amount provided in 1996.

Grants for disadvantaged children.—The Committee bill provides $6,730,348,000 for grants to disadvantaged children, the same as the 1996 level.

Services for older Americans.—The Committee recommendation includes $1,336,009,000 for programs authorized under the Older Americans Act, including $469,874,000 for nutrition services and $373,000,000 for employment programs.

Head Start.—The Committee recommendation of $3,600,000,000 for the Head Start Program represents an increase of $30,671,000 over the 1996 enacted level.

Womens health.—The Committee bill provides $12,500,000 for programs focused on prevention and education and the advancement of women's health initiatives.

Breast cancer screening.—The Committee bill provides $139,670,000, an increase of $15,000,000 over the 1996 level.

AIDS.—The Committee bill provides $1,460,312,000, an increase of $28,404,000 over the budget request for AIDS research at the National Institutes of Health. The bill also includes $854,252,000 for Ryan White programs, an increase of $96,850,000, and $589,080,000 for AIDS prevention programs at the Centers for Disease Control and Prevention.

Rape prevention.—The bill provides $35,000,000 for rape prevention programs at the Centers for Disease Control and Prevention, an increase of $6,458,000 over 1996.

Low-income home energy assistance.—The Committee recommendation includes $1,000,000,000 for heating and cooling assistance for this coming year. The Committee has also recommended $1,000,000,000 for the fiscal year 1998 advance appropriation. Also included is bill language permitting up to $300,000,000 in additional funding to meet emergencies.

Community services block grant.—The Committee bill includes $414,600,000, a 6-percent increase over 1996 for the community services block grant program.

Child care and development block grant.—The Committee recommendation provides $956,120,000 for child care services, compared to $934,642,000 in the 1996 appropriation. This is in addition to the $1,967,000,000 appropriated in recently enacted welfare reform legislation for child care.

Infectious disease.—The Committee bill recommends $86,153,000 within the Centers for Disease Control and Prevention to combat the growing threat of infectious disease. The amount recommended is an increase of 39 percent over the fiscal year 1996 amount.

Social Security Administration.—The Committee bill recommends $6,357,198,000, an increase of nearly $500,000,000 over the 1996 level, which expands both the automation and disability initiatives at the Social Security Administration.

Job Corps.—The Committee bill provides $1,138,685,000 for the Job Corps, an increase of $44,743,000 over the 1996 level.

School-to-work.—The bill includes $360,000,000 for school-to-work programs, an increase of $10,000,000 over the 1996 level; funding is equally divided between the Departments of Labor and Education for this jointly administered program.

REPROGRAMMING AND INITIATION OF NEW PROGRAMS

Reprogramming is the utilization of funds for purposes other than those contemplated at the time of appropriation enactment. Reprogramming actions do not represent requests for additional funds from the Congress, rather, the reapplication of resources already available.

The Committee has a particular interest in approving reprogrammings which, although they may not change either the total amount available in an account or, any of the purposes for which the appropriation is legally available, represent a significant departure from budget plans presented to the Committee in an agency's budget justification.

Consequently, the Committee directs that the Departments and agencies funded through this bill make a written request to the chairman of the Committee prior to reprogramming of funds in excess of 10 percent, or $250,000, whichever is less, between programs, activities, or elements. The Committee desires to have the requests for reprogramming actions which involve less than the above-mentioned amounts if such actions would have the effect of changing an agency's funding requirements in future years, if programs or projects specifically cited in the Committee's reports are affected or if the action can be considered to be the initiation of a new program.

The Committee directs that it be notified regarding reorganization of offices, programs, or activities prior to the planned implementation of such reorganizations.

The Committee further directs that each agency under its jurisdiction submit to the Committee statements on the effect of this appropriation act within 30 days of final enactment of this act.

TRANSFER AUTHORITY

The Committee has included bill language permitting transfers up to 1 percent between discretionary appropriations accounts, as long as no such appropriation is increased by more than 3 percent by such transfer; however, the Appropriations Committees of both Houses of Congress must be notified at least 15 days in advance of any transfer. Similar bill language was carried in last year's bill for the Department of Labor, and has been included in both House and Senate versions of this year's Labor-HHS-Education bill for all three Departments.

Prior Committee notification is also required for actions requiring the use of general transfer authority unless otherwise provided for in this act. Such transfers specifically include taps, or other assessments made between agencies, or between offices within agencies. Funds have been appropriated for each office funded by this Committee; it is not the intention of this Committee to augment those funding levels through the use of special assessments. This directive does not apply to working capital funds or other fee-for-service activities.

BLACK LUNG DISABILITY TRUST FUND

Appropriations, 1996	$997,362,000
Budget estimate, 1997	1,008,000,000
House allowance	1,008,000,000
Committee recommendation	1,008,000,000

The bill includes authority to obligate $1,008,000,000 from the black lung disability trust fund in fiscal year 1997. This is an increase of $10,638,000 above the 1996 comparable level.

The total amount available for fiscal year 1997, will provide $496,665,000 for benefit payments, and $45,979,000 and $356,000 for administrative expenses for the Departments of Labor and Treasury, respectively. Also included is $465,000,000 for interest payments on advances. In fiscal year 1996, comparable obligations for benefit payments are estimated to be $505,494,000 while administrative expenses for the Departments of Labor and Treasury, respectively, are $47,112,000 and $756,000. For fiscal 1996, interest payments on advances are estimated at $444,000,000.

The Committee reiterates its directive to prevent the closing of and to ensure the staffing of black lung field offices.

The trust fund pays all black lung compensation/medical and survivor benefit expenses when no responsible mine operation can be assigned liability for such benefits, or when coal mine employment ceased prior to 1970, as well as all administrative costs which are incurred in administering the benefits program and operating the trust fund.

It is estimated that 77,000 people will be receiving black lung benefits financed from the trust fund by the end of fiscal year 1996. This compares with an estimated 81,500 receiving benefits in fiscal year 1996.

The basic financing for the trust fund comes from a coal excise tax for underground and surface-mined coal. Additional funds come from reimbursement payments from mine operators for benefit payments made by the trust fund before the mine operator is found liable, and advances, estimated at $373,000,000 in fiscal year 1997. The advances to the fund assure availability of necessary funds when liabilities may exceed other income. The Omnibus Budget Reconciliation Act of 1987 continues the current tax structure until 2014.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

Appropriations, 1996	$32,641,000
Budget estimate, 1997	30,923,000
House allowance	30,923,000
Committee recommendation	30,923,000

The Committee recommends $30,923,000 for payments to Social Security trust funds, the same as the administration request and the House allowance. This amount includes $20,923,000 to reimburse the old age and survivors insurance and disability insurance trust funds for special payments to certain uninsured persons, costs incurred administering pension reform activities, and the value of the interest for benefit checks issued but not negotiated. This appropriation restores the trust funds to the same financial position they would have been in had they not borne these costs, properly charged to the general funds. The fiscal year 1997 request for these mandatory payments decreases primarily because special payments for certain uninsured persons decline due to a declining beneficiary population.

In addition, the Committee recommends $10,000,000 for mandatory administrative expenses, the same as the administration request and the House allowance, to reimburse the trust funds for costs the Social Security Administration incurs in continuing administrative activities required by the Coal Industry Retiree Health Benefits Program. Section 19141 of the Energy Policy Act of 1992 established the program which the Social Security Administration administers. These funds are available until expended.

SPECIAL BENEFITS FOR COAL MINERS

Appropriations, 1996	$485,396,000
Budget estimate, 1997	460,070,000
House allowance	460,070,000
Committee recommendation	460,070,000

The Committee recommends an appropriation of $460,070,000 for special benefits for disabled coal miners. This is in addition to the $170,000,000 appropriated last year as an advance for the first quarter of fiscal year 1996. The recommendation is the same as the

administration request and the House allowance. These funds are used to provide monthly benefits to coal miners disabled by black lung disease and to their widows and certain other dependents, as well as to pay related administrative costs.

Social Security holds primary responsibility for claims filed before July 1973, with the Department of Labor responsible for claims filed after that date. By law, increases in black lung benefit levels are tied directly to Federal pay increases. The year-to-year decrease in this account reflects a declining beneficiary population.

The Committee recommends an advance of $160,000,000 for the first quarter of fiscal year 1998, the same as the administration request and the House allowance. These funds will ensure uninterrupted benefit payments to coal miners, their widows, and dependents.

SUPPLEMENTAL SECURITY INCOME

Appropriations, 1996	$18,560,512,000
Budget estimate, 1997	20,119,000,000
House allowance	19,447,115,000
Committee recommendation	19,532,010,000

The Committee recommends an appropriation of $19,532,010,000 for supplemental security income. This is in addition to the $9,260,000,000 appropriated last year as an advance for the first quarter of fiscal year 1997. The recommendation is $586,990,000 less than the administration request, $84,895,000 more than the House allowance, and $971,498,000 above the fiscal year 1996 level. The Committee also recommends an advance of $9,690,000,000 for the first quarter of fiscal year 1998 to ensure uninterrupted benefit payments.

These funds are used to pay benefits under the SSI Program, which was established to ensure a Federal minimum monthly benefit for aged, blind, and disabled individuals, enabling them to meet basic needs. It is estimated that approximately 6.5 million persons will receive SSI benefits each month during fiscal year 1996. In many cases, SSI benefits supplement income from other sources, including Social Security benefits. The funds are also used to reimburse the trust funds for the administrative costs for the program with a final settlement by the end of the subsequent fiscal year required by law, support the referral and monitoring of certain disabled SSI recipients who are drug addicts or alcoholics and to reimburse State vocational rehabilitation services for successful rehabilitation of SSI recipients.

Beneficiary services

The Committee recommendation includes $100,000,000 for beneficiary services, which is $79,000,000 below the administration request, the same as the House allowance, and $76,400,000 below the 1996 level. Enactment of Public Law 104–121 will halt SSI payments to drug addicts and alcoholics who qualify for assistance primarily on the basis of their addictions beginning January 1, 1997. It is anticipated that significant numbers deemed ineligible for assistance will reapply to the program on the basis of other qualifying conditions. The Committee has provided sufficient funds within this amount for the continuation of services for potential reap-

plicants removed from the rolls pursuant to Public Law 104–121. Within this amount, $41,000,000 is available for reimbursement of State vocational rehabilitation services agencies for successful rehabilitation of SSI recipients.

Research and demonstration projects

The Committee recommendation includes $7,000,000 for research and demonstration projects conducted under sections 1110 and 1115 of the Social Security Act. This is $1,200,000 less than fiscal year 1996 and the same as the House allowance and the administration request. This amount, along with unobligated carryover funds from fiscal year 1996, will support research into underlying causes of the recent growth in the SSI and OASDI disability programs, including incidence of disability in the general population, trends in applications for disability benefits, trends in allowance rates, and duration of disability.

Administration

For administration services related to SSI activities, the Committee provides $1,931,015,000, which is $30,000,000 less than the House allowance, $113,737,000 above the fiscal year 1996 level, and $87,958,000 lower than the administration request. This includes funds for the SSI disability initiative that was previously funded as a separate line item.

Investment proposals

For the SSI portion of the automation investment, the Committee recommends $31,218,000 a reduction of $73,709,000 from the request, and $23,782,000 less than the House allowance and the fiscal year 1996 appropriation. Total funding of $226,291,000 for this initiative is explained in the limitation on administrative expenses portion of this report.

Continuing disability reviews

The bill provides an additional $175,000,000 to process continuing disability reviews [CDR's] related to the SSI caseload as authorized by Public Laws 104–121 and 104–193, an increase of $160,000,000 above the comparable 1996 appropriation.

LIMITATION ON ADMINISTRATIVE EXPENSES

Appropriations, 1996	$5,864,935,000
Budget estimate, 1997	6,582,468,000
House allowance	6,309,870,000
Committee recommendation	6,357,198,000

The Committee recommends a program funding level of $6,357,198,000 for the limitation on administrative expenses, which is $225,270,000 less than the administration request, $47,328,000 more than the House allowance, and $492,293,000 over the fiscal year 1996 level.

This account provides resources from the Social Security trust funds to administer the Social Security retirement and survivors and disability insurance programs, and certain Social Security health insurance functions. As authorized by law, it also provides resources from the trust funds for certain nontrust fund adminis-

trative costs, which are reimbursed from the general funds. These include administration of the supplemental security income program for the aged, blind, and disabled; work associated with the Pension Reform Act of 1984; and the portion of the annual wage reporting work done by the Social Security Administration for the benefit of the Internal Revenue Service. The dollars provided also support automated data processing activities and fund the State disability determination services which make disability determinations on behalf of the Social Security Administration. Additionally, the limitation provides funding for computer support, resources for State disability agencies which make initial and continuing disability determinations, and other administrative costs. In 1997, about 51.2 million beneficiaries will receive a Social Security or supplemental security income check each month and cash payments are expected to exceed $390,000,000,000 during fiscal year 1997.

The limitation includes $5,820,907,000 for routine operating expenses of the agency, which is $78,890,000 less than the House allowance, $48,439,000 above the amount requested by the President, and $472,294,000 over the 1996 comparable amount. These funds cover the mandatory costs of maintaining equipment and facilities, as well as staffing.

Social Security Advisory Board

The Committee has included $1,268,000 within the total limitation on administration for the Social Security Administration Advisory Board for fiscal year 1997, which is $232,000 below the House allowance and $1,068,000 above the President's request. This is a new activity. Public Law 103–296, the Social Security Independence and Program Improvements Act of 1994, as amended, established a seven-member Advisory Board, each of whom would serve without salary, that would make recommendations on policies and regulations regarding Social Security and supplemental security income programs.

Following the submission of the budget request, Public Law 104–121 was enacted into law amending the original act to add three professional staff members to the Board to be paid at Senior Executive Service rates, in addition to a staff director. The Committee believes that four SES-level staff members would be disproportionate to the Board's size and projected workload. The Committee requests the Board to carefully assess its budgetary needs, particularly with respect to staff salaries and travel.

Software development

Last year, the Committee expressed concerns about SSA's long-term operational and service delivery system. SSA was urged to work with an industry-based consortium dedicated to improving software productivity, and to institutionalizing software processes and methods. The Committee is pleased to note that SSA is focusing upon those concerns and urges that work proceed as expeditiously as possible.

Automation initiative

An additional $226,291,000 has been included within the limitation amount to fund the fourth year of the 5-year automation ini-

tiative requested by the President. This is an increase of $59,291,000 over fiscal year 1996, is $73,709,000 less than the request, and is $23,782,000 below the House allowance. In addition to this amount, the Committee expects that unspent carryover funds will be made available for these activities in fiscal year 1997. The Committee recognizes the criticality of automation investments to sustain SSA's efforts toward productivity gains and service improvements. The reduction from the budget request recommended by the Committee is necessitated by severe budgetary constraints.

Chronic fatigue and immune dysfunction syndrome

The Committee is concerned about reports from people with chronic fatigue and immune dysfunction syndrome [CFIDS] who encounter at their local SSA offices a lack of knowledge about CFIDS, its diagnosis, and impact on the functional ability of sufferers. The Committee requests a summary to the CFSICC of SSA's CFIDS-related education activities conducted during the past fiscal year. The Committee further urges SSA to develop effective means to investigate obstacles to benefits for persons with CFIDS and to keep relevant medical information updated throughout the application process. The Committee reiterates its previous recommendation for the establishment of a CFIDS advisory committee, and expects SSA's cooperation in expediting the committee's formation.

Continuing disability reviews

The Committee has provided an additional $310,000,000 to the "Limitation on administration expenses" account for continuing disability reviews [CDR's]. This amount, the full amount authorized by Public Laws 104–121 and 104–193, is $250,000,000 over the 1996 amount.

OFFICE OF THE INSPECTOR GENERAL

Appropriations, 1996	$25,815,000
Budget estimate, 1997	27,424,000
House allowance	27,424,000
Committee recommendation	27,424,000

The Committee recommends $27,424,000 for activities of the Office of the Inspector General. This is the same as the amount requested by the administration and the House allowance. This includes a general fund appropriation of $6,335,000 together with an obligation limitation of $21,089,000 from the Federal old age and survivors insurance trust fund and the Federal disability insurance trust fund.

TITLE V—GENERAL PROVISIONS

The Committee concurs with the House in retaining provisions which: authorize transfers of unexpended balances (sec. 501); limit funding to 1 year availability unless otherwise specified (sec. 502); limit lobbying and related activities, amended to cover State legislatures (sec. 503); limit official representation expenses (sec. 504); prohibit funding of any program to carry out distribution of sterile needles for the hypodermic injection of any illegal drug unless the Secretary of HHS determines such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs (sec. 505); state the sense of Congress about purchase of American-made equipment and products (sec. 506); clarify Federal funding as a component of State and local grant funds, amended to cover only funds included in this act (sec. 507); and limit use of funds for abortion (sec. 508).

The Committee agrees with the House in retaining provisions carried in last year's bill relating to transfer authority, obligation and expenditure of appropriations, and detail of employees (sec. 509). The Committee recommendation retains the prohibition on use of funds for an electronic benefit transfer task force (sec. 510).

The Committee concurs with the House general provision which prohibits funds made available in this Act to be used to enforce the requirements of the Higher Education Act of 1965 with respect to any lender that has a loan portfolio that is equal to or less than $5,000,000 (sec. 511). It also concurs with the House language on human embryo research (sec. 512). The Committee recommendation deletes House provisions relating to: NLRB labor disputes (sec. 513); limitation on any direct benefit or assistance to individuals not lawfully within the United States (sec. 514); location of Mine Safety and Health Administration technology center (sec. 515).

The Committee concurs with the House bill language limitation on use of funds for promotion of legalization of controlled substances (sec. 516).

The Committee recommends deletion of House provisions concerning denial of funds for preventing ROTC access to campus (sec. 517); and denial of funds for preventing Federal military recruiting on campus (sec. 518). The Committee has not deleted the House bill language limitation on use of funds to enter into or review contracts with entities subject to the requirement in section 4212(d) of title 38, United States Code, if the report required by that section has not been submitted (sec. 519).

The Committee has further deleted House provisions on: limitation on use of funds to enforce section 1926.28(a) of title 29, United States Code, relating to a requirement that workers wear long pants (sec. 520); limitation on funding to order, direct, enforce, or compel any employer to pay backpay to any employee not lawfully in the United States (sec. 521); limitation on transfers from Medi-

care and OASDI trust funds (sec. 522); and limitation relating to use of funds under title X of the Public Health Services Act (sec. 523).

The Committee has included a general provision limiting expenditures on cash performance awards to no more than 1 percent of amounts appropriated for salaries for each agency funded in this bill. In order to assist in complying with this requirement, the provision also permits agencies to waive the requirement in 5 U.S.C. 5384(b)(2) that those in the Senior Executive Service receiving performance awards be awarded not less than 5 percent of their basic salary. In addition, the provision reduces the amounts otherwise appropriated for salaries and expenses in the bill by $30,500,000, to be allocated by the Office of Management and Budget (sec. 524).

The Committee has inserted language authorizing buyouts for Railroad Retirement Board and its inspector general employees (sec. 525).

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1997—Continued

(In thousands of dollars)

Item	1996 appropriation	Budget estimate	House allowance	Committee recommendation	Senate Committee recommendation compared with (+ or −)		
					1996 appropriation	Budget estimate	House allowance
Longshore and harbor workers' benefits	4,000	4,000	4,000	4,000	.....	.....	.....
Total, Special Benefits	218,000	213,000	213,000	213,000	−5,000	.....	.....
BLACK LUNG DISABILITY TRUST FUND							
Benefit payments and interest on advances	949,494	961,665	961,665	961,665	+12,171	.....	.....
Employment Standards Admin., salaries and expenses	27,193	26,071	26,071	26,071	−1,122	.....	.....
Departmental Management, salaries and expenses	19,621	19,621	19,621	19,621	.....	.....	.....
Departmental Management, inspector general	298	287	287	287	−11	.....	.....
Subtotal, Black Lung Disability Trust Fund, apprn	996,606	1,007,644	1,007,644	1,007,644	+11,038	.....	.....
Treasury administrative costs (indefinite)	756	356	356	356	−400	.....	.....
Total, Black Lung Disability Trust Fund	997,362	1,008,000	1,008,000	1,008,000	+10,638	.....	.....
Total, Employment Standards Administration	1,480,060	1,526,913	1,485,405	1,484,155	+4,095	−42,758	−1,250
Federal funds	1,479,057	1,525,856	1,484,422	1,483,172	+4,115	−42,684	−1,250
Trust funds	(1,003)	(1,057)	(983)	(983)	(−20)	(−74)	.....
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Safety and health standards	8,374	18,066	8,207	8,207	−167	−9,859	.....
Enforcement:							
Federal Enforcement	120,890	122,386	117,125	118,525	−2,365	−3,861	+1,400
State programs	68,295	73,315	66,929	66,929	−1,366	−6,386	.....
Technical Support	17,815	20,445	17,459	17,459	−356	−2,986	.....
Compliance Assistance:							
Federal Assistance	34,822	51,970	34,822	34,822	.....	−17,148	.....
State Consultation Grants	32,479	33,064	32,479	32,479	.....	−585	.....

Safety and health statistics	14,465	14,647	14,176	14,176	−289	−471	.....
Executive direction and administration	6,670	6,958	6,537	6,537	−133	−421	.....
Total, OSHA	303,810	340,851	297,734	299,134	−4,676	−41,717	+1,400
MINE SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement:							
Coal	106,090	108,723	103,968	106,090	.....	−2,633	+2,122
Metal/nonmetal	41,412	44,997	40,584	41,412	.....	−3,585	+828
Standards development	1,008	1,303	988	1,008	.....	−295	+20
Assessments	3,497	3,840	3,427	3,497	.....	−343	+70
Educational policy and development	14,782	14,800	14,486	14,782	.....	−18	+296
Technical support	21,268	21,950	20,843	21,268	.....	−682	+425
Program administration	7,667	8,569	7,514	7,667	.....	−902	+153
Total, Mine Safety and Health Administration	195,724	204,182	191,810	195,724	.....	−8,458	+3,914
BUREAU OF LABOR STATISTICS							
SALARIES AND EXPENSES							
Employment and Unemployment Statistics	97,155	111,426	97,624	97,389	+234	−14,037	−235
Labor Market Information (Trust Funds)	(51,278)	(52,053)	(52,053)	(51,665)	(+387)	(−388)	(−388)
Prices and cost of living	96,322	101,825	98,107	97,214	+892	−4,611	−893
Compensation and working conditions	53,444	55,617	56,834	55,139	+1,695	−478	−1,695
Productivity and technology	6,974	7,263	7,180	7,077	+103	−186	−103
Economic growth and employment projections	4,451	4,640	4,582	4,516	+65	−124	−66
Executive direction and staff services	21,896	23,462	22,175	22,185	+289	−1,277	+10
Consumer Price Index Revision [7]	11,549	16,145	16,145	16,145	+4,596	.....	.....
Total, Bureau of Labor Statistics	343,069	372,431	354,700	351,330	+8,261	−21,101	−3,370
Federal Funds	291,791	320,378	302,647	299,665	+7,874	−20,713	−2,982
Trust Funds	(51,278)	(52,053)	(52,053)	(51,665)	(+387)	(−388)	(−388)
DEPARTMENTAL MANAGEMENT							
SALARIES AND EXPENSES							
Executive direction	18,641	19,368	20,268	20,268	+1,627	+900	.....
Legal services	58,072	61,510	56,911	56,911	−1,161	−4,599	.....
Trust funds	(303)	(303)	(297)	(297)	(−6)	(−6)	.....
International labor affairs	9,900	9,465	6,000	9,465	−435	.....	+3,465
Administration and management	13,904	13,916	13,626	13,626	−278	−290	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1997—Continued

[In thousands of dollars]

Item	1996 appropriation	Budget estimate	House allowance	Committee recommendation	Senate Committee recommendation compared with (+ or −)		
					1996 appropriation	Budget estimate	House allowance
Subtotal, Dual Benefits	222,000	214,000	214,000	214,000	−8,000		
Federal payment to the Railroad Retirement Account	300	300	300	300			
Limitation on administration:							
Consolidated account		(90,558)	(87,898)	(87,898)	(+87,898)	(−2,660)	
Retirement	(72,955)				(−72,955)		
Unemployment	(16,737)				(−16,737)		
Subtotal, administration	(89,692)	(90,558)	(87,898)	(87,898)	(−1,794)	(−2,660)	
Special management improvement fund	(657)				(−657)		
Total, limitation on administration	(90,349)	(90,558)	(87,898)	(87,898)	(−2,451)	(−2,660)	
Inspector General	(5,656)	(5,750)	(5,268)	(5,540)	(−116)	(−210)	(+272)
SOCIAL SECURITY ADMINISTRATION							
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	22,641	20,923	20,923	20,923	−1,718		
ADDITIONAL ADMINISTRATIVE EXPENSES[32]	10,000	10,000	10,000	10,000			
SPECIAL BENEFITS FOR DISABLED COAL MINERS							
Benefit payments	660,215	625,450	625,450	625,450	−34,765		
Administration	5,181	4,620	4,620	4,620	−561		
Subtotal, Black Lung, fiscal year 1997 program level	665,396	630,070	630,070	630,070	−35,326		
Less funds advanced in prior year	−180,000	−170,000	−170,000	−170,000	+10,000		
Total, Black Lung, current request, fiscal year 1997	485,396	460,070	460,070	460,070	−25,326		
New advances, 1st quarter fiscal year 1997/1998	170,000	160,000	160,000	160,000	−10,000		
SUPPLEMENTAL SECURITY INCOME							
Federal benefit payments	23,548,636	26,559,100	26,559,100	26,559,100	+3,010,464		

Beneficiary services	176,400	179,000	100,000	100,000	−76,400	−79,000	.....
Research and demonstration	8,200	7,000	7,000	7,000	−1,200	.....	.....
Administration[33]	1,817,276	2,018,973	1,961,015	1,931,015	+113,739	−87,958	−30,000
Automation investment initiative	55,000	104,927	55,000	19,895	−35,105	−85,032	−35,105
Subtotal, SSI fiscal year 1997 program level	25,605,512	28,869,000	28,682,115	28,617,010	+3,011,498	−251,990	−65,105
Less funds advanced in prior year	−7,060,000	−9,260,000	−9,260,000	−9,260,000	−2,200,000	.....	.....
Subtotal, regular SSI current year, fiscal year 1996/1997	18,545,512	19,609,000	19,422,115	19,357,010	+811,498	−251,990	−65,105
Additional CDR funding	15,000	260,000	25,008	25,000	+10,000	−235,000	.....
SSI reforms (welfare)	.....	250,000	.....	150,000	+150,000	−100,000	+150,000
Total, SSI, current request, fiscal year 1996/1997	18,560,512	20,119,000	19,447,115	19,532,010	+971,498	−586,990	+84,895
New advance, 1st quarter, fiscal year 1997/1998	9,260,000	9,690,000	9,690,000	9,690,000	+430,000	.....	.....
LIMITATION ON ADMINISTRATIVE EXPENSES							
OASDI trust funds	(2,667,238)	(2,835,077)	(3,091,183)	(3,042,525)	(+375,287)	(+207,448)	(−48,658)
HI/SMI trust funds	(864,099)	(918,418)	(846,099)	(846,099)	(−18,000)	(−72,319)	.....
SSI	(1,817,276)	(2,018,973)	(1,961,015)	(1,931,015)	(+113,739)	(−87,958)	(−30,000)
Social Security Advisory Board	.....	.....	(1,500)	(1,268)	(+1,268)	(+1,268)	(−232)
Subtotal, regular LAE	(5,348,613)	(5,772,468)	(5,899,797)	(5,820,907)	(+472,294)	(+48,439)	(−78,890)
DI disability initiative	(289,322)	.....	.....	.....	(−289,322)	.....	.....
OASDI automation	(112,000)	(195,073)	(195,073)	(206,396)	(+94,396)	(+11,323)	(+11,323)
SSI automation	(55,000)	(104,927)	(55,000)	(19,895)	(−35,105)	(−85,032)	(−35,105)
Subtotal, automation initiative	(167,000)	(300,000)	(250,073)	(226,291)	(+59,291)	(−73,709)	(−23,782)
Total, REGULAR LAE	(5,804,935)	(6,072,468)	(6,149,870)	(6,047,198)	(+242,263)	(−25,270)	(−102,672)
Additional CDR funding	(60,000)	(260,000)	(160,000)	(160,000)	(+100,000)	(−100,000)	.....
SSI reforms (welfare)	.....	(250,000)	.....	(150,000)	(+150,000)	(−100,000)	(+150,000)
Total, LAE	(5,864,935)	(6,582,468)	(6,309,870)	(6,357,198)	(+492,263)	(−225,270)	(+47,328)
OFFICE OF INSPECTOR GENERAL							
Federal funds	4,801	6,335	6,335	6,335	+1,534	.....	.....
Trust funds	(10,037)	(21,089)	(21,089)	(21,089)	(+11,052)	.....	.....
Portion treated as budget authority	(10,977)	.....	.....	.....	(−10,977)	.....	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1996 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1997—Continued

[In thousands of dollars]

Item	1996 appropriation	Budget estimate	House allowance	Committee recommendation	Senate Committee recommendation compared with (+ or −)		
					1996 appropriation	Budget estimate	House allowance
Total, Office of the Inspector General:							
Federal funds	4,801	6,335	6,335	6,335	+1,534	.....	.....
Trust funds	(21,014)	(21,089)	(21,089)	(21,089)	(+75)	.....	.....
Total	(25,815)	(27,424)	(27,424)	(27,424)	(+1,609)	.....	.....
Total, Social Security Administration:							
Federal funds	28,513,350	30,466,328	29,794,443	29,879,338	+1,365,988	−586,990	+84,895
Current year fiscal year 1996/1997	(19,083,350)	(20,616,328)	(19,944,443)	(20,029,338)	(+945,988)	(−586,990)	(+84,895)
New advances, 1st quarter fiscal year 1997/1998	(9,430,000)	(9,850,000)	(9,850,000)	(9,850,000)	(+420,000)	.....	.....
Trust funds	(5,885,949)	(6,603,557)	(6,330,959)	(6,378,287)	(+492,338)	(−225,270)	(+47,328)
Trust funds considered BA	(875,076)	(918,418)	(846,099)	(846,099)	(−28,977)	(−72,319)	.....
United States Institute of Peace	11,481	11,160	11,160	11,160	−321	.....	.....
Total, Title IV, Related Agencies:							
Federal Funds (all years)	29,479,805	31,490,674	30,729,339	30,844,119	+1,364,314	−646,555	+114,780
Current year, fiscal year 1996/1997	(19,799,805)	(21,365,674)	(20,629,339)	(20,744,119)	(+944,314)	(−621,555)	(+114,780)
Fiscal year 1997/1998	(9,430,000)	(9,850,000)	(9,850,000)	(9,850,000)	(+420,000)	.....	.....
Fiscal year 1998/1999	(250,000)	(275,000)	(250,000)	(250,000)	.....	(−25,000)	.....
Trust funds	(5,988,137)	(6,707,767)	(6,430,308)	(6,478,251)	(+490,114)	(−229,516)	(+47,943)
Trust funds considered BA	(977,264)	(1,022,628)	(945,448)	(946,063)	(−31,201)	(−76,565)	(+615)
SUMMARY							
Title I—Department of Labor:							
Federal Funds	7,976,741	9,059,601	7,973,792	8,021,538	+44,797	−1,038,063	+47,746
Trust Funds	(3,380,133)	(3,674,428)	(3,504,434)	(3,380,771)	(+638)	(−293,657)	(−123,663)
Title II—Department of Health and Human Services:							
Federal Funds	197,401,625	220,777,907	218,873,913	214,854,883	+17,453,258	−5,923,024	−4,019,030

Current year	(166,446,275)	(185,977,914)	(185,073,920)	(184,754,890)	(+18,308,615)	(−1,223,024)	(−319,030)
1998 advance	(30,955,350)	(34,799,993)	(33,799,993)	(30,099,993)	(−855,357)	(−4,700,000)	(−3,700,000)
Trust Funds	(2,154,893)	(2,230,547)	(1,742,290)	(1,738,749)	(−416,144)	(−491,798)	(−3,541)
Title III—Department of Education:							
Federal Funds	25,230,349	28,034,009	25,228,875	25,812,646	+582,297	−2,221,363	+583,771
Title IV—Related Agencies:							
Federal Funds	29,479,805	31,490,674	30,729,339	30,844,119	+1,364,314	−646,555	+114,780
Current year	(19,799,805)	(21,365,674)	(20,629,339)	(20,744,119)	(+944,314)	(−621,555)	(+114,780)
1998 advance	(9,430,000)	(9,850,000)	(9,850,000)	(9,850,000)	(+420,000)	.....	.....
1999 advance	(250,000)	(275,000)	(250,000)	(250,000)	.....	(−25,000)	.....
Trust Funds	(5,988,137)	(6,707,767)	(6,430,308)	(6,478,251)	(+490,114)	(−229,516)	(+47,943)
Total, all titles:							
Federal Funds	260,088,520	289,362,191	282,805,919	279,533,186	+19,444,666	−9,829,005	−3,272,733
Current year	(219,453,170)	(244,437,198)	(238,905,926)	(239,333,193)	(+19,880,023)	(−5,104,005)	(+427,267)
1998 advance	(40,385,350)	(44,649,993)	(43,649,993)	(39,949,993)	(−435,357)	(−4,700,000)	(−3,700,000)
1999 advance	(250,000)	(275,000)	(250,000)	(250,000)	.....	(−25,000)	.....
Trust Funds	(11,523,163)	(12,612,742)	(11,677,032)	(11,597,771)	(+74,608)	(−1,014,971)	(−79,261)
Grand total, current year	263,772,305	293,595,292	285,217,745	285,194,820	+21,422,515	−8,400,472	−22,925

[1] Forward funded except where noted.
[2] Current funded.
[3] Three year availability.
[4] Fifteen month availability.
[5] Request proposes transfer of these funds to the Administration on Aging in the Department of HHS
[6] Senate bill includes $10,000,000 for administration the work opportunity tax credit program.
[7] Two year availability.
[8] Budget requests $9,000,000 to remain available through September 30, 1998.
[9] Includes Federal and Trust funds.
[10] All HHS accounts are current funded unless otherwise noted.
[11] Budget requests transfer of this activity from the Bureau of Mines to CDC in fiscal year 1997.
[12] Administration proposes $3,277,338,000 in legislative additions.
[13] In fiscal year 1997 $937,000,000 is delayed until October 1, 1997 in Senate bill.
[14] $32,643,000 funded in Senate bill under battered women's shelters with the violent crime reduction trust fund.
[15] All Education accounts are current funded unless otherwise noted.
[16] Forward funded with the exception of parental assistance.
[17] All programs in this account are forward funded with the exception of current funded basic grants, Title I evaluation, Demonstration of Innovative Practices, High School Equivalency Program and the College Assistance Migrant Program.
[18] Availability of $1,298,386,000 of the fiscal year 1996 funds is delayed until October 1, 1996. In fiscal year 1997 $1,298,386,000 is also delayed in House bill and $670,597,000 in Senate bill.
[19] 1996 figures do not include $35,000,000 provided for Impact Aid basic support payments in the 1996 House National Security Appropriations Bill.
[20] Forward funded.
[21] The President's 1997 request earmarks $120,000 for an evaluation of this program.
[22] The Department reprogrammed $9.7 million and $1.1 million from Instructional Services to Support Services and Professional Development respectively for 1996.

*Public Law 104–208
104th Congress

An Act

Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 30, 1996
[H.R. 3610]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Consolidated Appropriations Act, 1997.

DIVISION A

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101. (a) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997.

TITLE I—DEPARTMENT OF JUSTICE

Department of Justice Appropriations Act, 1997.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $75,773,000 of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1996: *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs:

*Note: This is a typeset print of the original hand enrollment as signed by the President on September 30, 1996. The text is printed without corrections. Missing text in the original is indicated by a footnote.

39–139 O - 96 (208)

Department of Labor Appropriations Act, 1997.

TITLE I—DEPARTMENT OF LABOR

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $19,372,010,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1998, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,873,382,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided*, That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1998: *Provided further*, That not less than $1,268,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances at the end of fiscal year 1997 not needed for fiscal year 1997 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $310,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized

by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, $234,895,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $223,000,000, which shall include amounts becoming available in fiscal year 1997 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $223,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1998, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $87,898,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

TITLE V—GENERAL PROVISIONS

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 520. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section— 5 USC 5597 note.

(1) the term "agency" means the Railroad Retirement Board and the Office of Inspector General of the Railroad Retirement Board;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The three-member Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before September 30, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who

has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 521. CORRECTION OF EFFECTIVE DATE.—Effective on the day after the date of enactment of the Health Centers Consolidation Act of 1996, section 5 of that Act is amended by striking "October 1, 1997" and inserting "October 1, 1996".

42 USC 233 note.

TITLE VI—GENERAL PROVISIONS

SECTION 664. ELECTRONIC BENEFIT TRANSFER PILOT.

Title 31, United States Code, is amended by inserting after section 3335 the following new section:

"SEC. 3336. Electronic benefit transfer pilot

"(a) The Congress finds that:

"(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

"(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

"(3) A joint federal-state EBT system offers convenience and economies of scale for those states (and their citizens) that wish to deliver state-administered benefits on a single card by entering into a partnership with the federal government.

"(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states pursuant to section 6501 *et seq.* of this title.

"(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institution as a financial agent of the Government, and the offering to the participating states of the opportunity to contract with the financial agent

selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

["(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review."]

SECTION 2. DESIGNATION OF FINANCIAL AGENTS

1. 12 U.S.C. 90 is amended by adding at the end thereof the following:

"Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may select associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of electronic benefit transfer services (including State-administered benefits with the consent of the States), as defined by the Secretary.".

2. Make conforming amendments to 12 U.S.C. 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122 and to 31 U.S.C. 3122 and 3303.

Federal Financial Management Improvement Act of 1996.
31 USC 3512 note.

TITLE VIII—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. 801. SHORT TITLE

This title may be cited as the "Federal Financial Management Improvement Act of 1996."

31 USC 3512 note.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the government and reduce the federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal

Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the "FASAB") has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSE—The purposes of this Act are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat 2838), the Government Performance and Results Act of 1993 (Public Law 103–62 107 Stat. 285) and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. 803. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

31 USC 3512 note.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the entity or organization responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance including areas in which there is substantial but not full compliance;

(ii) the primary reason or cause of the noncompliance;

(iii) the entity or organization responsible for the non-compliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the time frames to implement such actions.

(c) COMPLIANCE IMPLEMENTATION.—

(1) DETERMINATION.—No later than the date described under paragraph (2), the Head of an agency shall determine whether the financial management systems of the agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) any other information the Head of the agency considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 120 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(3) REMEDIATION PLAN.—

(A) If the Head of an agency determines that the agency's financial management systems do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into substantial compliance.

(B) If the determination of the head of the agency differs from the audit compliance findings required in subsection (b), the Director shall review such determinations and provide a report on the findings to the appropriate committees of the Congress.

(4) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems cannot comply with the requirements of subsection (a) within 3 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

SEC. 804. REPORTING REQUIREMENTS.

31 USC 3512 note.

(a) REPORTS BY THE DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this Act. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE INSPECTOR GENERAL—Each Inspector General who prepares a report under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) shall report to Congress instances and reasons when an agency has not met the intermediate target dates established in the remediation plan required under section 3(c). Specifically the report shall include—

(1) the entity or organization responsible for the non-compliance;

(2) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the non-compliance, the primary reason or cause for the failure to comply, and any extenuating circumstances; and

(3) a statement of the remedial actions needed to comply.

(c) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section 3(a) of this Act, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of applicable accounting standards for the Federal Government.

SEC. 805. CONFORMING AMENDMENTS.

31 USC 3512 note.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting "and the Controller of the Office of Federal Financial Management" before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking "and' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of Section 3(a) the Federal Financial Management Improvement Act of 1996, and a summary statement of the efforts underway to remedy the noncompliance; and"

5 USC app.

(c) INSPECTOR GENERAL ACT OF 1978.—Section 5(a) of the Inspector General Act of 1978 is amended—

(1) in paragraph (11) by striking "and" after the semicolon;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996."

31 USC 3512 note.

SEC. 806. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term "agency" means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term "Federal accounting standards" means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term "financial management systems" includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term "financial system" includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term "mixed system' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

31 USC 3512 note.

SEC. 807. EFFECTIVE DATE.

This title shall take effect for the fiscal year ending September 30, 1997.

SEC. 808. REVISION OF SHORT TITLES.—

(a) Section 4001 of Public Law 104–106 (110 Stat. 642; 41 U.S.C. 251 note) is amended to read as follows:

"SEC. 4001. SHORT TITLE.

"This division and division E may be cited as the 'Clinger-Cohen Act of 1996'.".

(b) Section 5001 of Public Law 104–106 (110 Stat. 679; 40 U.S.C. 1401 note) is amended to read as follows:

"SEC. 5001. SHORT TITLE.

"This division and division D may be cited as the 'Clinger-Cohen Act of 1996'.".

(c) Any reference in any law, regulation, document, record, or other paper of the United States to the Federal Acquisition Reform Act of 1996 or to the Information Technology Management Reform Act of 1996 shall be considered to be a reference to the Clinger-Cohen Act of 1996.

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1997".

DIVISION C—ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 1. SHORT TITLE OF DIVISION; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS OF DIVISION; SEVERABILITY.

(a) SHORT TITLE.—This division may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996". 8 USC 1101 note.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided— 8 USC 1101 note.

(1) whenever in this division an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this division.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this division, for purposes of titles I and VI of this division, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act. 8 USC 1101 note.

(d) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

8 USC 1101 note.

(e) SEVERABILITY.—If any provision of this division or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this division and the application of the provisions of this division to any person or circumstance shall not be affected thereby.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

8 USC 1324a note.

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 of this division made and in effect no later than 1 year after

the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a) of this division) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A) of this division; and

(3) of the machine-readable-document pilot program (described in section 403(c) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2) of this division.

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404 of this division.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment

or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b) of this division) or the machine-readable-document pilot program (described in section 403(c) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2) of this division, respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient

resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I–9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I–9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a) of this division) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1) of this division, using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under

section 404(b) of this division, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b) of this division, the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c) of this division, the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c) of this division. The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) of this division regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed

to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures

described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) of this division consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood

that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) of this division which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act. 8 USC 1324a note.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual

was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.— 8 USC 1324a note.

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed— 8 USC 1324a note.

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations

for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

8 USC 1360 note.

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act. 8 USC 1324b note.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term 'qualified alien' includes—

"(1) an alien who—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for—

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

"(2) an alien—

"(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.".

8 USC 1621 note.

SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) IN GENERAL.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).

SEC. 503. INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

42 USC 402 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

SEC. 504. PROCEDURES FOR REQUIRING PROOF OF CITIZENSHIP FOR FEDERAL PUBLIC BENEFITS.

Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended—

(1) by inserting "(1)" after the dash, and

(2) by adding at the end the following:

"(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner.".

SEC. 505. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS. 8 USC 1623.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 506. STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE. 8 USC 1611 note.

(a) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

(b) REPORT ON COMPUTER MATCHING PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(c) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this section the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities

and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

SEC. 507. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 508. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(d) NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.".

SEC. 509. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO ALIENS WHO ARE NOT QUALIFIED ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to aliens who are not qualified aliens (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) in order to provide such benefits to individuals who are United States citizens or qualified aliens (as so defined). Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

SEC. 510. TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS UNDER THE FOOD STAMP PROGRAM.

Effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,

subclause (I) of section 402(a)(2)(D)(ii) (8 U.S.C. 1612(a)(2)(D)(ii)) is amended to read as follows:

"(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997.".

Subtitle B—Public Charge Exclusion

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien

(or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(c)(2) of this division a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

Subtitle C—Affidavits of Support

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Section 213A (8 U.S.C. 1183a), as inserted by section 423(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended to read as follows:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable after such time as the alien (i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under subparagraph (B), and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did

not receive any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during any such period.

"(B) QUALIFYING QUARTERS.—For purposes of this section, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

"(i) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

"(ii) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under clause (i) or (ii) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during the period for which such qualifying quarter of coverage is so credited.

"(C) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act.

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after

the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(f) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or

"(ii) does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) FLEXIBILITY.—For purposes of this section, aliens may demonstrate the means to maintain income

through demonstration of significant assets of the sponsored alien or of the sponsor, if such assets are available for the support of the sponsored alien.

"(iii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a)(1) and section 422(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(a)(1), 1632(a)(1)) are each amended by inserting "and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996" after "section 423".

8 USC 1183a note.

(2) Section 423 of such Act (8 U.S.C. 1138a note) is amended by striking subsection (c).

8 USC 1183a note.

(c) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies,

shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 552. INDIGENCE AND BATTERED SPOUSE AND CHILD EXCEPTIONS TO FEDERAL ATTRIBUTION OF INCOME RULE.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) is amended by adding at the end the following new subsection:

"(e) INDIGENCE EXCEPTION.—

"(1) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

"(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

"(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

"(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

"(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits,

which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

"(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.".

8 USC 1624.

SEC. 553. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 562. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION. 8 USC 1369.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined in subsection (d)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this section, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(1) placing the patient's health in serious jeopardy,

(2) serious impairment to bodily functions, or

(3) serious dysfunction of any bodily organ or part.

(e) EFFECTIVE DATE.—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after January 1, 1997.

8 USC 1370.

SEC. 563. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

(1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

8 USC 1183a note.

SEC. 564. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631). Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits described in section 213A(d)(2)(B) of the Immigration and Nationality Act (as amended by section 551(a) of this division) for the alien and the alien's dependents and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost

of providing benefits under the programs described in subsection (a)(1) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 565. REPORTS.

8 USC 1371.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 552 of this division) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

Subtitle F—General Provisions

8 USC 1101 note.

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 593. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 594. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle D—Other Provisions

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS. 5 USC 301 note.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in

which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of

Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

42 USC 405 note.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

LEGISLATIVE HISTORY—H.R. 3610 (S. 1894):

HOUSE REPORTS: Nos. 104–617 (Comm. on Appropriations) and 104–863 (Comm. on Conference).

SENATE REPORTS: No. 104–286 accompanying S. 1894 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 13, considered and passed House.

July 11, 17, 18, considered and passed Senate, amended, in lieu of S. 1894.

Sept. 28, House agreed to conference report.

Sept. 30, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 30, Presidential statement.

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Statement on Signing the Omnibus Consolidated Appropriations Act, 1997

September 30, 1996

I have signed into law H.R. 3610, the fiscal year 1997 omnibus appropriations and immigration reform bill.

This bill is good for America, and I am pleased that my Administration could fashion it with the Congress on a bipartisan basis. It moves us further down the road toward our goal of a balanced budget while protecting, not violating, the values we share as Americans—opportunity, responsibility, and community.

Specifically, the legislation restores needed funds for education and training, the environment, science and technology, and law enforcement; fully funds my anti-drug and counter-terrorism initiatives; extends the Brady Bill so that those who commit domestic violence cannot buy handguns; provides needed resources to respond to fires in the western part of the Nation and to the devastation brought by Hurricanes Fran and

Hortense; and includes landmark immigration reform legislation that cracks down on illegal immigration without punishing legal immigrants.

The bill restores substantial sums for education and training, furthering my agenda of life-long education to help Americans acquire the skills they need to get good jobs in the new global economy.

It provides the funds through which Head Start can serve an additional 50,000 disadvantaged young children; fulfills my request for the Goals 2000 education reform program, enabling States to more quickly raise their academic standards and implement innovative reform; increases funding for the Safe and Drug-Free Schools program, helping States reduce violence and drug abuse in schools; provides most of my request for the Technology Literacy Challenge Fund to help States leverage technology funds; fulfills my request for Title 1, education for the disadvantaged; and provides the funds to enable well over a half-million young people to participate in the Summer Jobs program.

For college students, I am pleased that the bill fulfills my request for the largest Pell Grant college scholarship awards in history and expands the number of middle- and low-income students who receive aid by 126,000—to 3.8 million. I am also pleased that the bill fully funds my Direct Lending program, enabling more students to take advantage of cheaper and more efficient loans.

For the environment, the bill provides funds to support the Environmental Protection Agency's early implementation of two major new environmental laws that I signed this summer—the Safe Drinking Water Act, and the Pesticide and Food Safety Law. In addition, the bill provides additional funds for energy conservation and to help finish the cleanup of Boston Harbor and help prevent beach closures.

At the same time, the bill does not contain any of the riders that would have affected management of the Tongass National Forest in Alaska, national Native American tribal rights, the Interior Department's management of subsistence fishing in Alaska, long-term management of the Elwha Dam in Washington State, and the issuance of emergency-efficiency standards for appliances. I am, however, disappointed the Congress did not adopt my proposal to repeal the 1995 salvage timber rider and restore the application of environmental laws to salvage logging on Federal lands.

For research and technology, the bill promotes economic growth by continuing needed Federal support for advanced technology. It restores funding for the Commerce Department's Advanced Technology Program, providing resources for new grants to support innovative technology companies across the Nation.

It also provides a sizeable increase for the National Institutes of Health, which will enable NIH to expand its critical research into new ways to treat breast cancer, AIDS, and other diseases. I am also pleased that the bill provides nearly $1 billion for Ryan White AIDS treatment grants, including funds to help States purchase a new class of AIDS drugs called "protease inhibitors" and other life-extending medications. And the Congress also fully funded my request for the Department of Housing and Urban Development's program that provides housing assistance for people with AIDS.

For law enforcement, the bill provides $1.4 billion to ensure that my program to put 100,000 more police on the streets of America's communities by the year 2000 proceeds on schedule; with this bill, we will have provided funding for 64,000 of the 100,000 that I called for at the start of my Administration. The bill also increases funds for Justice Department law enforcement programs, for the FBI's crime-fighting efforts, and for new Federal prisons. As I had urged, the bill also extends the Brady Bill to ensure that those who commit domestic violence cannot purchase guns. Finally, I am pleased that the Congress provided a modest increase for the Legal Services Corporation, which ensures that those who lack the means still have access to our legal system.

I am also pleased that the bill provides a $1.4 billion increase in funding for anti-drug programs. It doubles funding for Drug Courts, increases funds for drug interdiction efforts by the Defense, Transportation, and Treasury Departments, and provides the resources to expand the Drug Enforcement Administration's domestic efforts along the

Southwest border and elsewhere. The bill also includes strong language about drug testing that my Administration had proposed, requiring that localities have drug-testing programs in place for their prisoners and parolees in order to qualify for State and local prison grants. And it includes funding for the drug testing of Federal, State, and local arrestees.

For counterterrorism, the bill funds my request for over $1.1 billion to fight terrorism and to improve aviation security and safety. It enables the Justice and Treasury Departments to better investigate and prosecute terrorist acts, and it provides funds to implement the recommendations of Vice President Gore's Commission on Aviation Safety and Security and the Federal Aviation Administration's recent 90-day safety review. These funds will enable us to hire 300 more aviation security personnel, deploy new explosive detection teams, and buy high-technology bomb detection equipment to screen luggage. The bill also gives my Administration the authority to study the use of taggants in black and smokeless powder; taggant technology holds the promise of allowing the detection and identification of explosives material.

I hereby designate as an emergency requirement, as the Congress has already done, the $122.6 million in fiscal 1996 funds and the $230.68 million in fiscal 1997 funds for the Defense Department for antiterrorism, counterterrorism, and security enhancement programs in this Act, pursuant to section 251(b)(2)(D)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This bill also funds the Nation's defense program for another year; it fully funds my defense antiterrorism and counter-narcotics efforts as well as the Cooperative Threat Reduction program, and at my insistence it provides a substantial amount of the funding for my dual-use technology program. But it also provides about $9 billion more than I proposed for defense, including a substantial amount for weapons that are not even in the Defense Department's future plans and were not requested by the service chiefs. This bill is part of a plan by the majority in the Congress that adds funds for investments now and reduces them in the future. I continue to believe that my long-range plan is more rational. It provides sufficient funds now while increasing them at the turn of the century when new technologies will become available.

I am pleased that the Congress has provided the minimum acceptable levels for certain key international affairs programs, such as the U.S. contribution to the International Development Association and the Korean Peninsula Energy Development Organization and for international peacekeeping operations and arrears. I also commend the Congress for providing at least a modest increase in funding international family planning programs and for dropping misguided Mexico City restrictions, and for funding bilateral economic assistance without rescinding prior-year appropriations. In addition, the Congress has facilitated the Middle East peace process by authorizing U.S. participation in the Middle East Development Bank. Nevertheless, I must note that the overall funding level for international affairs programs is well below what we need to assure that we can achieve our foreign policy objectives.

This bill, however, does more than fund major portions of the Government for the next fiscal year. It also includes landmark immigration reform legislation that builds on our progress of the last 3 years. It strengthens the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system—without punishing those living in the United States legally.

Specifically, the bill requires the sponsors of legal immigrants to take added responsibility for their well-being. And it does not include the so-called Gallegly amendment, which I strongly opposed and which would have allowed States to refuse to educate the children of illegal immigrants. At my insistence the bill does not include the proposed onerous provisions against legal immigrants, which would have gone beyond the welfare reform law.

I am pleased that the Congress provided 7 additional months of food assistance for needy immigrants, including benefits for many elderly and children. This step will pro-

vide some help to individuals and States in preparing for the dramatic restriction of access to benefits that legal immigrants will face under the welfare reform bill.

I am, however, extremely concerned about a provision in this bill that could lead to the Federal Government waiving the Endangered Species Act and the National Environmental Policy Act in order to expeditiously construct physical barriers and roads on the U.S. border. I know the Attorney General shares my commitment to those important environmental laws and will make every effort, in consultation with environmental agencies, to implement the immigration law in compliance with those environmental laws. I am also concerned about a provision that imposes a new "intent requirement" in unfair immigration-related employment cases that could place hardships on some U.S. citizens and permanent residents. I have asked the Attorney General to take steps to alleviate any potential discrimination that this provision causes against U.S. citizens and authorized workers—particularly Hispanics and Asian-Americans who, by their appearance or accent, may appear to be foreign. Finally, I will seek to correct provisions in this bill that are inconsistent with international principles of refugee protection, including the imposition of rigid deadlines for asylum applications.

The bill also makes important changes in the Nation's banking laws. It assures the continued soundness of the bank and thrift deposit insurance system, and it includes significant regulatory relief for financial institutions. At my insistence, the bill does not erode the protection of consumers and communities.

I commend Senators Baucus and Bingaman for raising the awareness of the issue of the proper accounting of highway trust fund receipts. In next year's reauthorization of the Intermodal Surface Transportation and Efficiency Act, my Administration will rely on a baseline that treats all States fairly and equitably.

The bill includes a Government-wide program to enable agencies to offer buyouts, through December 31, 1997, of up to $25,000 to employees eligible for early or regular retirement. Many of these workers stay on for years after they can retire, so buyouts will serve as an incentive for them to leave. Buyouts are an important tool to help Federal managers downsize their agencies as we continue to move toward a balanced budget—without relying solely on reductions-in-force (RIFs).

I am disappointed that one of my priorities—a ban on physician "gag rules"—was not included. Several States have passed similar legislation to ensure that doctors have the freedom to inform their patients of the full range of medical treatment options, and I am disappointed that the Congress was not able to reach agreement on this measure.

Nevertheless, this bill is good for America. As I have said, it moves us down the path toward a balanced budget while protecting our values. It provides the needed resources to fight domestic and international terrorism. And it cracks down on illegal immigration while protecting legal immigrants.

I am pleased to sign it.

William J. Clinton

The White House,
September 30, 1996.

NOTE: H.R. 3610, approved September 30, was assigned Public Law No. 104–208. This statement was released by the Office of the Press Secretary on October 1.