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This 3-volume compilation contains historical documents pertaining to P.L. 104-208, the "Omnibus Consolidated Appropriations Act of 1997."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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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
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 this 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 1980 act. The Commission was chaired by that remarkable woman, Barbara Jordan, a powerful and 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 my work in 1978, 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 17 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 1986, it has always been a terribly difficult issue for all of 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 constituency.

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.
I am reminded of a story of my good friend Senator HOWELL HFEFLIN, who is certainly wont to tell a story or two from time to time, especially the "No- tie" Hawkins variety stories and others that I am sure we have all heard from time to time. I am not now tire of. At least I do not. So one day I 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 one day I sat listening to 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 gentleman, the older one and partner, the gentleman on the knee 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 the Senate. 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 work 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. I do not say on the base, "Send them all out"—of course we will not say that. We will say, "Send them all out," but at least we have the base saying that the bill is on that, but we will vote on that issue. We need to do something; 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 less educated and deprived of states. Indeed, having done a welfare reform bill, will there not be many people looking for work—all questions that will never go away, ever.

We have 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. That is not only illegal immigration, which is about 300,000 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 is not to attempt to reduce immigra- 

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Sanctions did not work because to do. That kind of tilt on what we are trying has wasted a lot of energy to try to put a grisly looking thing. But that chap about which describes the Smith-Simson—about. Yet, I still hear it bandied be a national ID card, under no cir-

So you are going to find that that is exactly what employers already have been doing. We are trying to sound 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 reli-

And then I hope we do not hear too much about the "slippery slope," be-

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 em-

I think we will keep those provi-
sions—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 ID card. We are not talking about a mess of illegality. We are not talking about 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, 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 that is, you hear too much about the "slippery slope," be-

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 therefore was charged with dis-crimination. We have corrected that scheme. That gets lost in the process. Whatever we have will not be
go on some kind of public assistance, or more secure, or whatever it is, will be used only twice in the course of an argument, "Are we doing this to the em-

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 was charged with dis-

So the question is not whether we do or if they do not, is that the first step? Is that the slippery slope toward a na-

Employer sanctions did not work because so
think we have a good amendment which will offset the cost of that so we do not make an unfunded mandate, because the birth certificate is the breeder document of the first order. You get the birth certificate and, with that, you get the driver's license. Social Security card. You can check the obituary columns and find out the death and 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 my 17 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 family that many come to the United States. And the only people in the room, in addition to you, are, 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 then let somebody bring in on a single-person petition 30, 40, 50, 60, or 70 relatives—all from one U.S. citizen. Then we can talk about 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" 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 wacko, and the Republicans will wacko, and we will pound each other around, and at the end of it we will realize the reason for our business, and that is it 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 throughout the years. Any time you look at the record of legislative activity, 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 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 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 Simon, and Mazola 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 where our issue, that will not go away.

So be assured that your angular, western representative will not be charmed 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. They do not hand this issue; the FEINSTEINs of Massachusetts wishes to give, an open-end privilege. I appreciate his indulgence. My son is having a birthday in about 3 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 20 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 Mazola. He is talking about ALAN SIMPSON, and Romano Mazola, both of whom I worked with 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 of course, difficult amendments. But we will work through this. 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 PRESIDENT OFFICER. Without objection, it is so ordered.

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

The PRESIDENT 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 PRESIDENT OFFICER. The Senator from North Dakota.

AMENDMENT NO. 367

(Purpose: To express the sense of the Senate that a balanced budget 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 in about 3 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 Mazola. He is talking about ALAN SIMPSON, and Romano Mazola, both of whom I worked with 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.

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

Mr. KENNEDY. Mr. President, the PRESIDENT OFFICER. The Senator from Massachusetts.

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

The PRESIDENT 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 PRESIDENT OFFICER. The Senator from North Dakota.

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

The PRESIDENT 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 PRESIDENT OFFICER. The Senator from North Dakota.

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

The PRESIDENT 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 PRESIDENT OFFICER. The Senator from North Dakota.

Mr. KENNEDY. Mr. President, I ask unanimous consent that John Ratigan be granted floor privileges during the pendency of S. 1664.
be no debate on the balanced budget amendment this time around.

So here we 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 that the quorum call be rescinded.

First, the clerk will call the roll.

The absence of a quorum.

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.

Here the clerk reads it, let me say that I do not intend to hold up the immigration bill, and I intend to do 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 DOE 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 unanimous consent that the amendment be placed on the desk, and that it be immediately considered by the Senate.

The PRESIDING OFFICER.

The clerk will report.

The legislative clerk reads as follows:

The Senator from North Dakota [Mr. KENNEDY], for himself and Mr. ASCHOFF, Mr. RUND, Mr. ROLLINS, Mr. FORB, Mr. CONWELL, Mr. FRANZEN proposes an amendment number 366.

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

The PRESIDING OFFICER.

Mr. President, there is an objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. 1. 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 funds 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 investments 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. KTL). 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 Secretarv Garner'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 will 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 enriched by our immigrant background. Everywhere in our country, we are 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 ready to go 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 benefi
cial 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 denied immigration opportunities to 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 threats.

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 presence 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 legal resident 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 with 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 deported to the very place they came from. The result is that half of all illegal workers are paid less than $5.00 an hour. This results in higher wages for 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 attract those who are already 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 illegitimately present.

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 additional assistance to the INS that are already facing increases in the number of claims. The President must be capable of increasing the number of asylum cases. The red lines represent the new criteria. So, clearly we see the new asylum claims and completed cases, 60,000.

We remain concerned that the so-called expedited exclusion procedures in the bill will not be action taken within 30 days of the initial proposal of requiring that there be action taken within 30 days of the person's arrival at the United States for resettlement. The Immigration and Refugee Policy—all so their children can attend public schools in the United States. A study by the Committee on Illegal Immigration during the Ford administration concluded that the 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 Jordan Commission, the Husch, and the 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 Husch and the Jordan Commission in 1991, and again more recently by the Jordan Commission, which found that employment opportunities are considered in choosing to work here. As I indicated, this finding was confirmed by the Husch and the Jordan Commission in 1991, and again more recently by the Jordan Commission, which found that employment opportunities are considered in choosing to work here. As I indicated, this finding was confirmed by the Husch and the Jordan Commission in 1991, and again more recently by the Jordan Commission, which found that employment opportunities are considered in choosing to work here. As I indicated, this finding was confirmed by the Husch and the Jordan Commission in 1991, and again more recently by the Jordan Commission, which found that employment opportunities are considered in choosing to work here.
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 to deal with the crime problems on their hands from children running wild 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 will have to 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 new immigrant who comes over to this country with a child who is a toddler—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 get away as long as they can get away with working here illegally and I urge the Senate to say no to 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 issue 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, educate their children, 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, and legal 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, pay by the rules, pay taxes, contribute to our communities, and 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 are not more dependent on public welfare than the American citizen. I can give as many studies that demonstrate that legal immigrants make larger contributions in terms of paying taxes, by participating in the community, by payroll taxes, by sales taxes, by all of the other factors—they absorb from the system. If we need to, we can 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 applied to legal immigrants by the bill to apply to every means-tested program.

Under the current law, deeming applies only to SSI, APDC, and food stamps. But under this bill deeming would apply to scores of other programs that help expectant mothers, AIDS victims, homeless, welfare, settlement, community centers, and even one of the most important means of protecting the public health, the Medicaid Program. Under this bill, illegal immigrants get emergency Medicaid aid, but legal immigrants do not. Legal immigrants do not have a Medicaid safety net when they fall on hard times.

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 rights and 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 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 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 sought to address that issue.

We believe the amendment that was accepted by the Judiciary Committee recognizes the importance of the recommendations by the Jordan Commission that said give focus and attention to the immediate families. We have done that. We have defined 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 for which Senator SANTORIUS and I proposed 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 immigration of legally immigrants expected to enter this country in 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 additional insurance that it does fall below the current level.

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. 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, according to our amendment, an annual legal immigration also must retain the diversity program established in the Immigration Act of 1990, which 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 realized 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 net 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 8 million workers permanently lost their jobs from 1991 to 1993. Even as new jobs have been created, other jobs have been steadily disappearing at the rate of about 3 million a year since 1992.

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 percent of workers who said their job security was good or very good declined from 75 percent in the early 1980's, to 47 percent in the early 1990's. In 1984 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 55 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 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 in 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 found that the current program of protecting American workers under our 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 and processing and stamping of applications. We believe programs 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 American workers first, the foreign workers are already here. So when employers are legally required to offer the jobs to the American workers, their jobs are already here. That's 98 percent  of the time. And 74 percent of those foreign workers were already on the employers' payroll at the time the employer was supposed to recruit for American workers. So we understand that? So 74 percent of the foreign workers were already on the employers' payroll at the time the employer was supposed to recruit for American workers first. Do we understand that?

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 some 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
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Mr. President, we have seen, as most of the business interests who have said, "Do not tamper with that 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 the percentages of the 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 need to establish a way to make sure that we get to 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 called 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, where the numbers are.

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? 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 at that 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 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 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 employers have to say is that the individual coming over has completed college or had 2 years of experience, and the employers provide the called attestations that they are going to pay them 150 percent of the actual wages. 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—forlorners—can come in.

What happened, 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, they leave, they are illegal. So once they are stuck with that employer for 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 wages—absolutely lower their wages—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 file a complaint from someone. Well, who in the world is 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 of impact in terms of America's future. America's future 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 need to have.

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 need highly qualified 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 in 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 is still expanding and job training system adjusts to the changing demand for workers with new or different skills.

Clearly, there are legitimate purposes for employment-based immigration. But we must also ensure 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 gain that job.

Fourth, and more generally, we must give U.S. workers a better chance at getting high-wage, high-skill jobs, instead of shutting off the safety valve of access to foreign labor markets that some employers must use to meet demands that U.S. workers cannot supply in sufficient quantity or with sufficient speed.

The Permanent Immigrant Worker Program is one of two ways for employers to obtain foreign workers to fill 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—indeed the last time we attempted to reform employment-based immigration—was to increase by nearly threefold the numerical ceiling on employment-based immigrants. The cap 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 newly set ceiling, and it has declined in the last 12 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 visas. 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 are also 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

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weight of the reductions in the number of legal immigrants should be borne by far more capable workers. 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 160,000 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 other workers who are not special or subject to labor certification and who can 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 Nobel prizes, eminent scholars, and Nobel laureates. 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. The unskilled immigrant worker program is 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 in an expedient manner, hiring workers to fill temporary positions. 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 may 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 certification process for applying 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 labor 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, paper work, 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 program to fill jobs with unskilled workers, or with skilled workers, would nearly double in size.

The basic problem with this labor certification system is 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 back bone 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 and 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 an 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 goes along with the 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 just as many as 95 percent 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 get these jobs instead of temporary workers or illegally employed foreign workers who 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 use it 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. applicants in response to advertisements for these jobs—alarming 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 U.S. workers. This system is in need of change. 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 are currently holding the jobs. There is no opportunity for U.S. workers to get these good jobs 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 meaningful 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 are not in a problem industry would not be subjected to labor certification. Employers who seek to adjust 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, would 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 non-immigrant 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 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 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 of the H-1B applications. For technology workers, the number dropped to one-fourth.

The H-1B Program is an open door for these reforms, combined with other steps, would turn a corner in the worst direction by taking an already troublesome H-1B program even worse. Instead, we need genuine reform of the H-1B program 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 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 advertisements for these jobs—the public that the employment-based immigration system serves its stated purpose.

The H-1B Program is an open door for more skilled workers are admitted

The principal path through which

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

Over my objections and those of many other Democratic Members, the Judiciary Committee held out many sensible reforms to the employment-based programs. The Judiciary Committee then made changes for foreign temporary professional workers. These changes were touted by their sponsors as providing a better system 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, this bill 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. The changes would allow U.S. employers to recruit in the domestic labor market first, and not prohibit employers from hiring foreign workers to replace laid off U.S. workers in the second stage.

To the contrary, S. 1665 provides no protection from employers who hire 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 the 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 currently use the H-1B Program:
April 15, 1996

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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 she found herself competing with
temporary workers from Syntel. Adding
injury to insult, Linda and her coworkers
were forced to train their replacements
during their final weeks on the job.

David Huff was a database adminis-
trator 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 replace-
ments.

Julie Cairns-Rubin worked for
Sealand Services, a major shipping
and trucking company, writing and main-
taining 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 pro-
gram under current law turns the
American Dream into the American
nightmare, and S. 1655 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 con-
tracts to cheaper, H-1B firms as a re-

turn. 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 wide-
ly publicized layoffs is 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 work-
ers, 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, com-
mon sense, and it is a dream into the
American nightmare.

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

This reform is simple and straight-
forward. Employers applying for a for-

ing 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. work-
ers—which employers assure us they are already doing.

The employer would attest that it
had tried, among other things, the domestic labor market using industry-wide standard
recruitment procedures. Government
would not mandate this standard.

If high-technology industries recruit
quickly to fill vacancies, then 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 work-
ers are supposed to show under current
law, to pay these workers the higher of
the actual or locally prevailing wage, so
this reform imposes no new wage ob-
ligation. The reform would merely est-
ablish that the employer recruited
workers at lower wages in order to cut
wages and other compensation that it
would be obligated to pay to its foreign
workers. That's only fair to U.S. work-
ers.

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 agen-
cy 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 unsuc-
sessful. Under current law the employer
need only state that it could not find a
qualified U.S. worker for the job. Em-
ployers already tell us they face the
problem of being unable to find avail-
able 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 em-
ployer should not be required to seek
a U.S. worker. The employer can ex-
due to labor certification—and thereby
from any recruitment requirement—
foreign workers of extraordinary abil-
ity, outstanding professors and re-
searchers, certain multinational execu-
tives and managers, and renowned cler-
ics. These are truly the best and the
brightest. They are Nobel-level sci-
entists, the tenure-track professors,
and top researchers. They should be ad-
mitt ed to the United States without
change. But there is no dispute that they will improve our so-
ciety and increase our competitiveness.
If we can get them, we should admit them.

If H-1B workers qualify under the
permanent worker program as individ-
uals 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 en-
gage in domestic recruitment. This is
a reasonable accommodation of the con-
cerns expressed by the business com-
munity, 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 ex-
pect employers to recruit in the U.S.
for jobs for which they are seeking for-

eign 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 tem-
porary visa, but most Americans would
call it a permanent job. In fact, Ameri-
cans from 25 to 44 years of age change
jobs every 3½ years. Those age 35 to 44
change every 6 years.

Importing needed skills should usu-
ally be a short-term response to urgent
circumstances, not an attempt 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 230,000. The
3-year period will also assure that these
temporary workers are, indeed, tem-
porary.

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 nec-
essary skills. The labor market will
correct imbalances in the demand and
supply of needed skills if it receives the
proper signals. Allowing foreign tem-
porary workers to stay in the United
States for 6 years sends the wrong sig-
nal. The only valid, long-term response
to skills shortages is training U.S.
workers. A 3-year stay will promote
more meaningful on-the-job training
for qualified U.S. workers and help
overcome the wage stagnation affect-
ing 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 Tem-
porary Worker Program. These reforms
can help assure that employment-based
immigration serves U.S. workers. It is
vital that we enact these changes.
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 De-
partment of Labor has the power to re-
spond to complaints, initiate investiga-
tions, and conduct audits under the
temporary worker program, although
S. 1655 would unwisely curb these pow-
er. However, under the permanent pro-
gram, 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 must 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 who violate the law, assure that U.S. and foreign workers are protected or monitored, and impose penalties that will deter more 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 a century. Its current troubles can be fixed. 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. Mr. President, 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. ORRIN H. HATCH,
Chairman, 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 implement their current renewal schedules.

The amendment would thereby allow states to implement those provisions while adhering to their current renewal schedules.

The amendment would require that all 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 estimated that the total costs of all intergovernmental mandates as of S. 1664 would no longer exceed $10 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 employers time to adopt 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 estimated that the direct costs to states from the driver’s license and identification document provisions would total about $10 million and $20 million and would be $60 million in fiscal year 1998.

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 the estimates apply to the legislation pending before the Senate at this point.

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. ORRIN H. 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 the Immigration Control and Financial Responsibility Act of 1996. Because enactment of the bill would affect annual 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 be greater than $10 million for fiscal year 1996. CBO estimates 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.
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 Service (INS) agents from 700 in fiscal year 1996 and by 1,000 in each of fiscal years 1997 through 2000; in addition, the number of Border Patrol agents would be increased through 2000; and authorize appropriations of such sums as may be necessary to increase the number of INS investigator positions in fiscal years 1996 and 1997, and by 300 in each of the fiscal years 1998 through 2000; and authorize appropriations of such sums as may be necessary to increase the number of INS investigator positions in fiscal years 1996 and 1997, and by 300 in each of the fiscal years 1998 through 2000; 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 5,000 beds by the end of fiscal year 1997; and 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 support pilot programs related to increasing the efficiency of deportation and exclusion proceedings.

- Establish 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 andcriminal penalties, as well as new civil and criminal penalties, for a number of crimes related to immigration issues.

- 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
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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 $32 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 autonomous funding would increase by about $60 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

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<tr>
<td>Total</td>
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<td>$27,904</td>
<td>$29,710</td>
<td>$25,576</td>
<td>$27,995</td>
<td>$34,515</td>
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<tr>
<td>Supplemental Security Income</td>
<td>$25,554</td>
<td>$28,994</td>
<td>$29,710</td>
<td>$25,576</td>
<td>$27,995</td>
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<td>$29,710</td>
<td>$25,576</td>
<td>$27,995</td>
<td>$34,515</td>
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</table>

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

<table>
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<tr>
<td>Food Stamps</td>
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<td>$25,576</td>
<td>$27,995</td>
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<td>$17,893</td>
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<tr>
<td>Child Nutrition</td>
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<td>$8,458</td>
<td>$9,009</td>
<td>$7,856</td>
<td>$8,552</td>
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<tr>
<td>Medicaid</td>
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<td>$104,781</td>
<td>$115,438</td>
<td>$121,256</td>
<td>$128,154</td>
<td>$135,132</td>
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</tr>
<tr>
<td>Earned Income Tax Credit (outlay portion)</td>
<td>$3,044</td>
<td>$3,731</td>
<td>$3,911</td>
<td>$3,311</td>
<td>$3,499</td>
<td>$3,793</td>
<td></td>
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<tr>
<td>Receipts of Employee Contributions</td>
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<td>$27,025</td>
<td>$26,426</td>
<td>$26,978</td>
<td>$27,428</td>
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<tr>
<td>Total</td>
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<td>$196,561</td>
<td>$212,954</td>
<td>$232,839</td>
<td>$245,328</td>
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</table>

Note.—Assumes enactment date of August 1, 1996. Estimates will change with later effective dates. 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. For example, the additional border patrol agents and support personnel in title I already were authorized in the 1994 crime bill through fiscal year 1996.

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 Departments of Justice total about $41 billion, of which about $1.7 billion is for the INS.

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TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS

|--------|-----|-----|-----|-----|-----|-----|
|思绪大约4percent of citizens. The Social Security Administration states that about 700,000 legal aliens collect SSI (although the unknown fraction of those "aliens" are really nationals, the income change in status is not reflected in program records). About three-quarters of alien SSI recipients are immigrants legally admitted for permanent residence, who waited 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 to return to 3 years in October 1996. The other one-quarter of alien recipients of SSI are refugees, asylum, and PRUCOLs. S. 269 would take a one-year, 5-year deeming period from returning to 3 years in October 1996. Indeed the deeming period would remain at 5 years (for aliens who entered the country before enactment) and 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 at least 4 quarters in Social Security-covered employment—a condition that other elderly immigrants, in particular, would be unlikely to meet. S. 269 states that all income of the sponsor and spouse be deemed "notwithstanding any other provision of law." S. 269 would also nullify the exemption from deeming for aliens who became disabled after arrival, would save about $0.1 billion in 1996, and $0.8 billion to $1.4 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 eliminate eligibility for SSI benefits of aliens permanently residing under color of law (PRUCOLs). That label covers aliens such as parolees, aliens who are granted asylum or deferred status, and others with various legal statuses. PRUCOLs currently make up about 5 percent of aliens on regular SSI. 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. Nonetheless, would be deprived of the program, generating savings of about $0.5 billion over 7 years.

**Food Stamps.** The estimated savings in the Food Stamps program—$0.2 billion over 7 years—are considerably smaller than those in SSI but likely result from the deeming provisions of S. 269. The current Food Stamps program imposes a 3-year deeming period. Therefore, lengthening the deeming period (to 5 years for future entrants 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 high risk. A family judged to be at risk would mean that the Food Stamp program already denies benefits to most PRUCOLs, no savings are estimated from that source.

**Family Support.** In addition to the savings in SSI and food stamps there would also lead to small savings in the AFDC program. The AFDC program already deems income from means-tested programs to be at least 5 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 in the 1997-2002 period would stem overwhelmingly from lengthening of the deeming period. Savings from the suicide eligibility of PRUCOLs are estimated to be just another few million dollars a year.

**Child Nutrition.** S. 269 would require that the child nutrition program begin to deem sponsors' income to alien schoolchildren for all programs, reduce their eligibility for free or reduced-price lunches, and only not employ deeming now. It does, however, reduce the parents' income account when determining eligibility for free or reduced-price lunches the same way CBO therefore assumed that savings in children in hunger. As an added sponsored the child's entry into the United States. CBO assumed that it would take at least 2 years to craft regulations and implement deeming in all federal means-funded systems nationwide, therefore providing savings until 2003. S. 269 would change of about $20 million a year would result once the deeming provision took full effect.

**Medicaid.** S. 269 would extend several bars to Medicaid eligibility for recent immigrant 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 cash benefit programs, S. 269 would generate Medicaid savings. Medicaid does not have a deeming requirement at all; that is, program administrators do not consider a sponsor's reunification status or an alien's eligibility for benefits. Therefore, it is only for a sponsored alien to qualify for Medicaid before he or she has satisfied the SSI waiting period. S. 269 would make them ineligible. To estimate the savings in Medicaid, CBO first assumed that the number of aliens who would be barred from the SSI benefits would be estimated by other provisions of S. 269. CBO then added another group—dubbed "noncash beneficiaries"—because they participate in neither of the two programs. The noncash participants 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 aid; S. 269 would make them ineligible.

To estimate the savings in Medicaid, CBO first assumed that the number of aliens who would be barred from the Social Security Administration S. 269 explicitly preserves the child nutrition eligibility for most PRUCOLs, and would require an even longer deeming period. Thus, it would take at least 2 years to craft regulations and implement deeming in all federal means-funded systems nationwide, therefore providing savings until 2003. S. 269 would change of about $20 million a year would result once the deeming provision took full effect. The child nutrition program begins to deem sponsors' income to alien schoolchildren for all programs, reduce their eligibility for free or reduced-price lunches, and only not employ deeming now. It does, however, reduce the parents' income account when determining eligibility for free or reduced-price lunches. CBO therefore assumed that savings in children in hunger. As an added benefit, the child's entry into the United States. CBO assumed that it would take at least 2 years to craft regulations and implement deeming in all federal means-funded systems nationwide, therefore providing savings until 2003. S. 269 would change of about $20 million a year would result once the deeming provision took full effect.

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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 identified would add $420 million to the deficit over the 1997-2002 period. Therefore, CBO estimates savings of $120 million annually for such programs. In one entitlement program, the States would be required to provide at least 50 percent reimbursement for emergency medical care. Although the provision leaves states and localities free to choose whether or not to reimburse emergency care, CBO estimates that the program would add $60 million to the deficit over the 1997-2002 period.

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 provision was not included in the House bill, and the enforcement provisions were limited to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would authorize $120 million a year for such purposes—costs roughly $90 million a year less than under H.R. 2202.

In 1995, CBO prepared many estimates of welfare reform proposals that would have reduced the deficit by approximately $0.2 billion a year. Unlike the proposals considered this year, these would not be tied to future enrollment in public assistance. Examples include the budget reconciliation bill (H.R. 2491) and the welfare reform bill (H.R. 4), both of which were subsequently enacted.


CONGRESSIONAL BUDGET OFFICE ESTIMATE OF THE EFFECTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 269.
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 are entitled to public benefits.
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 $50 million annually through 1999, but would rise to over $100 million in 2000 and $300 million in 2001. In 2002 and 2003, the estimated direct costs would be $85 million and $130 million, respectively. The large majority of those costs would be imposed on sponsors of aliens who execute affidavits of support, which individuals could use to qualify for permanent residence.
7. Basis of estimate: CBO expects that the mandates in the bill would be effective beginning in fiscal year 1997.

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<thead>
<tr>
<th>Title of statute</th>
<th>Law enforcement</th>
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<tr>
<td>Section 161 would impose new mandates on the transportation industry. In addition, those carriers arriving in the U.S. from overseas are subject to the U.S. Customs Service. These costs are estimated to be less than $50 million annually. The last two years of the total are $200 million and beyond.</td>
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<table>
<thead>
<tr>
<th>Statute</th>
<th>Mandate</th>
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<tr>
<td>Section 161</td>
<td>Imposes new requirements on the transportation industry.</td>
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<td>$120</td>
</tr>
<tr>
<td>Change in receipts</td>
<td>$120</td>
<td>$120</td>
<td>$120</td>
</tr>
</tbody>
</table>

Note: Estimates do not include potential costs of establishing a program to provide welfare benefits to aliens who are authorized to work in the United States or to provide benefits to aliens who are employees of the federal government. CBO estimates that the estimated savings of $120 million in 1997 and $50 million in 1998 would result in a savings of $170 million in 1999 and $120 million in 2000.

<table>
<thead>
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<th>Fiscal Year</th>
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<th>1997</th>
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</tr>
</tbody>
</table>
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 be allowed to become an employment-based immigrant if the alien was employed while an unauthorized alien, or who had otherwise violated the terms of a non-immigrant status, would not be allowed to become an immigrant. Further, the costs of these provisions would have significant impacts on certain members of the public 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 for the Immigration and Naturalization Act of 1996, which was ordered reported by the House Committee on the Judiciary on October 24, 1995.

8. Estimates 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.
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 to federal laws relating to immigration. The bill also would require changes to the administration of state and local transportation, public health, and general assistance programs. Demonstration projects for verifying immigration status and for determining eligibility would be conducted in a number of states, pursuant to agreements between the Secretary of State and the Attorney General. Section 118 would require state and local governments to adhere to minimum standards in the production of birth certificates, driver’s licenses, and identification documents. Sections 301 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:
   a) 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.
   b) State agencies issuing driver’s licenses or identification documents would be required to print Social Security numbers on these items or request and verify the number before issuance. These agencies would be required to comply with new regulations to be established by the Department of Transportation (DOT).
   c) State employment security agencies would be required to verify employment eligibility and complete attestations to that effect before referring an individual to prospective employers.
   d) 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 PRICOLs” (PRICOLs 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 and then lead to legal alien’s eligibility for benefits in some instances.

Basis of estimate: Of the mandates listed above, the requirements governing birth certificates and driver’s licenses would impose the most significant direct costs. S. 269 mandates would require issuers of birth certificates to use a certain quality safety paper when providing copies to individuals. Those copies would be acceptable for use at a state or federal agency, or by those agencies that issue licenses or identification documents. While many states currently use quality safety paper, many local clerk and register 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 either print the number or require cardholders to print the number on the card for purposes of preparing this estimate, CBO contacted state and local governments, public interest groups representing the states, and a number of officials from professional associations representing the variation in the way state and local governments issue birth certificates, to confirm the number of states that regularly issue birth certificates. We estimate in an effort to estimate the number of birth certificate provisions. To estimate the cost of the driver’s license requirements, we contacted the twenty-two state government transportation officials. Most state governments charge fees for issuing driver’s licenses and copies of birth certificates. Those governments may 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 benefit and are such that they could 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 the addition of a $0.75 fee on birth certificates issued each year in the United States would generate approximately 18 million certified copies of birth certificates. The costs are estimated to be $0.75 per certificate, which would amount to $13.5 million per year in the first five years following the effective date of the provision. In addition, some state and local governments would have to modify their record-keeping procedures to respond to the new requirements. CBO estimates that the one-time costs for states and local governments to change their procedures would not exceed $5 million.

**Other impacts on state, local, and tribal governments.** 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. Furthermore, 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 purposes. CBO estimates that the one-time costs for states and local governments to change their procedures would not exceed $5 million. In addition, CBO estimates that the costs of providing the services to non-legal aliens and PRUCOLs would be offset partially by the savings resulting from the reduction in the costs of these programs.

**Means-tested Federal programs.** S. 269 would reduce the number of legal aliens receiving means-tested benefits through federal programs, including Medicaid, AFDC, and Supplemental Security Income (SSI). The federal programs are administered by state or local governments, and the provision would result in savings to state and local governments. The savings would depend critically on the type of documents currently used by aliens when applying for public assistance programs funded by state and local governments, thereby increasing the costs of these programs.

**Medicaid.** The driver's license provisions in the bill would impose direct printing and personnel costs on state and local governments, estimated at $5 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 modify their record-keeping procedures to respond to the new requirements. CBO estimates that the one-time costs for states and local governments to change their procedures would not exceed $5 million. In addition, CBO estimates that the costs of providing the services to non-legal aliens and PRUCOLs would be offset partially by the savings resulting from the reduction in the costs of these programs.
In June 1982 that President Reagan pre-}

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 colleagues 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 immi-

Mr. President, in the darkest days of the cold war, when Mr. Brezhnev was still ruling what was then the Soviet Union, Ronald Reagan gave a historic address to the British Par-

Mr. President, in all of our delibera-

Mr. President, in considering the ille-

Mr. President, in considering the ille-

Mr. President, in considering the ille-
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, there are 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 employers would have to verify with the Immigration and Naturalization Service and Social Security Administration to verify the citizenship of every prospective employee. My colleague from Ohio, Congressman Steve Culp, called this 1-800-BIG-BROTHER. I think he is right. We did succeed in getting 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 with the 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—where the firsts 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 imprisonment and conviction.

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. We are spending 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, 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 (5).

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 the Federal Government's computerized check for accuracy.

(b) Use of the Federal Government's computerized check for accuracy.

(1) The Federal Government shall develop and implement a computerized check for accuracy of State and local driver's license systems—

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 this country, each local jurisdiction what it has to do in regard to issuing birth certificates. It is essence says for the 270 million people in this country the birth certificate you have is valid; you just can't use it for anything. If you have it, 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 new laws and procedures.

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 person who uses a license 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 can issue a birth certificate, unless it fits these provisions. It has some very major constitutional law problems.

Think about it 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 getting married, 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, to get a passport? Trying telling them that birth certificates you 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 and 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 the State’s 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, in 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 that other proponents are trying to accomplish. Missouri 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, and your license comes up for its normal renewal you have what we believe at least is a tamper-proof 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 the 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, has been so concerned about turning power back to the States, but also through what it is going to cost them in the 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 governments 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 than those spelled out in the original legislation, because, really, the way the bill is written today, they have far more freedom, flexibility—the bureaucrats.

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. It says, 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 up 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 believe, it is on closer examination, as we go through it, 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 process, with the number of applications for asylum, with the number of applications for asylum it was taking us in the system, changes which have corrected the problem. There is not a massive influx of asylum seekers into America and, as far as I can see now, 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, 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 heartbreaking cases involve people who are so emotionally scarred by torture that it takes them more time 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, Pendleton, Gramm, 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 poses problems. Let me talk about that.

First, since the Immigration and Naturalization Service imposed new asylum application regulations in late 1984, the abhorrent 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 benefit from the elimination of a 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 to the distinguished Senator from Colorado. Mr. Bayh’s language is currently in the bill, and I believe, as I said, it is far better than the original 30-day deadline. 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 no system, people could get a work authorization simply by applying for asylum. That is what they did, and that was the hole.

This cause 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 automatic granting of work permits for those filing 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 instituted, only 53,000 people even applied for asylum. Instantly you went from 123,000 who applied in 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 asylum 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 filings." So what the INS is saying is that we fixed this problem by working, do not give us another mandate. Do not change it over here, so we have to have separate adjudications about the timeliness and then go over and adjudicate the merits. Let us pursue 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 5 months. He was tortured by guards who forced the initials of the ruling general into his stomach and then sprayed pepper into 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 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 the 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. A few days later, he has asked that his name, that his home country and the facts 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 him in jail. In prison, the guards beat him, 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 after a year after entering the United States.

These are just three examples, Mr. President. There really is practically no end to these examples, practically no end to these worthy cases that we believe 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 then 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'—and those instances 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 included. 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—yes, 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 a 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 nowhere 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 in the 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 nuclear family. The original bill said for 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 leave my extended family. 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, she could bring her parents into the country because she is not an only child. 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 over 65. 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. In fact, 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 again, which is the committee 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, the committee of this bill, 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 hardy group. They are people who have defined themselves by the fact that they have been willing to 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 Flanagan and his 1931 report indicated that Congress should control illegal immigration, while leaving the door open to legal immigration.

America has in fact done this over the years and kept the issue separate. In 1966 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 merging 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 is made that one-half of our illegal immigration problem stems from people who first came here legally. Let me repeat it. Let me repeat that 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 people are students, tourists who come here legally, and then who stay and do not leave when they are supposed to leave. There 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, illegal 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 who became citizens 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 1990s, we had 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. 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. 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 45,000,000 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 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 fast 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. 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 America a whole bunch of bureaucratic hoops that we in the United States, but only if you jump through them.

One story Mr. President, let me tell the distinguished chairman of our committee, the Senator from Wyoming, the story of how Ronald Reagan expressed better than any other political figure of our era the true sense of what America stands for: I think it would be appropriate for me to conclude these remarks about America's immigration history with a great story, one that President Reagan recounted when I requested the floor. I see the Senator from Wyoming, the Senator Dorgan's amendment, and temporarily go off of this subject. 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 on the plan for the State, Justice, Commerce, State, and Transportation. And on 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 take a day 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 some 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
in the Year 2000. 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 $83 billion last year, if I remember correctly. In the CBO report was a $481 billion surplus. So if you add the $83 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 fund. In fact, the intent was not only to maintain the integrity of the national Government ahead of the problems of the illegal immigrants but the supposedly untapped funds are actually an accounting figment.

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 turn their heads 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 Appropriations Committee, the chairman of the Budget 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 me mention a book by James Fowler. It is called “Breaking The News.”

We turn our heads around and say oh, this year, it is $16.7 billion. It has been going 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 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. It is not free, it is not free. We have not have to cut it to get a tax cut to bring 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 entitlements, it is paying for the immigration border control, 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 general government. Oh, this cry over entitlements started his Appropriations Committee when my friend Dick Darmian came in there, talking about entitlements, entitlements, entitlements, entitlements, entitlements, and my friend Pete Peterson up there in New York. "entitlements, entitlements, entitlements, 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 $50 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 $500 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 that this be printed in the RECORD. The estimated 1995 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 office, the gross interest cost was exactly $74.8 billion. Get into a little arithmetic. Subtract 75, in round figures, $75 billion from $550 billion and you get $475 billion. Mr. President, $75 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. 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. In order to 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 billion 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. In fact, twice as much 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." These 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 IOU's 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 want to 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, now and again, they 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 taxes, say they are 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 Pontonk. I had to have a solvent operation. So we did balance the budget and we put in a little device, which later, under Republican Governor, 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 work."

"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, Tom McClintock, moved to put 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 went for spending caps. Well, this place went for spending caps. "I am 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 the Wall Street Journal, the New York Times, by James Fallows, an authority on the American press. 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 operation. I can tell you, time and time again, it has been a very, very difficult operation.

Sometimes I give credit to the late Senator from Pennsylvania, John Heinz. John Heinz and I worked on taking 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 President's children and grandchildren come for their particular retirement, and they are going to say the untapped funds are actually an accounts receivable.

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 the idea for that, but "I am 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 the Senate Journal by James Fallows, an authority on the American press. 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 operation.

Bailing out the Social Security payroll. We have procedural talk about unfunded mandates, line-item vetoes, changing the way we fund the 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 the Federal work force in Washington.
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 misnaming 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 wizardry to 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 Senator 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 February 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 well know, we have a deficit of $165 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 do 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 Senate. Senator George Bush 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 policy. 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, the Democrat in the image of Hubert Humphrey, said he said he was a Democrat in the image of my friend Senator Humphrey from Minnesota, everybody took it to mean we are not going to start some spending.

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

I do not 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 interests and 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 pushed 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 paletre, 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 was 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 save 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, this waste. 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 using 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 monies for the intended purpose. I would like to pay the bill so that we will not saddie 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 ofdomestic discretionary, cannot promote any competitiveness, cannot promote any competitiveness, cannot promote 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 contractor and its procedural nonsense, guaranteeing everyone put on a show here.

"Here is April 15. Revenue Eliminated. 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—which please look 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 thing that has grown is the deficit and spending, and spending on automatic pilot of $1 billion a day—$3 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 watch and give you your watch and give you your watch and give you your watch and give you your watch and give you your watch.""}

Campaign financing. The biggest fraudulent campaign financing occurs on the floor of the U.S. Congress, because we misunderstand the American people tbat their Government is being paid for. We act like all we need to do is cut taxes and increase welfare on social security 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 together in the Commerce Department. 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 Moebischer, 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 during the height of the recent tragedy. I had just warned 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 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 Middle East 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 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 guns were aimed, if the recoil was going to kill the gun crew, you could not fire the gun. The recoil of sanctions has killed the gun crew. It is killing off our business.

A recently, France picked up a $2.2 billion Airbus contract rather than the
United States of America. Well, we all believe that the Government should too have the right to decide what takes it 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 communist political running, listening, or thinking about it. I know, having been, I know, having been there in 1976 and 1986 and now in 1996, that they have brought about 100 million into the middle class.

I would dare say, if I were Nick the Greek and had to bet, that I would bet that 20 years from now you are going to find more hungry 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 barn, barn towards the next election. We should think about all are 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 those 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:

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<th>President and year</th>
<th>U.S. budget (outlays in billions)</th>
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<th>Real deficit</th>
<th>Gross Federal deficit (billions)</th>
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There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE VOTING RECORD—No. 283

YEAS (98)


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.
Mr. HATCH. Mr. President, since we have just

Mr. KYL. Mr. President, let me begin

Mr. KYL. Mr. President, I ask unanimous

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 per cent 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-per cent reduction on 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 immigration 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 whose apprehension levels, and although apprehensions have decreased somewhat in what had been the hot spot for illegal entry in Nogales, AZ, apprehensions for Maricopa County to date in 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 happened is that as the INS has put more people 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, with more agents having been put in the border area 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 agents 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 these 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 need 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.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum be dispensed with.

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 be dispensed with.

The PRESIDING OFFICER (Mr. GRASSLEY). 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. Over the past year, a 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 unreasoned costs of illegal immigration—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 6 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 $4 trillion debt and annual $200 billion 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, aliens who 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 by 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 and 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, 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 be established. I was pleased that the committee adopted amendments to limit liability and cost to employers who participate in any system.

Importantly, this bill will assist our Government in its primary responsibility of protecting the border 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 2000, an increase in detention space will raise by 25 percent the 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
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. 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 observation of any measure 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 FENDOLD, 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 increases in 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.
CONGRESSIONAL RECORD—SENATE

APRIL 16, 1996

S 3349

The Senate resumed consideration of the bill.

PENDING: Dorgan amendment No. 3657, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security trust funds from the budget.

Simpson amendment No. 3662, 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 a new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3657), 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 did not 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 and 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 begins 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, parliametary 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 President recognize the Senator from North Dakota? The transcript will show that the President recognized the Senator from North Dakota, but I have not been able to find it in my notes.

Mr. DORGAN. 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 rep-
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 our desire 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.
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 the 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 that. 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.

With 8 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 making it more difficult for 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 that 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 for over a year. And we have seen 56 Members—bipartisan—who have indicated they want to address that issue. We are still denying an opportunity to consider a bill on its own merits with a relatively short period of time, since this is an issue that is important to 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 in 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 this 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 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 leadership 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.

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 antiterrorism 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.

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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 now that he does not intend to do that in the near 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 an amendment. An 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 important 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-degree. The Senator from Wyoming became 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 do so.

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 that there would be 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 the record that 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 have us believe. 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 available in the Social Security trust fund. 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, in the next 10 years, if the surplus that every year now accumulates 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 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. My argument is we might be 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 consider Senate 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 of enforcing 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.

Pendling

Dorgan amendment No. 3657, 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 the use of welfare by aliens; and for other purposes.

Simpson amendment No. 3671, to create a pilot program to collect information relating to nonimmigrant foreign students.

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

The PRESIDING OFFICER. The Senate from Wyoming.

Mr. SIMPSON of Wyoming, Mr. President, just a prefatory remark, with regard to my friend from North Dakota. I enjoyed working with the Senator from North Dakota. We are near neighbors in that part of the world. I 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
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need and beginning to improve border infrastructure, such as lights and infrastructures, 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 coming fiscal year, and 1,000 more for the next 5 years. We are looking at a 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 $2 billion industry.

Forced to 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, loading 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 country'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 I just described 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 incarceration of 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 one location. Only one-half of them are manned. Over 100 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 5,000 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 a reliable 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, may 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 any reason 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, 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 30 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. COVERDALE). 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.

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 the Standing Rules of the Senate, do hereby move to bring to a close debate on the Doran amendment No. 3687 regarding Social Security.


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 SSN, or whether it is AFDC.

An entire industry of counterfeit documents has emerged in California. The most frequently counterfeit 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 driver's 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 $500,000 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
IMMIGRATION CONTROL AND
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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. 3612.

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 1996 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 no longer going to be paid by the baby boomers to retire. To simply decide to throw that all in as operating revenue 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 to collect it from the workers. If the worker gets 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 Federal budget would bring to the floor for 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 exception 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 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 the American people 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 thinks this is 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 a balanced budget of the U.S. Senate a budget. They said, “Has our balanced budget?” And on page 3 it says, “Deficits...” in 2002, $10 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 to 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 the amendment be left 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 people in the 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 talking about how 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 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 such 60 years is going to go broke because in the year 2029—33 years from now—we have financing trouble is, in my judgment, unhonorable.

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 not 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 DOR- GAN 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 Farr's HOLLINGs in saying that we should exclude Social Security from the balanced 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 So- cial Security.

Mr. President, I recognize that we are close to getting something worked out. I hope we can. I do think it is important to the balanced budget amendment offered by my friend from North Dakota, that by the year 2002, we can do this, excluding Social Security. I say 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 DOMENICI 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, it seems to me this is 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, someone 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 Dor- gan 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 of these 10 budget proposals, including the President’s 1997 budget, includes Social Security in the deficit calculations.

I am not suggesting that in any way we are 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 the Budget Bureau, one of the best economists we have ever had seconded, 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 this trigger a balanced budget for the economy of the United States? I do not believe so.

Obviously, I do not take any pleasure in the calculations you do that prohibit the use of Social Security in the balancing of the budget. I do not believe in the impact on the economy of the United States. So does the Congress of the U.S. Congress decide to put everything on there that has an impact on the economy of the United States. As a fact, Mr. President, 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 enforced 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 will be in 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.

It seems to me, for those who would like to take 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 we 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 $100 to $200 billion. I do not believe, in my efforts, which I think have been at least, if not successful, at least 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 debate at this point. And get a constitutional amendment to do it by 2002 and reduce the expenditures of our Government by another $100 to $200 billion. I do not believe, in my efforts, which I think have been at least, if not successful, at least 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.

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Mr. HOLLINGS. I call 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 the calculations you do that prohibit the use of Social Security in the balancing of the budget. I do not believe in the impact on the economy of the United States. So does the Congress of the U.S. Congress decide to put everything on there that has an impact on the economy of the United States? I do not believe so.

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congressionallrecord-senate

april 24, 1996

section a (2) of the congressional budget, or
(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 deficit 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 deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

mr. hollings. mr. president, section 151(b) of the budget act does not include social security trust funds.

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. we were going to guarantee 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 were 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 include the surpluses in the social security trust fund. it was my amendment that passed the committee 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:

social security preservation act

the congressional record motion to report the social security preservation act the congressional record 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. boren, mr. dodd, mr. robb, mr. domenici, mr. boschwitz, mr. symms, mr. graeley, mr. kasten, mr. nickles, mr. byrd, mr. conrad, mr. daschle, mr. deconcini, dixon, dodd, elliot sparrow, fowler, glenn, gore, gram, herbin, hollings, inouye, johnson, kennedy, kerry, kohl, leahy, lieberman, metzenbaum, mitchell, moylan, nunn, pell, pryor, reid, riegler, robb, Rockefeller, sanford, sarbanes, sasser, shelby, simon, smith.

nays (2):

republicans (20 or 3/4%)—bond, boschwitz, burns, chafee, coats, cohen, cohn, d’amato, danforth, dole, domenici, durenberger, garrick, gram, graeley, hatch, hatfield, hear, helms, humphrey, jeffords, kassebaum, kasten, lott, lugar, mack, mccain, mcclure, mcconell, mukowski, norris, packwood, preseler, roth, rudman, simson, sass, sweeney, thurmond, warner, wilson.

nays (2)

repubicans (2 or 4 %)—armstrong, wallop.

mr. hollings. mr. president, when the both sides continued to use the surpluses—i teamed up with senator moylan. i said, "look, you are using these moneys for defense, education, housing, foreign aid, for everything but social security. is it fair to social security?" so exactly 5 years ago, on april 24, 1991, the distinguished senator from new mexico moved to table the moylan-kesten-hollings amendment that would have reduced social security revenues in the budget resolution by about $10 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:

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 social security trust funds from the budget deficit calculation, beginning in fy 1991.

yeas (60)

democrats (26 or 47%): baucus, bentzen, bingman, boren, bradley, breaux, bryan, bumpers, burdick, byrd, conrad, craford, daschle, deconcini, dixon, dodd, elliot sparrow, fowler, glenn, gore, gram, herbin, hollings, inouye, johnson, kennedy, kerry, kohl, leahy, lieberman, metzenbaum, mitchell, moylan, nunn, pell, pryor, reid, riegler, robb, Rockefeller, sanford, sarbanes, sasser, shelby, simon, smith.

nays (2)

republicans (34 or 75%): bond, brown, burns, chafee, coates, cohen, d’amato, danforth, dole, domenici, durenberger, garrick, gram, graeley, hatfield, jeffords, kassebaum, lott, lugar, mack, millnor, mcclure, mcconell, mukowski, norris, packwood, preseler, robb, rudman, smith, specter, stevens, thurmond, warner.

yeas (60)

democrats (29 or 53%): adams, akaka, biden, bentzen, bingman, boren, bradley, breaux, bryan, bumpers, burdick, byrd, conrad, craford, daschle, deconcini, dixon, dodd, elliot sparrow, fowler, glenn, gore, gram, herbin, hollings, inouye, kennedy, kerry, kohl, leahy, lieberman, metzenbaum, mitchell, moylan, nunn, pell, reid, riegler, sanford, sarbanes, shelby, simon, smith.

nays (2)

republicans (9 or 18%): craig, hatch, heinz, kasten, mack, nickles, seymour, sweeney, wallop.

not voting (1)

democrats (1): pryor.

mr. hollings. mr. president, on november 1, 1994, i introduced an amendment from new mexico again joined with us on a vote of 97-0 to not use social security trust funds. but in march of last year they were trying to get a balanced budget amendment to the constitution that would have added $556 billion in social security trust funds.

under that approach, we would come around to the year 2002 and say, "whoops, we have finally done our duty under the constitution and we have balanced the budget." but we would have at the same time careers at least a trillion-dollar deficit in social security. who is going to vote in the social security taxes, or any other tax, to bring in a trillion dollars?

that is our point here. that is why we have all passed a balanced budget amendment. 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 be spent on roads and operating airports. but the supposedly unspent funds are actually an accounting fiction.

what we will have to say about social security in 2002 because the money will not be there. let us cut 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 the start. 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 history of this country, 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 the money. he leaves it alone in 1986. he does 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. we voted for a balanced budget every time except the last time because, before that, it excluded social security trust funds. this last time, it included social security funds. you had at least seven more votes—we would be in the seven closely divided balance of the budget amendment had you said we exclude social security funds.

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.
CONGRESSIONAL RECORD — SENATE
April 24, 1996

I have 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 2 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 stories about the Social Security trust fund is phantasmagoria and alchemy. There is no Social Security trust fund. The trustees know it, we know it. Everyone in this Chamber knows it.

We have 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 Donna Shalala, Robert Rubin, and Robert Reich, 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 DOWL,
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 plan, which helps the American economy grow, prosper, and which brings interest rates down, 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 future 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 who have done this very soon, at which point within the year 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 do I have?

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 pointed out 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 straddled 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 the 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 this year, $31 billion more is collected in payroll taxes than 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 tax of all time and say to people. By the way, we will use that to finance the Government? Is

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 deficit.

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 2006, which 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.
that what they did? That would not have been one vote in the House nor the Senate, except.
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 $500 billion to $700 billion in the next 7 years. That is big money. This has to do with the future well-being of our country. 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 embrace 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, 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 you take the payman in it is balanced. It is $108 billion in deficit. But they say it is fixed 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 argument against a 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 amendment 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 millions in wasteful spending permitted through the Tax Code, may finally be forced 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 they may 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 mandatory 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 un touchable 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 Stateboard 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 retire.
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 senior citizens.
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 their 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 providing to seniors some breathing space.
With that assertion is the implication that somehow there is something wrong with older Americans who want their Social Security benefits.
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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.

Mr. FORJ. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT. The question is on agreeing to amendment No. 3672, as modified.

The PRESIDENT. Is there a sufficient second? There is a sufficient second.

The result was announced—yeas 57, nays 42, as follows:

[Roilcall Vote No. 82 Leg.]

YEAS—57

Mr. LEAHY. I move to lay that amendment (No. 3667) on the table.

Mr. SIMPSON. I move to lay that amendment (No. 3667), as modified, on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT. 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 Wyoming, [Mr. SMITH], is necessarily absent.

The PRESIDENT (Mr. BROWN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Roilcall Vote No. 82 Leg.]

NAYS—42

Mr. DORIAN. Mr. President, I request the yeas and nays on the amendment be ordered printed in the Record.

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 PRESIDENT. 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 PRESIDENT (Mr. BROWN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Roilcall Vote No. 82 Leg.]

NAYS—42
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 a 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 amendment No. 3725 (to amendment No. 3724), 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. 3726 (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 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 Greet 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 backlog without creating chain migration.

Every Member shall 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, 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 total, 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 for 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 $34,000, similar to the figures under the Kennedy proposal which is now in this 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 child 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 $64,000 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 spill-over 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 ABBRAHAM and 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—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 put 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
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 in 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 will allow increases in allocation of visas with decreases in the immediate family categories, which INS anticipates will flatten out in about 5 years.

The Hussein amendment is about fair allocation of 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 in 5 years.

Every member, Mr. Feintstein, 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, 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 plan. The amendment is a simple, straight spillover giving preference to permanent residents over U.S. citizens' families. The problem with the Abraham-Kennedy amendment is that it is currently in the bill, is that there is no cap on these 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 schools with 5,000, 3,000 students in them. In critical areas, in California, with 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 per cent 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 provision limit is 160,000. The actual use in 1995 was only 60,000, 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.

Mr. President, I have only been involved with this issue during my brief tenure in the Senate and I am very different 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, it is incompletely.

The one thing that I learned with 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 dealt with this on this last 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. Other people who overstay their visas once they have arrived 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 to keep illegal and legal immigration issues separate but not join them.

Mr. President, I have only been involved with this issue during my brief tenure in the Senate and I am very different 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.
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 out 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 one 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 sought 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 in fact want to be legal 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, we have kept legal immigration 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 keep legal and illegal immigration separate, 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 bring 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—let's take 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 and illegal 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 do so piecemeal to approach 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 Wisconsin.

I also make another note. The Senator from Wyoming in his comments, as a threshold matter, suggested because visa overstayers constitute a large portion 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, miss the point. We have, 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 direct way, on illegal immigration, which is what 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 want to 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 Senator Bentsen.

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. They come from one of the States that has major numbers in immigration. But a smaller percentage of those who come into our country legally are on Social Security. People who come in illegally, on Social Security, on Medicare, or workers, are the ones that are going to have the largest impact on the Social Security fund.

Mr. SIMON. Mr. President, I, with all due respect, differ with my colleague from Wyoming in his comments. Were I to vote on the amendment that will be held at the desk, Mr. President, I, with all due respect, differ with my 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 program more massive than ours. 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.

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 costs 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 are 50 percent more likely to be Federal prison inmates—25 percent higher than their real numbers.

Immigrants are 47 percent more likely to receive welfare than native-born citizens. In 1990, the American taxpaying population made payments to immigrants that 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 are being denied 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 have.

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 brother, sisters, and 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 of 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 are 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: 86 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 what is not only what they think, and what 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.

STEPS TOWARD BINARY AMENDMENT

I emphasize why I am voting 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. I believe that it is needed to be made 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.

Let me take a moment to comment on the history of the committee's legal immigration bill, S. 1665, because it is quite relevant to this discussion. As 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 included in 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, support of the Senate's bill fails to recognize a fundamental 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 be made. 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

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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 jetting millions of new illegal aliens. Later, they realize 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 protests in terms of illegal aliens because they did not realize that the people they are upset about actually were here legally.

LEGAL IMMIGRATION IS A REALITY. As the Committee on Governmental Affairs that might be done about the mistaken impression that illegal 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 in terms of legal aliens because of 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.

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 recognize the difficulty 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. Millions 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—no I remind you have broken the law—and who everyone in Congress should 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, let's look at the situation under the 1986 amendment. If about 3 million illegals who received amnesty were allowed to become legal, thereby increasing the number of legal immigrants and, after becoming legal residents, 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 relatives who have been legalized aliens. 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 applicants related to aliens who 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 most of the same impacts. Both legal and illegal immigration result in increased 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 concern that 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. Let us just point out 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 us also point out that legal immigrants 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. Immigrationists also are concerned with unfunded Federal mandates, the Governors of high immigration States like Florida have been coming to Congress for the last several years asking for 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 think 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 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 and the fact that legal immigrants 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 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 government programs are grossly underfunded to provide 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 SHOULDN'T COUNT

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 or harmful. 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 many benefits, yet 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 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
skyscrape. Legal immigration has grown dramatically in recent decades after the 1965 Immigration Act. We have been averaging 970,000 legal immigrants—nearly 1 million people legally every year for the last decade! When you add in the 300,000 illegal immigrants who move here every year, this means we are taking well over a million immigrants a year.

An even more staggering figure is over 23 million foreign-born individuals residing in the United States, both legally and illegally. That 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 was 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 primary immigrant sending countries. After a few years, immigrants from those nations were put on a quota system to prevent admission of more and more relatives. These relatives from those countries came in and in turn sponsored relatives from those countries, further expanding the immigrant flow from those 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 admitting 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 in one of the much more limited employment categories, they need not apply 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 immigration 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 admitted, but I would hope that most will at least agree that an act such as the 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 responsible 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 misled 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 100,000, including the unusually high years around 1900. From 1964 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 was 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 from 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 immigrant admissions bring us.

Then, in the good old days of yesteryear, we had a much smaller U.S. population and many more people depending on us for setting 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. American ‘melting-pot’ assimilation was similar to that of new immigrant families. And, the melting pot concept was generally accepted and encouraged assimilation. In addition, there were periodic hulls in immigrant admission levels so as to allow for assimilation.

NOW

Today, circumstances are quite different. Land and resource availability is far more limited and expensive. The United States is a mature nation with a host of serious economic, social, and political difficulties, economic programs, chronic unemployment, crime, millions of needy, and so forth. Our population has increased over 100 million times over. In fact, the United States is taking in 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 favors highly skilled, more educated workers to compete in the new global marketplace instead of unskilled or low-skilled immigrants. 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 of immigrants 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 path of enhancing our strengths by melding a diverse 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 bet today to start voluntarily admitting three-quarters of a million, or more, new people—most of whom are poor, low-skilled and don’t speak English? Well, I dare say that most of those who did would face serious re-election problems when outraged voters learned of their actions. Perhaps, this is why the Judiciary Committee’s legal immigration bill uses the admission caps 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 or 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 underestimate 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.

Educational costs, 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 1965, 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 1993 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 non-citizens—are receiving SSI and Medicaid benefits, costing $5.1 billion for SSI and another $2.3 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.
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 percent. For native-born households, it's only 14.1 percent—a gap of 6.6 percentage points (proportionately, 47 percent).

And the SIPF 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 SIPF 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 percent probability of receiving AFDC, v. 2.9 percent of native-born families. [Further details in Table 1].

AVERAGE MONTHLY PROBABILITY OF RECEIVING BENEFITS IN EARLY 1990S

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>Immigrant Households</th>
<th>Native Households</th>
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</thead>
<tbody>
<tr>
<td>Cash Programs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AFDC (Aid to Families with Dependent Children)</td>
<td>4.4</td>
<td>2.9</td>
</tr>
<tr>
<td>Supplemental Security Income (SSI)</td>
<td>6.5</td>
<td>3.2</td>
</tr>
<tr>
<td>General assistance</td>
<td>5.8</td>
<td>6.6</td>
</tr>
<tr>
<td>Noncash programs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medicaid</td>
<td>15.4</td>
<td>8.4</td>
</tr>
<tr>
<td>Food stamps</td>
<td>5.2</td>
<td>6.5</td>
</tr>
<tr>
<td>Supplemental Food Program for Women, Infants, and Children (WIC)</td>
<td>3.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Energy assistance</td>
<td>2.1</td>
<td>2.3</td>
</tr>
<tr>
<td>Housing assistance (public housing or low-rent subsidies)</td>
<td>5.6</td>
<td>4.4</td>
</tr>
<tr>
<td>School meals and lunches (free or reduced price)</td>
<td>12.5</td>
<td>6.2</td>
</tr>
<tr>
<td>Summary:</td>
<td>20.7</td>
<td>14.1</td>
</tr>
</tbody>
</table>


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 SIPF 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 38.5 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 9 percent of households are
immigrant out 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 22-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 16.3 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 household 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 percent of households originating in the former Soviet Union are covered by Medicaid. Similarly, about 17.2 percent of households originating in Italy, 36 percent from Mexico and over 50 percent 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 percent 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 trivial. A 10 percentage point increase in the fraction of the existing immigrant stock who receive benefits from a particular program implies about a 10 percent 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 MacAlister reported that "a popular 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 percent of this narrowly defined immigrant population receives benefits, v. 13 percent of native households that do not contain any elderly persons. Welfare gap: 4.3 percentage points (proportionately, 39 percent). 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: 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 astute 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 are a tremendous burden. 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 we do that here, we 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 are 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 memo- rialized on the Statue of Liberty by Emma Lazarus. They are going to be left 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 terrible thing. The Secretary 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 part? 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 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 we can all tell. It is about if you really care. If you 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 raise the numbers, you are going to continue to see a backlog of brothers 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 and there, and 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 a great 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, the gimick Social Security and the gimick driver's licenses and all the rest. What a bunch. What a bunch.

I am still waiting for the editorial front of their wizard's over there to pour out for 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 slick—

And the second question, do you want to limit illegal immigration, and the answer is "Yes." 70 percent consistently throughout my entire time in the U.S. Senate.
out of the United States and keep them from working in the United States so that the American citizens can have the job and do the work. It is a curious operation that we are told to do. 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 are waiting for years, now we admit under our current system 55,000 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 selected 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 magnitudes, they knew.

So the important line 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." Let me tell you about 1.5 million spouses and minor children or some closer relative, an unmarried sister, 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. The INS recognizes that these are not playing by the rules. They 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. Let me tell you about 1.5 million spouses and minor children or some closer relative, an unmarried sister, 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.

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a substantial portion of those people who are in this category of permanent residents, were themselves admitted here in 1986 by the legislation that Congress passed and which was signed into law. Prior to that, they entered the country illegally. They were illegal aliens, 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 prior- ity 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 and U.S. citizens and minor children, between married children of U.S. citizens and minor children, between married or unmarried 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, give 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 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. That is a huge 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. No one has 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, 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. To that 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 shut out? Mr. President? Are these really people who 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 DREWING referenced when he talked about the gutsy guys who have come here. Who are those people who have come here over these 5 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. In fact, it is unduly exaggerated contention. To the extent it exists, the illegal immigration bill will discourage it. To the extent that anyone 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 non-citizens that are going to discourage any additional taken of the system, which will leave us in the kind of country that so many people sought to come over its history, the kind of nation where people came here to play the game, 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 things.

First, the Simpson amendment is an attempt, no matter how it is characterized, to bring very wealthy, very complicated legal immigration issues and inject them into the illegal immigra-

tion bill. Those issues should be considered separate and very comprehen- sively 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 for children of noncitizens versus the children of citizens. It would place a higher priority on legal aliens versus the children of ci-

tizens. If we are to address, and affectively address, issues of illegal immigra-

tion, 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 PRESIDENT. Mr. FEINGOLD addressed the Chair.

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 re-

member Senator ABRAHAM and I did offer an amendment that was approved in committee for those situations where someone has come here legally and then overstay their visa. We increased the penalties for that. That is not quite so far as 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 the process 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 that are acting completely legally, and they are going to be forced into a bill that is all about the public anger and concern that goes with illegal immigration. I think that point is significant.

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 test 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. More no mistake that it is not. 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 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 piece-meal. It is a very significant aspect of legal immigration, and somehow decides 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 imposes. Whether or not you agree with these provisions, when you look at the facts—when you look at the facts and say this amendment purports to help, with your extended family, those of U.S. citizens who happen to be illegal aliens, who came in here illegally and who were ultimately granted amnesty in the Simpson-Mazzoli bill. 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 the issue of legal and illegal immigration separately. 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 your 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 intends to help, with their children, with spouses, people who were illegal aliens, who came in here then because of the amnesty provision of the 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 factually 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 12 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. 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. Where are they? Among 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 going to be granted amnesty, once they were granted amnesty, went onto 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, if 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 every person does not elect to become a citizen. No one is going to kick these 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 that 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 at an all-time high. That is simply not true. It is very 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 roughly this rate for 30 years. 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 April 25, 1996 that show the numbers are up. Yes. What it shows is this still 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 spike. So we are dealing with that. All 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 character to offer 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 all that 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, may be 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 were to go back a generation or two or three, it 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, the mix 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 you one example. It has been stated time and time again by our colleagues 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—members of families 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 their visas, 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 two 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 what 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 have 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—that is a 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, and that people who come here illegally are dealt with—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 issue. 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 these issues we are going to be into if, in fact, this 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, 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 no law 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 the law should be changed—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—the law was changed, the assumption was that we would stop illegal immigration. How naïve, 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 not come 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 see so many of these 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 legal 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 temporary 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, is so restrictive that it really limits 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 ceiling is a very high number. In effect, it says this is a real number 480,000 will be it. Period. That is, each year, how many people can come in legally.

Those who favor basically open, legal immigration, I will say it, no, the bill actually has a cap in it.
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, the 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 really are 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 let Mr. KYL have his 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, they 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 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 that when talked about Piercable, I mean to do what we mean by that. The Simpson amendment provides for 480,000 admissions per year. The question is whether or not that number is Piercable 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 Piercable, as is the current bill. "Piercable" means that the 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 another one.

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 do. Some will simply have to wait longer than the 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 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 of 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 in legal immigration that the INS now says will enter the United States over the next 2 years. They have undercalculated or miscalculated too many numbers over 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. 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 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 1985: 41 percent in both years.

As I said, the Simpson amendment is important because it provides a true temporary limit. In 1990—1995 the level of immigration was increased substantially, 41 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 200,000 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 country of both American citizens and citizens of the world, 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 well-deserved costs of both legal and illegal immigration, on 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 about 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 my colleagues 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. She 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 the Senate will support the Simpson amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

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. But I 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 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 limitations. 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 adult children and spouses. There are numbers for those 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 at risk. There are some 85,000 of those. They get in now.

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 for that spillover. Mr. President, 7,000 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 is left over to take care of the adult children and brothers and sisters. That is right 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, 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 in.

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 the various 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.

And the reason we have this slight blip in the tremendous 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 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 in 1986 was 105,000, and 105,000 in the family preference was 206,000. 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 fair to the people 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. 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 are not on that.

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 total number of visas, 32 percent reduction for brothers and sisters and the wives of the permanent resident aliens. 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.

I listened to the presentation of my friend and colleague from Alabama,
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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 22 percent are illegal. The problem is about 85 or 90 percent of are illegals that are in jail. When he says on the chart, looking at this formulation, "They are in jail, they are using the system." These 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 individuals 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 legal, 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 other native American who is, in 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 the 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 programs that has been made in saving the taxpayer fund.

We are asking, why are we getting into all of these 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 number of illegal aliens. The fact of the matter, on the Jordan Commission numbers it is recognized it would be 490,000 that would come here with families. They had another 150,000 in backlog which would be added on to that. They did not 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 Johnson allows for 100,000. Those numbers can continue to grow. I think that is absolutely wrong.

Even when 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, into mechanics and cooks and other jobs. These 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 support 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 $18 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 countries. We are being inundated with illegal immigrants." Well, it became almost a joke because each county was of the assumption that it was 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 address.

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 clean cases. Further, illegal aliens may receive APD benefits 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 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 check of the working people, to support 4-million-plus illegal immigrants. Is it any wonder why 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 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. 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 personal and by streamlining the deportation procedures, so that they can be removed.

Further, this bill will stop the practice of people entering the country illegally and going onto our welfare rolls. Anyone receiving 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.

Mr. President, we need to pass this bill to stop 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 am sure we may be nearly ready to properly proceed to a rollcall vote on this issue. And then I think that we 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 chamber 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 stand. I hope others to do such a magnificent thing as to take one of their "babies," one of their very wonderful things, and lay it to rest, perhaps.

In my view, 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 decisions. 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 makes a world of difference to children, mother, father. All of us surely will remember that that is from whence we all spring.

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 more, Members and some of my colleagues who have come by this morning and it is clear that 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 any 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 these 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 has shown 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 numbers—people who are permitted to come to the country legally reduced, those who say that would have different priorities if they understood the ramifications that might affect them or their communities. I have not yet seen any group of people have 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.

As has been pointed out, the Immigration and Naturalization Service has noted that there will be a spike, and come able to become legal immigrants. This amendment will basically shut the door on them—all illegal immigrants. Will stimulate legal immigrants come here for that opportunity. They would surely not favor that form of immigration which we want to see the number of legal immigrants who are currently in the country and people who are citizens will be given the choice to be able to come in as legal immigrants. This amendment will basically shut the door on them—all illegal immigrants. We will be giving children of U.S. citizens a lower priority than the children of noncitizens. We will be giving children of citizens a lower priority than the children of people who came here as illegal immigrants. We will be giving hundreds of this Nation's Medal of Honor winners were legal immigrants. Hundreds of people who make contributions in the sciences, high-tech industries, 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 not the case for many 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
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 these issues, the sorting out of what ought to be the priorities, the sorting out of what ought to be the method by which this country ought not to be denied legal immigration from the rest of the world. It is the way the Judiciary Committee can be passed, but the sequence ought to be illegal immigration, and then we arrive at the top priority. We have a bill. Let us go on from 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 indicating 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 have to comment on the one thing that keeps coming back like a theme.

Oh, then I wanted to say that if 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 messaged up more legislation in this area than any living group, and they will continue to do it forever. This is their bread and butter. You read and butter 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 talk away if you do not raise the numbers. If you do not raise the numbers, what do you think 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 illegal and legal 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 we 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, give them the credit. I compliment the Cabinet on the 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 amendment, that the House voted to divide the legal immigration 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 them 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 illegal immigration in all of its reforms, in every form of immigration 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, and 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 get away from some of the things. But to know that the House, that it is before us, 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 a 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 raised the issue during the April recess, in fact, I raised it, and 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 separate 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 that was affirmative. 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 comment for the moment. I see other speakers here.

Mr. SIMPSON. Madam President, I appreciate that. The PRESIDENTING OFFICER. The Senate 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 PRESIDENTING OFFICER. The Senate 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 took this picture out of the book and sent 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 mention the same story about Spencer 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. We try to imagine these brilliant people from Lebanon 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 there that ordinary people like you and me and we 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 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 family, and with that freedom, ordinary people like us have been able to do extraordinary things.

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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 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.

The result was announced—yeas 32, nays 67, as follows:

[Vote Call No. 96 Leg.]

YEAS—22

Akaka

Biden

Brown

Breaux

Byrd

Campbell

Chafee

Coats

Cochran

Coverdell

Craig

D'Amato

DeWine

Dole

Domenici

Durbin

Exon

Faircloth

Feinstein

NAYS—67

Ford

Ginsburg

Kennedy

Kerry

Dodd

Dorgan

Leahy

Frist

Gorton

Hatch

Hollings

Chadwic

Jeffords

Coons

Saxby

Coburn

Graham

Gingrich

Burns

Bumpers

Burns

Campbell

Chafee

Coats

Cochran

Coverdell

Craig

D'Amato

DeWine

Dole

Domenici

Durbin

Exon

Faircloth

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 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 devasting 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.

So to 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 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 may 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 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 reproduces the policy of the previous bill. 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 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 they avoid 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 I 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 do not become a public charge. And, if the sponsor cannot meet the debt, before it breaks, 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, promise 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 admire Mr. Simon's support for this amendment—what we are simply saying is that there are going to be programs that may be taking advantage of that are available, with no knowledge it could be a basis of deportability. 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 someone takes advantage of those programs for 1 year, that is a basis for deportation. That is crazy. 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 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 goes to 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 them can keep their 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 are the ones who get caught under a FTPA program they can be deported.

Mr. KENNEDY. This is even after we 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 cut through the process and 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 we simply 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, and going on; and I would hope we would use some common sense here and accept this amendment.

Mr. SIMON. Mr. President, I feel like somehow I have spoken on this. I think, probably 20 times throughout this debate...

Mr. KENNEDY. Mr. President, could I ask you, 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. SIMPSON. 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 an 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 percentage wise. 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 aliens—illegal aliens—who refuse to take care of themselves. 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 unenforceable and unenforceable, and, as Senator Domenici said, we have deported 13 people
April 30, 1996

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, wherever the state whatever state, will be phased in over 6 years, and new 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 estimated the 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 that time, 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 in response to the Congressional Budget Office's estimate of the cost of the bill's current requirements 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 a fully compliant I.D. 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 as an official purpose a copy of a birth certificate (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 forgery. 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. 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 citizen and noncitizen parents—and whose birth is registered in the United States.

Finally and fifth, 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 certificates 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. The legal 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 times 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 Social Security Administration—but does not 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. SIMPSON. 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, I believe it was 3865, that was 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 multijurisdictional 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 a Terrorism Prevention Act into law. 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. By 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 database with a link to the repository.

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. And it also would make sense to have the LESC on the repository for INS A-files related to aggravated felons and aliens listed in the NCIC deported file. Locating these files at the Tracking Center will improve the accessibility to INS agents and U.S. immigration 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 that time will be taken off the waiting list. Those who are 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. If the 3-month appeal is exhausted, a hearing can 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 1985, 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. The 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 it.

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 are illegal. In Maricopa County, there are 1,504 Section 8 units and 917 public housing units. 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 for them.

The problem in Arizona is dramatic; nationwide it is even more dramatic. In his report entitled "The 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 are here legally 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 do not verify that an 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 am very pleased with the amendment. 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 to further proceedings under the quorum call be dispensed with.

Mr. SIMPSON (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 order of the Senate. Which amendment would the Senator wish to consider?

AMENDMENTS NO. 3856, 3857, 3858, 3859, 3860, 3861, 3862

Mr. SIMPSON. The amendments have been consolidated en bloc; 3856, 3857, 3858, 3859, 3860, 3861, 3862 all relating to alien birth certificate and driver's license provision—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 cost of college. We have already provided exemptions for those students who are in school—they will have no difficulty 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 AMENDMENTS NO. 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. 96 Leg.]

YEAS—46

Abraham
Ashcroft
Bennett
Biscan
Bond
Brown
Bryan
Burns
Campbell
Coash
Coburn
Craig
D'Amato
DeWeese
Dele

Akaka
Bingaman
Borum
Brady
Breaux
Byrd
Chafee
Conrad
Daschle
Dodd
Durbin
Enos
Feingold
Feinstein
Ford

Glenn
Moseley-Braun
Moynihan
Murray
Petegold
Petengill
Peterson

MOSLEY-BRAUN

YEAS—47

Akaka
Biden
Boxer
Breaux
Brown
Bryant
Bunning
Bunner
Byrd
Chafee
Conrad
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford

Glenn
Graham
Harkin
Hatch
Helms
Hollings
Hogg
Jeffords
Johnson
Kerry
Kerrey
Leahy
Lieberman

MOSLEY-BRAUN

NAYS—52

Akakai
Biden
Boxer
Breaux
Brown
Bryant
Bunning
Bunner
Byrd
Chafee
Conrad
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford

Glenn
Graham
Harkin
Hatch
Helms
Hollings
Hogg
Jeffords
Johnson
Kerry
Kerrey
Leahy
Lieberman

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.

AMENDMENT NO. 3822

The PRESIDING OFFICER (Mr. ABAHAM). 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 motion 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 left in 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 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, I should have the same opportunity. I think all would concur. So I want to have an opportunity to approximately 1 1/2 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 you are not eligible for benefits unless 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 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. 96 Leg.]

YEAS—47

Akaka
Biden
Boxer
Breaux
Brown
Bryant
Bunning
Bunner
Byrd
Chafee
Conrad
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford

Glenn
Graham
Harkin
Hatch
Helms
Hollings
Hogg
Jeffords
Johnson
Kerry
Kerrey
Leahy
Lieberman

NAYS—52

Akakai
Biden
Boxer
Breaux
Brown
Bryant
Bunning
Bunner
Byrd
Chafee
Conrad
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford

Glenn
Graham
Harkin
Hatch
Helms
Hollings
Hogg
Jeffords
Johnson
Kerry
Kerrey
Leahy
Lieberman

NOT VOTING—1

Thompson
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 the legal immigrants 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. 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 have arrived here legally. 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 already 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 the interest of the nation.

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 graduated high school, who may have been on some hard and difficult times, and what we are going to say is this is a 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 are consistent. They do 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. FELL. Mr. President, I rise today to speak on behalf of the Kennedy amendment to S. 1694. I support the Kennedy amendment because it would protect the interests 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, thereby, 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 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 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 the Kennedy amendments 3820 and 3823 en bloc at 4:50 this evening, to be followed immediately by a vote on or in relation to the Kennedy amendment 3829.

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

Mr. SIMON. Reserving the right to object, will the Senator make it 4:55, so I can get 3 minutes in here?

Mr. SIMPSON. We have people apparently going on a 10-minute break. 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 hard. 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 from the "deeming" requirements in the bill. Everyone understands what "deeming" does. Deeming requires sponsors to keep their promises.

Since 1982, 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.

Our problem is not with the children, the future of many young people. People who 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.

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 qualify for the application. 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?

The PRESIDING OFFICER. The Senator from Oregon is recognized.

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the U.S. sponsors of immigrants in order to increase the likelihood that aliens will be efficient in accordance with the Nation's long-standing policy, and to reduce any additional incentive for illegal immigration provided by the availability of welfare and other taxpayer-funded benefits.

The bill provides that if an alien within 5 years of entry has become a public charge, the bill deferring standing as someone receiving an aggregate of 12 months of welfare, he or she is deportable. It is even more important in this era of welfare than at any time before. 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 on numbers and the slight chance of deporting an illegal alien. You heard that debate here. That is the provision, that is the provision we talked of that extensively. We talked of those numbers and the slight chance of deporting an illegal alien. You heard that debate on what I think is one of the most important in our history because, before the great network of social systems, if an immigrant existed, that is the provision.

The sponsor's agreement is the affidavit of support. The sponsor provisions are based on the view that the sponsor's agreement with the U.S. government 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 support 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—also 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 in 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 the 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 thread 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, deserted, or unable or unwilling to have a reasonable period in this country paying taxes and supporting, 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" 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 provisions, public charge provisions in this bill for the aggregate which illegally get automatically and for all 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 that amendment? Because they understand, as we understand, that when you put in effect deeming that cut 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 illegal to be able to use. Why? Because if they use the particular programs, this will mean that it is healthier for Americans. But 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, and if the child meets certain criteria, and now it is up having a heavy cough, perhaps he or she has asked any kind of attention in the school health clinic because he is ill, 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 to separate out the illegal children in school lunch programs. That would be very complicated. It would turn our school-teachers into federal agents of INS. It would have the teachers going around and reviewing documents for INS proving that 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 Hrushevis 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, to his credit, worked out an orderly kind of process by which we are going to reduce the number of breeder
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 become 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.

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.
So the amendment (No. 3760) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. The PRESIDING OFFICER. The question is on agreeing to amendment No. 3760.

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 and resources 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 public housing sponsored-alien deeming to only SSI, the provisions of this bill, would limit immigrant relatives.

Mr. KENNEDY. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment (No. 3803), as modified, is as follows:

Section 24(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 grants or loans from 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 subsection (c), 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 do this, but 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 aaemg-parity amendment, which are two en bloc, and the Kennedy Medicaid amendment. There will be no 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 Senator from Massachusetts.

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.

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 say to do it somewhere else.

I urge that this amendment be rejected, come back with an amendment that covers people 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 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 set aside for the additional 30 minutes allocated for debate. Without a unanimous-consent request and agreement—

Mr. GRAHAM. I would ask unanimous consent for a 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. I 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 that have been repeated.

Mr. GRAHAM. Mr. President, the Cuban Adjustment 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 a 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 stay.

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 Cuban, as I hear this. We have provided in this measure for 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 question, 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:

[Call Vote No. 91 Leg.]

YEAS—62

Abraham
Baucus
Baucus
Biden
Bradley
Breaux
Burns
Burns
Cochrane
Conrad
Cornell
Craig
Craig
Craig
Crynko
DeWine
Dole
Dole
Durbin
Durbin
Faircloth
Frank
Frist

Glam
Gore
Grassley
Grassley
Gregg
Hafen
Harkin
Hollings
Hutcheson
Ibott
Kempthorne
Kerry
Kerry
Kyl
Kyl
Lausen
Leahy
Lieberman
Lieberman
Logan

Mack
McConnell
Mica
Mikulski
Markowski
Nicks
Nunn
Pryor
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Specter
Saxby
Thomas
Warner

NAYS—37

Akaka
Ashcroft
Bingaman
Boxer
Brown
Bunning
Bunzel
Byrd
Campbell
Case
Cochrane
Dodd

Eno
Feingold
Feinstein
Feinstein
Finnell
Flaherty
Hafted
Inouye
Jeffords
Johnson
Kaneko
Kennedy
Levin

Moynihan
Murray

Mossely-Braun
Moylan

Musgrave
Phillips

Nelson

O'Connell

Price

Pryor

Reed

Robert

Rockefeller

Santorum

Schweiker

Snowe

Specter

Saxby

Saxby

Schumer

Saxby

Thom

Warner

Wyden

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Wyden
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. 3762
(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. 3762.

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. 3763
(Purpose: To exempt from deeming requirement 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. 3763.

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. 1382(g)."

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 provides 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.
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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).

The PRESIDING OFFICER. The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

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 the other side will have an amendment.

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 is 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.
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other entity may not request a specific document from among the documents permitted by section 274A(b).

"(B) VERIFICATION.—Upon expiration of an employer's employment authorization, a person or other entity shall verify employ- ment eligibility by requesting a document from the accepted list of documents—that the documents tendered by an individual, unless the person or entity, at the time the person or entity possesses knowledge of the individual's inability 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. The individual, at the time of hire, possesses knowledge that the individual is an unauthorized alien as defined in subsection (2)(X) 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 the obvious fact that the individual is an authorized alien or that the document or documents are not from the accepted list of documents, and the document reasonably appears to be genuine on its face.

"(1) 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 compiled in good faith within the time limits provided by subsection (a)(6) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the employer 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 relate to the individual. In any case, the person or entity possesses knowledge that the individual is an unauthorized alien as defined in subsection (2)(X) 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 the obvious fact that the individual is an authorized alien or that the document or documents are not from the accepted list of documents, and the document reasonably appears to be genuine on its face.

"(B) REVERSI ON.—Upon expiration of an employer's employment authorization, a person or other entity shall verify employ- ment eligibility by requesting a document from the accepted list of documents—that the documents tendered by an individual, unless the person or entity, at the time the person or entity possesses knowledge of the individual's inability to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b)."
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 conducting important hearings over the course of the morning. I will first 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 motion 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 NO. 3833 AND 3834, EN BLOC

Mr. SIMPSON. Let me ask unanimous consent the pending amendment be set aside temporarily, and ask unanimous consent amendments 3833 and 3834 be set aside in bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk reads as follows: The Senator from Wyoming (Mr. Simpson) proposes an amendment numbered 3833 and 3834.

The amendments are as follows: AMENDMENT NO. 3833

Amend section 112(a)(1)(A) to read as follows:

(A)(i) Subject to clauses (ii) and (iv), 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(c)(5) and (6)(A)).

(ii) Each project under this section shall be consistent with the objectives of section 111(c)(1), and 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 States(areas), 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) A regional or 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(c) is amended to read as follows:

(C) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except to the extent that the criteria in subparagraphs (D) and (G) of that section, and meeting the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements of the 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, or the project shall remain fully applicable to the participants in the project.

(2) SUPERSEDMG EFFECT.—(A) If the Attorney General makes the determination (paragraph (1)) that a project conducted under this section 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, the project shall remain fully applicable to the participants in the project.

(3) If the Attorney General makes the determination (paragraph (1)) that a project conducted under this section 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, the project shall remain fully applicable to the participants in the project.

Mr. KENNEDY. Mr. President, I ask the pending amendment be temporarily set aside and be in order to consider my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk reads as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 3839.

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 investigating the violations of the Secretary of Labor to conduct investigations, to a complaint or otherwise, where there is a reason to believe that the employer has made a misrepresentation of a material fact on a labor certification application under section 274A(b)(3) 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 inspectors 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 given 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 investigations of cases where there is a reasonable belief 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 immigrant workers only when the U.S. workers are not available. A recently released report of the Department of Labor's inspector general shows recruitment in the permanent employment program is a sham.

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. 3834

(Purpose: To modify bill section 112 (relating to pilot projects on systems to verify eligibility for public assistance or obtain other government benefits) to define "regional project" as 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:

(4) 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. 3835

(Purpose: To allocate a number of investigators at the Department of Labor to investigate complaints relating to labor certifications)

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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 37 of the matter proposed to be inserted, beginning on line 12, strike all through line 14, and insert the following:

(a) IN GENERAL.—For purposes of paragraph 274A(b)(3) (8 U.S.C. 1324a(b)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES...."

Mr. KENNEDY. Mr. President, under my amendment, up to 150 of the 350 Department of Labor inspectors 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.

The amendment is as follows:

On page 37 of the matter proposed to be inserted, beginning on line 12, strike all through line 14, and insert the following:

(a) IN GENERAL.—For purposes of paragraph 274A(b)(3) (8 U.S.C. 1324a(b)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES...."
I wish to give Senator KENNEDY an appropriate time to respond to 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 the idea of a verification document 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 mandate 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 $200 million initially, plus $2 million a year thereafter, CBO estimates that the total cost of all the birth certificates and driver's license improvements would not exceed the million incurred over 6 years, and the Chairman wrote 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:


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 section 118, the Immigration Control and Fraud Prevention 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 the provisions while adhering to their current renewal periods.

The amendment contains no intergovernmental mandates as defined in Public Law 104-4. It provides states with direct authority on state, local, or tribal governments. In fact, by delaying the effective date of the provisions in section 118, the amendment would substitute section 118 mandates in the bill. If the amendment were adopted, CBO estimates that the total costs of all intergovernmental mandates in section 118 would not exceed the $50 million threshold established by Public Law 104-4.

In our April 12, 1996, cost estimate for section 118, as reported in the Senate, CBO estimated that section 118, if implemented, would cost states between $30 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. If the amendment were adopted, the direct costs to states from the driver's license and identification document provisions would total between $10 million and $50 million a year in 1998 and less than $2 million a year in subsequent 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

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 and the local 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, it seems to me, the need 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 regulations 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 essential aspects of this provision. 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 point is 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 point is 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 point is 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 point is 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 point is that this provides.

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 broader document, which Senator SIMPSON has done, and also in the Border Patrol, the other measures he has 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. If the principal reason the Senator from New Mexico 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 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, who have 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 elderly 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) 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 for a project in each of 5 States to demonstrate the feasibility of a system by which each 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.

(4) BIRTH RECORDS.—(A) Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the 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) The standards described in this subparagraph shall not apply if the document required by paragraph (B) is present, no State shall focus first on 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.

(b)(1) 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. 3598

(Purpose: To amend sec. 118 by providing that the birth certificate regulations will go into effect two years after a report to Congress was submitted; to encourage States to develop a system by which birth certificates of deceased persons may be necessary

(b)(2) The Secretary of Health and Human Services shall establish a fund to be provided, within 24 hours, to the feasibility of a system by which each 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.

(b)(3) Grants to be provided, within 24 hours, to the feasibility of a system by which each 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.

(b)(4) In consultation with other agencies designated by the President, the Secretary of Health and Human Services, in consultation with 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 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.

(b)(5) Grants to be provided, within 24 hours, to the feasibility of a system by which each 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.

(b)(6) In consultation with other agencies designated by the President, the Secretary of Health and Human Services, in consultation with 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 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.

AMENDMENT NO. 2539

Section 118(b)(5) is amended to read as follows:

(b)(5) For the purpose of encouraging the feasibility of a system by which each 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, the Secretary of Health and Human Services shall establish a fund, in the United States, but the number 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. 3599

Section 118(b)(5) is amended to read as follows:

(b)(5) Grants to be provided, within 24 hours, to the feasibility of a system by which each 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.

AMENDMENT NO. 3561

Amend sec. 118(a)(4) to read as follows:

Section 118(a)(4) is amended to read as follows:

(a)(4) Grants to be provided, within 24 hours, to the feasibility of a system by which each 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.

AMENDMENT NO. 3597

Amend section 118(a)(4) to read as follows:

Section 118(a)(4) is amended to read as follows:

(a)(4) Grants to be provided, within 24 hours, to the feasibility of a system by which each 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.
Mr. SIMPSON. I call up amendments 3855 and 3857 through 3862, en bloc.

The PRESIDENT. The amendments are set aside, and the clerk will report.

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

The PRESIDENT. 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.—

(4) shall take effect on October 1, 2000.

(5)(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—

(1), 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

(2), beginning on October 1, 2006, to all driver's licenses or identification documents issued by such States.

(5) Paragraph (4) shall take effect on October 1, 2006."

AMENDMENT NO. 3857

Amend section 118(a)(3) to read as follows:

(5) 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 en-
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 "homeless". The way 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 $5 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 spends $3 million 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.

Mr. Domenici. I think I asked, are we on the first 15 minutes?

Mr. Simpson. The Senator's own time.

The PRESIDING OFFICER. The Senator from New Mexico, Senator Domenici, is recognized.

Mr. Domenici. Might I ask, are we on the first 15 minutes?

Mr. President, let me just suggest that if the American people understood what happens to the use of the 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. But I understand all of 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 her father she was a citizen, and she was not.

I understand how immigrants add to the energy of this great Nation. I understand how they provide through their gumption and hard work, how they provide, without any government, for America. I am not here talking about changing that or denying that. But I want to just start by ticking off of 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 welfare, to the good welfare, 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. 1.5 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 taxes, and it is paid 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, the 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, 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 means 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. 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 on 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 the 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 the 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 away 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. Some may say that that is a policy. Paying 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 may be 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 are 2.5 percent of the population. If we 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 the promoting of this family unification by putting in this legislation that we have passed so that 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 that population, the population 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. Authorities pilot projects to verify eligibility for lawful status contain 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 are very important. I believe that aliens must be able to support themselves and, in fact, the U.S. law requires that an immigrant 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 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 or one who will not become a public charge is to have a sponsor 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 for a 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 government resources, we must provide for our own citizens first and foremost. This legislation, under the watchful 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, I have more available to visit with, to communicate 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. He has been supportive when he could and at last 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 amendment. I have spoken on the Cuban Adjustment Act, and I have spoken on the Hooten amendment. Let me speak briefly on the Kennedy amendment, the Kennedy amendment in 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 the sponsor 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 no support, stay noth ing. 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 pay.

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 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 should 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 wonder what clarity 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 type of emergency care. It does not deny funding 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—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 the sponsor dies, the Federal 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 x-rays or deny care or any of that type of activity. We are 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 digest the word "veterans." But I am wholly uncertain what a 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, veteran students, whatever, they are provided 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 special veterans 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 the care 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 number 2 percent per year. You could not be more generous
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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.

For 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 present?

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 1995, prior to the 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 Attorn- ey General. They have not been 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 Immigra- tion 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 S. 1664, all 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 cospon- sored by Senator DOLE, Senator MACK, Senator ABRAM, 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 democ- racy 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, of two 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 in- come 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 assist- ance funded in whole or in part by the Federal Government.

That is the proposition which is cur- rently in the law. The Senator from Wyoming may say, happily, that that represents a restriction, because the original version of S. 1664 ap- plied that same vague language, not just to federally funded programs but to programs by governments at the State and 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 what their obligations are. Not all who are affected, let us tell those persons who are attempting to provide these serv- ices in a reasonable way what it is we intend to be covering. Let us list spe- cifically what those programs are in the future as we have in the past. The current immigration law lists spe- cifically 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 to have in 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, the Catholic organizations are supporting this amendment be- cause they say we want to know pre- cisely what it is we are going to be re- sponsible for administering, since it is going to be our responsibility to do so. That is why those organisations 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 be paid by the Federal partner will be- come the obligation of local govern- ment.

The Senator from Wyoming left the inference that there were two places through which these services for legal aliens were provided by the Federal Government; second, by the sponsor. I suggest that there is a third, fourth, fifth, sixth, and so forth addi- tional party who will be picking up these costs. Those are the thousands of organisations of service providers, once 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 medi- cally indigent, that cost will be a shared cost, with the Federal Govern- ment paying a share of the cost. So, we are not paying a portion. With what we are about to do, we are going to make that cost an unreimbursed cost to that hos- pital. Typically, it will be a public hos- pital. 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 sup- ports 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. Unfortu- nately, under the amendment as cur- rently 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 re- sponsibilities are going to be, beyond the vague standard that they have to cover all programs. That is a restriction of any program of assistance funded in whole or in part by the Federal Government.

So I do not think that is good govern- ment. That is not good policy. It is not a respectful relationship with our partners in the States. 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.
at delivery and throughout the lives of the children.

Finally, many legal immigrants serve in our Armed Forces. We mention that specifically at other times in the debates. Most veterans being about means tested. If the sponsor deeming provisions in the bill are applied to veterans benefits, some veterans will find themselves ineligible for VA benefits. 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 areas of foreign works programs, which are means tested. These programs provide vete with free inpatient hospital care and nursing home care. In addition, these programs help veterans pay for inpatient and out patient care. If these VA programs deemed, Medicare 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—who 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 for special needs as I mentioned primarily those particular ones who have 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 is 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 the 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 carrying $125 million out of that and saying, but 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 not only 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 GAMA 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 illegal children and the veterans 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.

Then and the second amendment that I have sent to the desk deals with carving out the areas of Medicaid, for pregnant women, 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 NO. 3832 AND 3833

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 reads as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes en bloc amendments numbered 3832 and 3833 to amendment No. 3745.

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 301 after line 4 insert the following:

(A) any service or assistance described in section 2011(g)(1)(A)(iv); (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.

The PRESIDING OFFICER. The bill clerk reads as follows: The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3822 to amendment No. 3745.

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 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 1966.
(E) Public health assistance for immunizations with respect to immunizable diseases and for preventing and treatment of communicable diseases.
(F) The provision of services directly related to assisting the victims of domestic violence of other crimes.
(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. 3832

(Purpose: To provide exception to the definition of public charge for legal immigrants when public health is at stake, for school lunch 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. 3745

(Purpose: To exempt children, veterans, and pregnant mothers from the sponsor deeming requirements under the medicaid program)

The PRESIDING OFFICER. The bill clerk will report the third Kennedy amendment.

The bill clerk reads as follows: The Senator from Massachusetts [Mr. KENNEDY] proposes amendments numbered 3822 to amendment No. 3745.

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 any service or assistance described in section 2011(g)(1)(A)(iv);

(B) prenatal and postpartum services provided under a State plan under such 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;

(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 find a way, if the amendment 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 amendment, 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 to do with the general idea, which I addressed earlier which requires that there be two amendments.

I would ask them to 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 this would not have the same provisions, 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 years and nays on it.

Mr. President, it would be my intention to bring up a motion to recommit 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 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 could be excluded 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 Medicaid costs. 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 that 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. What is likely that 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 school nurse, the school 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 now exposed of her classmates—American citizen classmates. She is not only sick because she is 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 be denied because of the deeming. 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 turned away. 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 immigrants, mothers 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 shown to prevent 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 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 an extensive amendment. According to CBO, the cost of care for children and prenatal services is less than the cost for elderly persons.

Not surprisingly, 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. $2 billion 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 not be authorized for in this program for that kind of attention.

Furthermore, the cost of providing a healthy childhood to both unborn American citizens and legal immigrants 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, including 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 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 deem 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 counting 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 tremendous wide range of the 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, as we all would agree, who are brought here on a promise of their sponsors that they will not become public charge, should not expect access to our Nation's generous welfare programs—cash or noncash—or otherwise financially 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 sponsors more of 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, because they cannot do it. If that is the case, then 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 usurp 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 tomorrow 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 become 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 make 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 have repeatedly said, 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 millions and hundreds of thousands. Most were given legal 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 promised 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 as having been done without any kind of participation by the Congress. That is a 40,000 Cuban per year, who were chosen by lottery and no need 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—or 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 are waiting in the backlog sometimes for 15 or 20 years. And it would seem to me to make no sense to allow a Cuban to come 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 and get a green card, having violated our laws to do so. Then are rewarded with a precious card and 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 gentlemen. 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 has gone to the House and then repeal had been moved.

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 current change agreement, are they denied the other kinds of benefits that are available to others that come here as immigrants? How 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 heightening 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 to enact the Cuban Adjustment Act, will be repealed when there is a democratic government in Cuba, and that will be for another 35 years and for 35 times 35 years.

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 demonstration that 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 to 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. The income of the sponsor to the income of the alien shall not become a public charge. That is the question of the day. How can this happen? That is the question. How can this happen?
Mr. DOLE. Mr. President, I would be unable to afford aliens, they should not have a harsher of families that are here. In instances the rules, came here legally. Over 76
ject to more restrictions than illegal study has documented the effectiveness
nients.

d not better than, any of the returxi that have been demonstrated to be as good as, if programs under the Stafford loans have have extraordinary kinds of .record. The present time who are .tidng advan-
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. 371 TO AMENDMENT No. 372
(Purpose: To make a technical correction to sec. 290 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 290(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 PRESIDING OFFICER. Without consent, the amendment will come up. The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson] proposes an amendment numbered 3871 to amendment No. 3763.

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 290(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 drayed 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 will.

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 with the state and 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 to deem the 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 5 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 inform the Senate, and 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. Those 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 from 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 unconstituently 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, and they 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 the care that we have that in this legislation. But the other programs I have referenced here are closely related in merit to those programs.

Illegal immigrants should not be deemed for programs for 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 importance of 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 that the health care for both legal and illegal 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

The PRESIDING OFFICER. Under the previous order, the Senate will re-
sume consideration of S. 1664, the Immig-
ration 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 Naturalization Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system for 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:

Graham amendment No. 3745, of a per-
fecting nature.

Graham amendment No. 3760 (to amend-
ment No. 3745), to condition the repeal of the Cuban Amendment Act on a democratically elected government being in power.

Graham-Specter amendment No. 3803 (to amendment No. 3745), to clarify and enumerate specific public assistance programs with respect to which the deeming provisions apply.

The PRESIDING OFFICER. The Sen-
tator from Wyoming [Mr. SIMPSON], is recognized.

Mr. SIMPSON. Mr. President, now may we review the activity. Am I cor-
rect that we have two amendments at the desk of Senator BOB GRAHAM of Florida, to which there has been a de-
gree 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. Amend-
ment No. 3780, pending, offered by the Senator from Florida [Mr. GRAHAM].

Mr. SIMPSON. And then, Mr. Presi-
dent, is there another amendment also pending?

The PRESIDING OFFICER. The Chair is informed No. 3780 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 embargoing on the issue of illegal immigration. I hope my colleagues will pay very clear attention to this debate. This is the crit-
cal one. This is where we begin to get something done.

I must admit, and I thank my col-
leagues for their patience in my ob-
streperous behavior to propose to go forward with one or two items that had to do with illegal immigration, thinking that I might get some attention of my colleagues to do something with regard to chain migration and other pheno-
nen. That certainly was a message clearly conveyed that that will have to come at another time.

So I will not be trying to link any-
things I have no sinister plan to pro-
cceed to some omnibus construct. 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 incur 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 as-
sets of the sponsor should not be de-
ed to be the assets of the immi-
grant, 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 a comment, I think, say, "Oh, my, we can't put that on the immi-
grant, that asset should be listed as the immigrant's asset," every time that will happen, it means that the ob-
ligation of the sponsor becomes less and the obligation of the taxpayer be-
comes 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 taxpayer becomes the one who gets the full force of the obligation.

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 im-
migration—and let me tell you, this bill does big things to illegal immigra-
tion because apparently that is what is sought—but you cannot, get any of it done unless you have good verification procedures, counterfeit-resistant docu-
ments, and procedures to verify 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 Hit-
er.

This 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 counterfeitt-resistant documentation, or a counterfeitt-resistant document. You must have. I am for pilot projects to review to see which ones might be the best that we would eventu-
lally 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 22 dif-
cerent documents of identification or work authorization. And the em-
ployer 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.

CONGRESSIONAL RECORD—SENATE

April 30, 1996

S4377

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

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 have 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 Medicare qualified Medicare beneficiaries. The administrative costs alone of deeming these programs 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 those reasons, we take a different approach by eliminating the vague language which is in S. 1644 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 rate reduction payments, home- owner assisted payments under the National Housing Act, HUD low-income rent supplements, rural housing loans, rural rental housing loans, rural rental assistance payments, rural housing repair loans and grants, RHC low-rent public 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 deemed 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 have decided to deeming. 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 that 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 government's ability to provide these 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 we establish for 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 came, that they are going to have their financial rights 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 mandates. That is, the first legislation to be passed by this Congress. I think it undermines the essential thrust of the legislation which is intended to be dealing with the impact of illegal immigrants.

AMENDMENT NO. 3743 TO AMENDMENT NO. 3742

(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. 3743.

The PRESIDENT proclaims the amendment. The legislative clerk reads as follows:

The Senator from Florida (Mr. Graham), for himself and Mr. Specter, proposes an amendment numbered 3743 to amendment No. 3742.

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

The PRESIDENT OF OFFICE. 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 208 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 1965;

(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) Rural housing preservation grants under the Housing Act of 1949;

(14) Rural housing assistance grants under the Housing Act of 1949;

(15) Site loans under the Housing Act of 1949; and

(16) HOME INCOME AND RESOURCES—The income and resources described in this subsection include the income and resources of—

(a) any person who, as a sponsor of an alien's entry into the United States, 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

(b) the sponsor's spouse.

AMENDMENT NO. 3745

(Purpose: To change the meaning of "permanent"

The Senator from Florida (Mr. Graham), for himself and Mr. Specter, proposes an amendment numbered 3745 to amendment No. 3742.

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

The PRESIDENT OF OFFICE. 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;
Mr. GRAHAM. Mr. President, I appreciate the cordiality of our colleague from Wyoming in moving on to the second amendment, which is, I think, 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. 667, 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 satisfactorily 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. 664 would require that the income of the sponsor, that is the person who is sponsoring the legal alien who is applying 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 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 I am offering, which has been filed as S. 3830, 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 about 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. 664.

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 "Crippled 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, drug abuse 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 are talking about in terms of those programs that will be impacted 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 we really do that?

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 in the community. Will Virginia have to reimbursed 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 vote. Do we intend to impact public policy, policy to be made into the 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 this year:

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 will impact the localities they represent. We do not want to impose mandates on the States. 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. 664, 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 Members of Congress have been presented with required impact data. 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 the courts? We should decide. We should partake in a little "legislative truth-in-advertising" ourselves.

Moreover, Members of Congress have not made the tough choices needed to pay for it. In fact, the National Conference of State Legislators, the NCSL, 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. 3865) 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 every other State, the 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 the percentage 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 apprehended 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 county jails. Many of these aliens were arrested for controlled substance violations and drug traffic.

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 than 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, an Omaha district office assessed 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.

In fact, 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 documentation processing. The Omaha INS office reported that based on its first quarter totals for this year the examinations process for legal immigrants applying for naturalization dropped their caseload last year by 45 percent. 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 provide some 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, not just the aliens that come through the airport.

I urge my colleagues 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 committed 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 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.

Senators 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 fulfill 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. 1029, the health insurance extension, and I believe 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 weeks. 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 that all 50 state health departments or their equivalents to participate in the process of obtaining J-1 visa waivers. This process allows for 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 special procedure to remain here to work 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 to turn to FMGs to fill their primary care needs. Unfortunately, obtaining J-1 visa waiver for qualified FMGs can take up to 2 years, 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 Education, 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.

Second, if and when a farmer uses the H-2A Program from both the grower's and 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 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 has not been coordinated well enough with the demand for workers.

So, it seems that we all 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 those 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 might be the migrant labor work force. But I know from talking 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 also 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—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, before the farmer 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 we 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 is that 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 farmworkers 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 the 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 the 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 application, protection of 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.
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 75,000 to 96,000 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 90 percent—do not use welfare as it is conventionally defined. That is, AFDC, SSI, and food stamps. The poorest 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 whether this is legal 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 immigrants in the Armed Forces today. A number of them are 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 under this bill is inadequate. We have more than 20,000 immigrants in the Armed Forces. We also have more than 125 individuals from the Asian-Pacific region who have been given asylum under the United States prior to the 1965 act. We have more than 20,000 individuals from the Asian-Pacific triangle provisions that have been provided by the Justice Department and Doris Meissner.

Finally, the United States must continue to provide the safety net 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 an interpreter 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 understood today, during World War II, many thousand refugees would have had no means of escape for 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. Many 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 pending the period because of the new initiatives that have been provided by the Justice Department and Doris Meissner.

Finally, there are provisions in here that 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 ended 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 have 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 a long way to go, yet 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 to the committee to work its will. He has 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 intends to 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 289 to 6—those that are the most secure—there is no assurance that this will be sufficient.

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 agents, 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 when 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 it should be.

We want to make sure that, if the children are going to be here, they are going to get the immunization that they need. They are going to get the social service 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 that.

Legal immigrants play by the rules and 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 reuniting 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 the current law. Deeming means that the welfare office considers 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 deeming provisions is to bar legal immigrants from receiving virtually any means-tested Government assistance. The 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 crushing reductions in all of these programs for an immigrant who 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 do it, and 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 benefit 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 lose 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 is not only to expect that they are going to have 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, the counties are going to have to do it, and the states are going to have to do it. That is going to cost 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 50 or 60 or 80 percent as we do for welfare programs. 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 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 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 $272 million. This is not the only cost for the poor programs. Imagine the cost of States hiring staff to run all of these four programs.

We were asked earlier today about the whole debate where the Congressional Budget Office was. They said, "We do not have the figures on it." You have the figures 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. Whether it be health 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 going to live 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 this because they are afraid of their principal sponsors at any kind of disaster.

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 want 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 hanging 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 here in 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 who want to. I find 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.

We are 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 and 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 SIMPSON and I agree on 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 put 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 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 jobs away 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 some many 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 regulate 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 5 years. Then 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 illegally 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 down or 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 would eliminate the provisions that Senator SIMPSON and I 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 would 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 temporary worker programs 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 it.

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. That means we do not need change should look at the ineffectiveness of the current system...
April 29, 1996

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But what did we find out last week? We found that we went through this incredible kind of a trepeze act. As a result of going through these parliamentary maneuvers, 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 warts to the "tree." One was a Dole amendment to the Simpson bill, and 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 identical situation last week where Senator SIMPSON had to offer a Simpson second-degree amendment to the Simpson first-degree amendment to the Simpson second-degree amendment to the Simpson first-degree amendment 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 amendment to illegal immigration, a Dole second-degree amendment to the first-degree, a Dole first-degree amendment to the underlying illegal immigration bill. Then after each of these amendments had been adopted, we had to go through a half dozen motions 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 that was tabled, 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 closure, which some Democrats will support, some will oppose. Then, finally, there may be the chance, after the closure vote, to offer amendments on the immigration bill. However, only germane amendments will be allowed after the closure 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. And for the use it is only a motion to recommit for a second 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 illegal immigration.

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 manipulations on this bill, as I stated, are the express purpose of denying Democrats the opportunity to amend 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 to 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 being 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 this last year, tried to offer this measure on competing 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 crues out for action. We are committed to try to get that action. That is why, under the leadership of Senator DASCALO, 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 so, 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 to go. We have important measures on health care, and trying to get conferees, to go to conferences, to get a decent health care bill, which passed 100 to 0. That is important. Senator KASSEBAUM and myself ought to be here. There this afternoon trying to work out a good, clean measure that can do to the President. Those measures, if 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 run the Nation's business. We ought to be about giving that opportunity, 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 vote had not even gotten into the doors over here in the conference, and it was dropped so quickly by those pension funds for working families.

I am just told to deal with these 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 trying to close down some of the tax loopholes that give opportunities to moving jobs overseas, bringing good jobs back to the United States. These 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 go about going to treat certain citizens that are legal. 5 o'clock, in the late afternoon on the 25th of July, 1996, in the Senate Chamber, the Senator for 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 go about to treat certain citizens that are legal. Dwight Eisenhower 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 in the afternoon on the 25th of July, 1996, in the Senate Chamber, and we are denied an opportunity to vote on increasing the minimum wage, and the 300,000 families that would move out of poverty to raise that minimum wage. Dwight Eisenhower 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 in the afternoon on the 25th of July, 1996, in the Senate Chamber, and we are denied an opportunity to vote on increasing the minimum wage, and the 300,000 families that would move out of poverty to raise that minimum wage.
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 motion, 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 rollover, 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, precluded from being considered germane—it is relevant and precluded from being considered germane.

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 alien resident in the United States became eligible for an immigrant visa through a family relationship or homeland 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 consul, 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 resident 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 to simply pay this fee, this five times the normal penalty fee, and thereby 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, 1980. 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.
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 today’s RECORD under “Amendments Submitted”.)

MOTION TO RECOMMEN

Mr. DOLE. I move to recommit the bill, and 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 Judici-
ary Committee with instructions to report
back forthwith.

AMENDMENT NO. 3746 TO INSTRUCTIONS OF

MOTION TO RECOMMEN

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 Kansas (Mr. Dole) 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 the following new subsection:

(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 a 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.

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:

(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 a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3747 TO AMENDMENT NO. 3746

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) proposes an amendment numbered 3747 to amendment No. 3746.

Mr. DOLE. The amendment is as follows:

[Amendment No. 3748 is located in today’s 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. 3748 TO AMENDMENT NO. 3747

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) proposes an amendment numbered 3748 to amendment No. 3747.
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 eight or nine times. Each time I hear it, I am still touched by it because it is truly America’s story.

It 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, truly, and 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 few days of years who knows Senator Pam. 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 have a few relatives. 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 gentry, 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 rags and muffins. 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. 377

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 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 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 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.

VOTE ON AMENDMENT NO. 379

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 379.

Mr. SIMPSON. Mr. President, I ask the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second. There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 379. 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:
the years between 1901 and 1910, we had an average of 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 1955 was just 2.8 per 1,000 Americans, one would have us believe we are just about flooded, and 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 would read the list of foreign-born Americans who have won the Nobel Prize, except the list is too long. I could read downthe 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 list 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 low income family with one child on welfare, if she qualified 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 Americans are not, that they are taking our job 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.

I also say that there is a provision in the bill—and I am a strong supporter of the underlying bill—that could have 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 hands 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 the unique Americans, that somehow create 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 think for the first time in 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 millions of people, as people from British stock who had come from the Mother 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 those of 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 do it alone 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 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 America, 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 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 to this country. 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 maintain 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 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 worry about, you do not have a problem in mind. What I 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 that I thought about it, but 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. A result, they all talked funny.
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 has 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 from Wyoming.

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          Breaux          Grassley          Inouye          Johnson          Jordan
Alioto         Breaux          Gramm          Greenspan          Joravsky          Johnson
Alaska         Bregman          Graham          Grassley          Judd          Kauffman
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NAYS—63

Abraham       Ashcroft        Breaux
Abraham       Ashcroft        Breaux
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 remains. 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 employees for documents.

That has been on the books since 1986. I could not believe my ears. Someone 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 or 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 that 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. To the contrary to conform with the current law. I also 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.
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 wrongfulhirings, 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 hireings 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 far 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 employer and between enforcers 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 system is introduced, 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
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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 matter of how reliable it 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 costs of this program be the verification process if 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 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 to thereby take the steps necessary to avoid hiring unintentionally people who are meant to be hired under the current law.

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 be 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 region 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 unworkable 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, it is extremely unfair and costly to honest employers. Any kind of system to verify the 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 in the category to 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. 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. This is endlessness 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 employees 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, an infringement on employer and employee liberty 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 system, 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, in 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 the employees, U.S. citizens who will now be subjected to a verification system that, in my judgment, cannot be performed accurately enough to avoid massive problems, dislocations and unhappy results for those American citizens.

As I have said, that unless 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 produce very large errors. Indeed, some of the very small errors that the DHS 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 that if the database had an error rate 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.

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 will be placed in a very difficult position. Indeed, some of the very small errors that this DHS has already launched have been discovered to have error rates, in terms of names in the database, as high as 28 percent.

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.

It is 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. Also, who has dealt with computer databases knows the potential for error in these types of systems. In my judgment, to invoke that kind of high cost on the employers and employees 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 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 easily be 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 is addressed 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 strong monetary 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 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 not only at 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 on not turning them out, you 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, 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 are going to 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.

Federal agency, including but not limited to the Social Security Administration and the Department of State and the State agency that issues driver's licenses or identification documents may accept for any official purpose a copy of a birth certificate or a driver's license 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 is 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 sometimes 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 or a driver's license as defined in paragraph 5 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 issuances of birth certificates, and other functions we rely on States to do, issuing driver's licenses, we are telling States to do they cannot accept documents except as prescribed by the Federal agency. 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 and what they cannot accept for those 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 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 write 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 have some experience, with a number of million other Americans. 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 and 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 get a 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 get 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 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, Congressman.”

"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 parents 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 to $60 for new birth certificates 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 the 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 different security 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.
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 millions of 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 bill under 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 a second 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. It is a fraudulent document that has not been printed upon.

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 which I consider to be a horrible infringement on our 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 oppose it if 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 come 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.
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 for $100. 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 in to 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 do we make of 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 get at 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 base 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 unwieldy, that it is too intrusive—are simply not grounded.

In fact, the provision was specifically written, as I understand, to alleviate such concerns, by defining clear limits on 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 Kennedy, we 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 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. Why, I wonder, why do we 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 yes or no 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, much of that as I am that I am standing here now, because where the grievances exist, they exist in large numbers. 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 warned me of this. 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 employment 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. We 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.

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 social security numbers to prove their cases. In these States citizens and then they are American citizens and then they are 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 legal to be eligible to 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 that you are a senior citizen and you will be able to take advantage of those programs. This reaches the heart of the whole question of illegal immigration. 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 taxpayer.

Let me give a few examples of what we are looking at across the country. Some States have open birth record files. This means 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 register in the registry of vital statistics in Ohio, an Ohio alien, and ask for, in this instance, Mayor DEWINE's birth certificate. The register 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 as easily. Some States even let you get 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, write is licensed with Senator DEWE\'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 investigating 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 don't have to come in, as half of them do, on various ways 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 believe 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 resistant to tampering as we can scientifically make it. They can set it 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. This is the basic 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 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 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 border 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 and the INS do 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 our 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 that would complete 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—F.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 36 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 perhaps 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 were 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 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 services because of these 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 object 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 precisely 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:

"We do not want to have a system that just consists of the current databases and communication systems in the States that presently will 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.)."

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.

Mr. President, that sound farfetched? 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, prevents a Congress from passing a law that requires 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 these are harmless pilot projects that are not affecting their constituents and are going to somehow magically disappear in a few years.

Mr. President, the number and range of states 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 the number and range of states 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. 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:

"We do not want to have a system that just consists of the current databases and communication systems in the States that presently will not prevent the clever and resourceful individual from assuming multiple identities with quality fraudulent documents. What is needed is the ability to

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.
I ask unanimous consent that a listing of the organizations supporting the 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 ABRAMAM-FeINGOLD**

- National Federation of Independent Business
- National Council of La Raza
- National Restaurant Association
- American Civil Liberties Union
- U.S. Chambers 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 Center
- National Asian-American Legal Defense and Education Fund
- International Mass Retail Association
- Council of 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. SIMPSON addressed the Chair: The PRESIDENT OF THE SENATE. 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—no 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 creation. No. 2 is that 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 Hispanic and Asian-Americans or people who speak with an accent, maybe a Polish accent or whatever the accent might be 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 projects have been suggested. No pilot project 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 define a magnet. 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 it.

There are provisions in this bill that I do not like. I was defeated last night on an amendment. 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 those 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 chairman, the committee 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 some 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 amendment. 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 encourages 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 pass.

I yield the floor. Mr. President.

Mr. SIMPSON addressed the Chair: The PRESIDENT OF THE SENATE. (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 the Senate 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 nothing could 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 a year when 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 body. 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.

Let me just say, talking about a single person in this arena. I have the deepest respect for Senator SPENCER ABRAM.

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 statute of the bill simply says that, we will have verification projects or processes of these following projects or processes. If I had my way, I would make them requirements. And I 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 go 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 or people who are slightly an accent who are employed having to seek permission to hire people. They already do. It is almost as if one were speaking into a vacuum.
And I 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 law. Passed under section 217(a) of the Immigration and Nationality Act, 8 U.S.C. 1324(a) for any person guilty 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. 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 this 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 partly on the basis of discretion.

Americans should not have to receive 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.

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So we provided several local or regional demonstration projects. That 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 it.

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 entire 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.

Further, there are cases 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 mandated in this legislation, this same letter states, "Error rates are a serious problem." The letter refers to an estimate by the Social Security Administration in that 20 percent of the cases handled, it will not be able to identify an employer's 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 usual course, we deal no persons actually authorized to work is obtained in a very few seconds.

Obviously, the whole point is to 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. We do not deal 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 broken in the next 17 years, and we will begin to go broke in the year 2029 and will begin to break thousands of illegal aliens employed by businesses.

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 the pilot projects are 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 fraud.

"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 travel around saying to the Catol Institute would be irreplaceable, 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 have to go to the pilot program to figure out whether 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 briliants 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 and then receive a birth certificate and 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 false documents.

So what you have here without reliable documents is you have hundreds of thousands of illegal aliens employed by such 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 the 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 an interplay of 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 receipt of 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. We can refer to a 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.
May 1, 1996

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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 this is in any way carrying or 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 imperfect 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 was the root of this, a fundamental distrust of what was being done. 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." This 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 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 forgery.

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 a wild charge that has been made before. You just try 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 asking for "national ID cards" and "will be riddled with mistakes" and will be "dangerous to our own workers."

Mr. President, I would like to extirpate this inflammatory rhetoric with the cold splash of hard fact. Once our 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 give you examples that have 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 employer, you no longer 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.

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 work" or "permits the creation of a new employee" 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. Sometimes, they 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 will not take care of this. 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 employees 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, which no intent to discriminate, and ask for another one, and get a fine or the clinch. So we corrected that. I hope we will keep that.
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 bather of the business lobbies whose sole job is to vigorously oppose all legislation which impacts business. 

Recent 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—this business is first time in my memory—we start this business, were the most resistent, and they feel this would be extremely helpful. 

Says their publication, describing the fledgling pilot verification program, "Brings 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 law enforcement 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, to 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 something else.

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. And to those who say 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. If I were to do it for the next 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 things that come out of there, from the bill, 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 the process.

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 are a number of the issues that are part of this bill. I have been on 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 effort 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 both in the Senate 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 finds himself thrust into taking positions on a number of the issues that are part of this legislation, in cases where no intent to discriminate exists, are going to, likewise, allow us to address the problem of individuals who are legal aliens seeking 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 of 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 red tape, 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 red tape as well as in taxpayer dollars. I was glad to hear the comments of the California Restaurant Association: "Some means of verifying Government documents is vital to the integrity of the employment 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 as a body 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 finds himself thrust into taking positions on a number of the issues that are part of this legislation, in cases where no intent to discriminate exists, are going to, likewise, allow us to address the problem of individuals who are legal aliens seeking employment in this country and do so, I think, with great effectiveness.

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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 the people in this country. It is a costly burden, potentially 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 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, the beneficiaries because the verification system database is not able to run at 100 percent.

While it may be the case that when a person is born in a single county, with INS monitoring, the 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 delays or database mistakes. 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 having problems, we will not be able to deal with those 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 actually enforce this type of system if it goes beyond a very small project. The acquisition costs were so high, 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, work, or anything else. Imagine what we will encounter if younger people go to get their driver's license, now living in a wholly different State or part of the country, find out that one day, in attempting to crack down on 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, but by those who are breaking 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 means that the short-term costs and burdens of the 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 is 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 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 this 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 will not 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 with 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 someone 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 shut the rules today will shut 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 the issue is to force 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 costs, costs, costs. For 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 complications 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 that information to all those 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 from just looking at the numbers, 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, the driver's license and birth certificate provisions of the legislation. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DEWEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWEY. 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 will not fit in your wallet. You will 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 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
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 persons 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 Ohio and get your birth certificate, 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 Ohio and get your birth certificate, unless we are willing to say to the real person who now lives in South Carolina and was born in Ohio that you have to personally go back to Ohio and get your birth certificate, unless we are willing to say to the real person who now lives in South Carolina and was born in Ohio that you have to personally go back to Ohio and get your birth certificate, unless we 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from Wyoming has identified this as a problem. These are people who overstay. They are people who come here illegally—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 provides that 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, and, to some extent, the Senator from Arizona is to talk about the problem of non-legal immigrants. One of the things 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 has a suspect standing in that car, if that person had a record, to be able to determine whether 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 trying to determine what the bond is. It is important for them to 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 committed a robbery. 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.

Mr. SIMPSON. Mr. President, I thank the Senator. I wish to review the situation. We have a Leach amendment, on which, I believe, anyone who 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 others who wished to speak on that. I have no 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 brief. If, as 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 relates 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 immigration population. That making it harder for American employers to hire illegal immigrants would in effect remove that magnet—employment—that was drawing 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 are 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. How do 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, we have more support over the weeks and months that have been 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 existing verification process so that 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 is illegal to hire illegal aliens for 10 years. So I think the first thing you have to do is ask if he 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 system 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 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 there are probably 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 Spanish-sounding, in a catch-22 situation. If he gets too many questions of that individual, perhaps because he or she looks Hispanic, speaks with a Spanish accent, that employer is 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 someone 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, 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 if 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 clear that the bill specifically prohibits the establishment of any national ID card. What many of us believe, ideally, is that there is a Social Security 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 that that identifies you as an individual for other purposes. On those few occasions in our life, for few of most of us, where you are applying for work, 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 one place should not be confused with that project. The employee verification would only be 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 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 the pilot projects had established some good ideas here, to take 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 authorize 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 tamper-proof 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, everybody thought was 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 that creeping laws on the books that everyone knows are not 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 makes the purpose behind them important. 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 suggestions. It is all negative criticism. You cannot make a perfect, foolproof system, they say.

Nobody is saying we can. But we can surely 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. There is building fences, to build lights, to do all the things necessary 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 good 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 system is to decrease the cost of compliance. It is not easy to comply with the
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 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 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 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 can find employment in this country is required to fill out an I-9 form. 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.

Therefore, I urge my colleagues to vote against the motion to strike these important provisions from the bill.

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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 these 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, you are going to have to ultimately make a judgment. If you are serious about controlling 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, you 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 I think 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 does it 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 database. 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 that they have 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 do you think, what do you think, what do you think 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 says, that it will make 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 re- mind themselves the bill has been 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 received 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.

Ask unanimous consent that the vote occur in relation to the 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. KEMPPTORINE). Without objection, it is so ordered.

Mr. SIMPSON. Let me say, too, that there are two other amendments. There was an amendment of Senator FEINSTEN from last night with regard to fencing, which Senator KYL and Senator FEINSTEN are working toward resolving and may have something on that. We are not ready for a vote on that. 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 or do included that here, but that will be coming up as soon as we conclude this.

Senator REED 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. As Senator KEMPPTORINE has already said, the fact is, the costs will be great to the employees themselves who are paying by the rules—U.S. citizens and those who legally can seek employment—because of this type of program, find they need new birth certificates or new driver's licenses, will be considerable. The costs 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 see it, the benefits, 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. The idea that we would 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, if any, benefits. Rather than going down the road proposed in 1996, 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 the floor in his State. I wish him well. He is very able, formidable, and fair. We are far from time to time, but I always try to do that. To Senator DEWEY 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 go over some cases that are the amendment of Senator LEAHY and Senator BRADLEY." I do not believe any further persons intend to debate on the issue of the Abram amendment, but the reason we set the vote for 4 o'clock today is to allow us 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 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 HATCH, 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 is yielding 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 exceed my time 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 will immediately—will notify me—I will yield to them—that will expedite our efforts.

Let me just briefly remark about the birth certificate issue, 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 want to have that fact, 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, let me recognize that the motion to strike 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 those appendages.

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 bearer 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 local government 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 in 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 registries 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 from 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 secure verification system cannot be acquired 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 crossings, but visa overstays, will not be brought under control. That is the 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 system will 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 the Internet and computer-based systems, to voting fraud, to terrorism. Accordingly, S. 1864 proposes significant reforms in birth certificates themselves, and in the procedures followed to issue them, and improvements of a similar nature to 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 thank each of my colleagues. The National Association of State Registrars and Vital Statistics Officers—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 better we, will be stricken. Additional improvements were made in the amendment I offered yesterday, which are 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 those who are waiting to come to the floor on the Bradley amendment or the Leavy amendment that their opportunity will come al that ock 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 the National League of Cities. All three organizations supported this amendment. Again, they emphasized 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 question of preemption. Once again, this 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 be disabled. For any of those purposes, you will have to get a birth certificate, and your old birth certificate was 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 will 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. 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 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 are in this discussion. If 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 it today it is expired. I am leaving in 6 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 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 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 your birth certificate is no longer valid. The son, or the granddaughter. 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, may be an illegal license that is the breeder document. And the idea of this is to do what? I do not think we are going to do that. Again, it 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 are saying 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 would say to 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 think about what this Congress has done in the past. We have regretted. I have cast votes where I 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 bring with it a special 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, it is putting the 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, it is putting the burden on everybody. Now, we have put the burden on the person to say to everybody, 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, in fact, you will have to say to everyone, 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 thing. That is what it is. You will have to hire 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 having to use 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. Someone after they have been hired that we have to do anything. 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 the House 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. It was a mistake to decide this. 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 recording of the things 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 on their taxes when calculating the business use of their car. Because of that fact, because some people cheated on their taxes when calculating the business use of their car. 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 we had full-fledged 9 to 5 office hours and be flooded by people who said, "Why 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 15 because some businesses discriminated in setting up the benefit plans for their employees? Congress made all businesses comply with detailed recordkeeping to prove that 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 go to every place that requires that. That is what it is. 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. 3610

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.
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 the most important issue ever 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 to the 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 26 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 documents, 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:

[Roll Call Vote No. 101. Leg.]

YEAS—54

Alaska    Enon     Lantchery
Bidem     Faircloth    Latin
Hugman    Feinstein    Mikulski
Bond      Glenn      Moynihan
Bozor     Gorton      Murkowski
Bradley    Granley    Nuss
Brown     Gregg      Pall
Bryan       Hartin      Pryor
Byrd     Hollings     Robb
Campbell  Hollings     Rockefeller
Chafee  Inouye      Roth
Cochran     Jeffords     Sarbanes
Cohn       Johnston     Shelby
Courard  Kennedy     Simon
D'Amato  Kerry      Simpson
Daschle     Kerry      Specter
Dodd      Kohl       Stevens
Dole      Kyl

NAYS—46

Abraham  Graham    McConnell
Ashcroft  Gramm    Moosely-Braum
Baucus     Grasso    Murray
Bayh      Grassley    Nickles
Breaux     Hatfield     Premier
Bumpers    Helms      Santorum
Burns     Hunslian     Smith
Caato       Inhofe      Snowe
Ceverell  Isakson     Thomas
Craig     Kempfens    Thompson
DeWine    Leahy      Thumpson
Domianic  Lieberman    Warner
Dorgan    Lott       Wallisone
Fisagold  Logar      Wyden
Ford      Mack       Wyer
Frist      McCa11

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.
Mr. SIMPSON. Mr. President, I believe the pending amendment is my amendment No. 3810, is that correct? The PRESIDING OFFICER. The amendment is now pending.

Mr. SIMPSON. 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 sponsor, is the 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" received 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 SSA 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, whatever, it is senior citizens, whatever, please 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 the law. 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: 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 minutes on 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. 583 TO AMENDMENT NO. 374 (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. Gramm, Mrs. Feinstein, and Mr. Murray, proposes an amendment numbered 3813 to amendment No. 374.

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 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.—If a determination described in subparagraph (B) is made, 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 his sponsor, 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) applies 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).

(4) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(A) 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 aliens 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 (except program 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.

(B) LIMITATIONS.—The requirements of this paragraph shall not apply with respect to the exceptions described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien.

(C) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), 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.

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 sometimes, at times, we do harm when we do this. 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 of the tax law they cannot do this. 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.

Mr. SIMPSON. Mr. President, here is a good opportunity to make a mistaken amendment.

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 with the problem 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, though, 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 are those on 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.

As a result of this, 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 becoming a public charge, making that promise to the American people that they will not become 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 mandatory 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 already received the sponsor agreements 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 again plowing this same ground 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 working gift you can get. They have an opportunity to be 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 who 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 when the bill does in essence, is count the sponsor's income and the sponsor's assets as yours for the purpose of 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, you 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—this is not even all of these real tear-jerkers about, you know, 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 people are ready to vote. I think after the Senator 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 that 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 he is not going to be charged. 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 want to be exempted. Immigrants should be eligible for welfare until they become citizens and, therefore, under the Constitution must be treated like everybody else, under the Constitution that is 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 either a copy or manipulation or hardship that we could get, put it all in 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, does not know it.

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 when 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 that is not going to be voted on but voting for 3 years. That is not the issue. The issue is, do we 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 half a dozen attempts. 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 to not to come to America as an immigrant to get 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. DOMENIC. Mr. President, I wish to say to Senator GRAMM, first, I am
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totally, fully aware of the Senator's commitment to legal immigration, and I have personally told the Senator that I was in his office in the Chamber which had some personal aspect 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 Albuqueque 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. 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?" Mr. SIMPSON. I thank the Chair.

"No, we don't, the Congress has not done anything about it," I said, "Do you think there are only 12?" 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. We 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 very apt 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 certainty. 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 what 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 philosophy 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 you have run 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 sponsor for Senator Furfaro. 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 Furfaro.

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 Simpson amendment and two Graham amendments, Senator GRAHAM of Florida, and Senator FEENSTEN will modify her amendment. Senator KYL and she have resolved any difficulty there. We will take that.

We would proceed with debate and try to have votes started around 1:00 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 5 to 5 years for SSI, and we voted 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, 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 foreign sponsors, who is in the United States? As the Senators in the witness stand 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 to add 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 have not, we will pass deeming for State public assistance agencies. 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 Counsel 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 Federal agencies and provide public assistance to an alien.

The letter then cites a case, San Diego County versus Viarea, from the California court, a 1989 opinion; the Attorney General versus Binder, an opinion from the State of our Presiding Officer, from 1999; California Department of Mental Hygiene versus Reynault, a case from 1958; another case from New York dated 1959.

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That is a 1987 Michigan case, despite the fact that this income deeming is permitted in determining eligibility for federal programs for which the sponsoring is going to be retroactively, be

denial that the 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 system. I have sworn 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 willingness 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 non-native students who have entered that school system. It has stretched the system to the breaking point.

Now we are about to pay 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 in 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 have to pay. To experience that arrival they are going to have to pay.

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. SHEELY). 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 Olympic banquet or awards banquet. Many people have been asked to come to 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 (Mr. GRAHAM) is recognized.

AMENDMENT No. 3765

(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 Wi, strike lines 1 through 4 and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to the following:

(A) any services or assistance described in subsection (a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(e)(1)(C))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1902(v)(3) of the Social Security Act; and
While I strongly support the idea that sponsors should be required to provide housing, transportation, food, cash assistance to legal aliens who they know to be unable to provide for themselves, for whatever reason, reasonable access to the health care which unpredictable illnesses and debilitating disease or injury might impose. Unlike cash assistance, housing or food, health care must be provided by qualified professionals, tailored to the specific diagnostic and treatment needs. Ultimately, no amount of hard work or 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. Thus, this is a reasonable compromise with what I hope will have bipartisan support. Indeed, the current Senate from Illinois already exempts Medicaid from deeming altogether. Instead, I 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 providing 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 get coverage for some of the most devastating 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 governmental units and hospitals where legal aliens will seek those services?

As the National Conference of State Legislatures notes, "Medicaid provisions in S. 1664 are currently providing 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 get coverage for some of the most devastating conditions, someone will absorb the cost."

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 undermine 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 the already overburdened 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 annually. It will shift 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 doing nothing more than a huge cost-shift, would put States 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 will cause States to do everything that we have been discussing 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 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 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 complex compliance 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 program 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 required to reimburse the Immigration and Naturalization Service with any required services 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 emergency increased sharply, with the number of extrapolumary tuberculosis, a 47 percent increase in salmonella, a 14 percent increase in infectious hepatitis, a 53 percent increase in malaria and a 193 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 single condition requiring 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 County, 97 percent increase in the number of these cases for tuberculosis over the past several years, that one public hospital, Jackson Memorial, has 80 percent of all the tuberculosis in the county, affecting all residents, immigrants, and non-citizens. To repeat, for 1995, in the county, affecting all residents, the cost in uncompensated care costs 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 not 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 infant 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 population that makes up 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 and others is 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 abortion in the U.S. is able to finance a $250 abortion at a local clinic much more easily than either she or her sponsor can afford.

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 the States, localities, and communities. 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 American Public Health Association, Lutheran Immigration and Refugees Services, and Evangelical Lutheran Church of America.

Mr. President, I ask unanimous consent to have printed in the RECORD immedi-ately after my remarks statements by several of these organizations in support of this amendment.

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

Mr. GRAHAM. Mr. President, I close by saying that I regret we have had to consider so many amendments that relate specifically to the provisions in this bill that will apply retroactively and that are embodied in 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 federal means-tested programs 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 be the assurance that no one would come to this country with a specific condition--whether that be pregnancy or a known medical infertility--in order to receive U.S. taxpayer-financed medical service. Very few persons can protect 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 disease.

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 (NACO), 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 lead to 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.

The NCSL would extend "deeming" from three programs (AFDC, SSI and Food Stamps) to all federal means-tested programs, including foster care, adoption assistance, school lunch, TANF 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 federal means-tested programs means. Various definitions of the phrase
May 1, 1996

CONGRESSIONAL RECORD—SENATE

CATHOLIC CHARITIES USA SUPPORTS THE ELIMINATION OF THE MEDICAID “DEEMING” REQUIREMENT INCLUDED IN THE IMMIGRATION RATIONALE

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 sponsor’s status, 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 these 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.

We appreciate your consideration of our concerns and urge you to protect states and localities from the unfunded mandates in S. 1694.

Sincerely,

JAMES J. LACK,
New York Senate,

DOUGLAS B. HOVIS,
Commissioner, Delta
County, MI,

GREGORY S. LASHUTKA,
Mayo, Columbus, OH,
President, N.C.

Catholic Charities USA supports the elimination of the Medicaid “deeming” requirement included in the Immigration Rationale.

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: 1) Deeming the Medicaid program ignores the dichotomy between medical services and other needs; and 2) Congress has followed the immigration law whereby the sponsor’s income is “deemed” to include not only is her or his own income, but also income from other sources. S. 1694 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 income of the sponsor’s resources, such as the sponsor’s car and home. Although a legal immigrant could well qualify for Medicaid in her or her own right, many immigrants will effectively be denied Medicaid because of the sponsor’s resources and income sources.

Catholic Charities USA opposes Medicaid deeming for the following reasons:

1. It is immediately irrelevant. 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 her or her treatment 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. Catholic Charities USA opposes Medicaid deeming for the following reasons:

2. It is a major form of governmental intrusion. Medicaid deeming is a process where by a person's income is "deemed" to include not only is her or his own income, but also income from other sources. S. 1694 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 income of the sponsor's resources, such as the sponsor's car and home. Although a legal immigrant could well qualify for Medicaid in her or her own right, many immigrants will effectively be denied Medicaid because of the sponsor's resources and income sources.

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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 before they become aggravated. If such conditions are delayed, threatening illnesses may turn into emergencies to be treated with much more expensive services. For example, $3 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 and costly birth defects.

The Cost of Denying Care: An Unfunded Mandate to be Born by Local Hospitals and Communities: Public hospitals in local communities are required to treat rave every patient who turns up at the door, even if he cannot pay. One cannot rely on support times of need in the same way as citizens. Because of these factors, the deeming provision would essentially create a separate health care system, separate from the same tax laws as citizens. However, as a group, legal immigrants pay more proportionally in taxes than citizens. They also use fewer benefits, including health care.

The provision also denies health care to undocumented immigrants. These bills would mask it more difficult for low-income immigrants, whether they are here legally or not, to obtain preventive care. They threaten the health of immigrants and their children, as well as the larger communities. The bills would prevent many legal immigrant women from applying for Medicaid, thus increasing the number of low birthweight and premature infants, all at great cost to federal and state governments and publicly subsidized health services.

Undocumented immigrants

These provisions lack of 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 make it more difficult for low-income immigrants, whether they are here legally or not, to obtain preventive care. They threaten the health of immigrants and their children, as well as the larger communities. The bills would prevent many legal immigrant women from applying for Medicaid, thus increasing the number of low birthweight and premature infants, all at great cost to federal and state governments and publicly subsidized health services.

Denying inexpensive prenatal care to many pregnant women will increase the health risks to the women and their U.S.-citizen infants, all at substantial 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 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 $23,600, 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 $1,260 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 communicable 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 California Department of Health Services indicates 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.

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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 reiteration 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. But I hope it will be dealt with in the same fashion 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 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 facetious. Those things are not new. 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 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 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 suffered to a degree where 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 Wyoming.

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 1396j. 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 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 view, it is asking the taxpayers to discontinue 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 that is consistent with the history of dealing with 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. 3864

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 (e) of section 201 of S. 1694, (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—
"(c)(1) Notwithstanding any other provisions 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 shall affect any obligation or liability of any individual or employer under title 21 of subtitle (F) 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) Section 214(b)(2) of the Housing and Community Development Act of 1980, as added by amendment no. 3866, is further amended by amendment no. 3866—

(A) strike "eligibility of one or more" and insert "eligibility of one or more"; and

(B) strike "has not been affirmatively" and insert "has been affirmatively".

(3) Amend in the last sentence of section 214(d)(2)(A) of the Housing and Community Development Act of 1980, 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 amend-

ment 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 time 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 S1215, 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 placeholder 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.

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 placeholder 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.

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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 5810

The PRESIDING OFFICER. The question is on agreeing to the amendment. No. 5810. 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:

May 1, 1996 CONGRESSIONAL RECORD—SENATE

S4507
congressional record—senate

may 1, 1996

[rollcall vote no. 102 leg.]

yeas—50

abaka

breaux

bumpers

conyers

daschle

dodd

dorgan

during

glasse

harkins

nays—49

abraham

ashcroft

baucus

bentsen

biden

bingaman

blond

boxer

bradley

brown

bryan

byers

campbell

chafee

coats

cochran

conrad

craig

demint

dewine

dole

not voting—1

kassebaum

the amendment (no. 3810) was rejected.

mr. simpson. mr. president, i move to reconsider the vote.

mr. kemptthorne. mr. president, i move to lay the motion on the table.

the motion to lay on the table was agreed to.

amendment no. 3812

the presiding officer.

the question before the senate is now simon amendment no. 3812. 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, sign up for 3 years. the simon 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. simson. 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, 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. is there a sufficient second?

the presiding officer.

is there a sufficient second?

the presiding officer.

the yeas and nays were ordered.

amendment no. 3812

the presiding officer.

the question occurs on agreeing to amendment no. 3812. the yeas and nays have been ordered.

the clerk will call the roll. the assistant legislative clerk called the roll.

the result was announced—yeas 38, nays 63, as follows:

[rollcall vote no. 103 leg.]

yeas—36

abaka

breaux

chafee

dewine

dole

nays—63

abraham

ashcroft

baucus

bentsen

biden

bingaman

blond

boxer

bradley

brown

bryan

byers

campbell

chafee

coats

cochran

conrad

craig

demint

dewine

dole

not voting—1

kassebaum

so the amendment (no. 3812) was rejected.

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.

amendment no. 3764

the presiding officer.

the question occurs on agreeing to 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 now be considered, 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. simson. mr. president, i ask for the yeas and nays. the presiding officer. the senator from wyoming.

mr. simson. mr. president, this amendment, like so many others before, would reduce the sponsor’s responsibility for their immigrant relatives. they bring it 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 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 will pick up the tab.

the presiding officer. does the senator request the yeas and nays?

mr. simson. mr. president, i ask for the yeas and nays. the presiding officer. is there 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 [ms. 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:
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.

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 KENNY, Senator DEWINE.

I further ask that following the debate on the above-listed amendments, the Senate proceed to vote on each 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 KENNY, 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. 1664 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. 1664 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.
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. 3. 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 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."

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. 4. 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 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, H.R. 112, as amended. 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 Senate 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 over to the floor and address those amendments. Mr. President, I suggest the absence of a quorum.

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.

A quorum being present, the Senate proceeded to consider the amendment, S.Amdt. 1261, to S. 4577. On motion of Senator Kennedy, the amendment was placed on the Calendar.

Mr. SIMPSON. Mr. President, I join with Senator KENNEDY in urging our colleagues to come over and consider this amendment. 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.

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a second vote would take place with regard to which of the pilot projects would be considered into the statutes of the United States.

That is the essence of the amendment. I look forward to the discussion of it.

AMENDMENTS NOS. 3893 AND 3894, 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 of 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 answer 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, "Very few cows."" 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 were used in the 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.

The 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 will go ahead. A number of us have been briefed that 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 through 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 what about 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 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 number of other suggestions. And, as I mentioned earlier, 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 fit in the Social Security number over the phone, one which tests for the Social Security number over the phone, and one where employers have to verify employment eligibility, only for employees who are noncitizens. These three mandates do not 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 the case during the course of the debate, we wanted to insist on accuracy. If you have just programs that are maybe 80 percent, or 55, or even 50 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 Committees 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't 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-skilled or non-skilled 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 make it less likely that illegals will enter our job market, I think we are on the road 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.
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 to establish such a requirement. I wish to put the alleged violation in the context of the debate on 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. It is 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 that I have represented, and what has experienced the adverse effect of illegal aliens to a greater extent than 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, is that concerns me that in this legislation which is labeled, which has on its hook jacket the phrase "illegal immigration," when you open the book, look at the individual chapters, there are 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 immediate adjustment of status--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 charm that the 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, I feel that provisions which 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 party, 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 have provisions with 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 under what conditions they can come and under what conditions they can stay. None of those decisions can be influenced by a State. They are going to come to a decision. They are going to end up at a hospital or, more likely, the local community, whether it be Dayton, OH, or Dade County, FL. None 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 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 legal alien, you have to be 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 cancerous when that 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 a fair allocation of what is going to happen when 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 to legal aliens. Nobody 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 going to pick up all of the cost that it is going 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 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
Mr. President, as I begin my comments on this 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 Congress 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 the 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 President's 1996 budget. It passed both chambers by large votes. It was at a previous time, to have served in the State legislature. We know the difficulties that they must make in such programs. These are our colleagues, fellow legislators in State capitals across the country. We are prepared to vote for these costs that will be imposed upon them. As the majority leader said, again, in debating the unfunded mandate bill:

Mr. President, the time has come for a little legislative truth-in-advertising. Both Members of Congress vote for a piece of legislation, they need to know how it will impact the States and localities they represent. If Members of Congress are going to pass a 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, would in fact force the States to expend more than $60 million as a result of this act, the unfunded mandate. That $60 million is found just in four areas: required to implement the new mandates. There are no provisions in the Senate that would waive the imposed requirement in the bill once again; creates a large unfunded mandate on State and local governments. Once again, I repeat the quote from the Congressional Budget Office:

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:

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 multitudes of programs are analyzed, the cost on State and local governments could far exceed a billion dollars. Nobody has the foggiest idea.

Moreover, 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:

Mr. President, let me repeat. "These costs could be significant."

In other words, this bill impacts Sioux City, IA, and Miami, FL, 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 States 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.

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May 2, 1996

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effective—a recognition of a basic tenet of this country's federalism.

This amendment would also recognize that this may be virtually no savings 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 initial 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 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 entwined with state rhetoric, 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 can suffer 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 status and sponsorship information, 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 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 aid.

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 Florida?

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 those who advise him. I believe that the State minister 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 on hand plus what the sponsor deems 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 aid of 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 would 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 it, then 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 cover 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 require 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 in the belief that when immigrants need Federal 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 did not have been admitted to the United States. This is 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 that such deeming should not be required.

Let us face the real basic fact. You have some agencies in some States and...
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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 all of us 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 very much more interested in spending money than in saving money.

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, 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. Agencies must 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 colleagues is this the case, then the income of the applicant's sponsor 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 they make them tell the rest of us pick up the tab for people who promised to pay 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 else. Who cares if someone 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 excisable excise taxes.

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. One year is $1,500,000,000,000 so we must be taking care of someone in the United States of America; $1,500,000,000. Food stamps, cash, noncash, I vote for those things and will continue to do so. But I do not understand why I should do it if someone agreed to pay it. If I had said 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, I would have been 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 PRESIDENT. Mr. Kennedy?

Mr. KENNEDY. Mr. President, I think the Senator from Florida is really just putting his finger on a different issue, and it is not that you are going to pay for people 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, it is that.

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 indicated, 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 paying. "Are we going to recover the payments for it?" It does not get 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—this is going to be something, which is not going to be reimbursed by this bill—to go on 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 that.

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, where we were having a serious, serious responsibility comes in and the hospital cannot recover. So, what do they do? They have the poorest of the poor, the uninsured. Even though there is not going to be a credit of Medicaid. But the hospital needs the person. We have to understand the American public has a lot of difficulty wondering why the general taxpayers are going to provide at least some reimbursement for those medical bills. Who is going to foot the bill?

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 years where we were having a serious, serious responsibility 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 going to provide 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 $25 to $28 million. We cannot say that to an absolute certainty. But look 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.

The point is, 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 of us are saying, 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.
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?

CHAFEE. Amendment No. 3840, and I am 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 reads as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. MACK, proposes an amendment numbered 3840.

On page 321, 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 that are more generous. But it does not say anything that is not 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 programs, and it seems to me if you are legal, you are entitled to these things."

"Well, their sponsors ought to pay for these programs, and it seems to me if you are legal, you are entitled to these things."

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.

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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 be just the Federal Government, but also local communities. Or the Federal Government is not going to do something to the community. And it is happening in urban areas.

The reality of it is, the community is not going to do it. But the pur-
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 I think that is true for legal aliens, certainly it ought to be true for legal aliens.

This is not a budgetbuster. 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 replacing 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 I am, a 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—and not 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 the cost from the persons who sponsor immigrants, usually their relatives, to 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 of 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 are some in the House of Representatives who did not want a consistent stay with that support level, and 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 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 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 amendment is simple as it always was: Sponsor or taxpayer, 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 legal aliens if we do not think they are important for the public 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 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 are 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 the 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. I 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. I think two of these categories, as you note on this sheet of paper, 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 entitled to nutrition programs. You do not have to have its in your sponsor or have some other involvement 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 budgetbuster. This is very narrow. This is not your entitlement for all of Medicaid. It is very, very limited. I have, Mr. President, that the managers of this 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 years, I do know that he does desire to move things along rather adroitly. We are ready any time.

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 probably 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 we will.

Then we have the Chafee amendment under a time agreement which is nearly up. I am sure that that is a bright 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 and I when we are 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 the votes between 3 and 3:45. There will be an effort to move 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. The White House meeting and have votes till 6, 7, 8 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. If the Senate is prepared to vote, I 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 measures we could. If we vote between 3:40 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.

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 Chafee or Senator GRAHAM, 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 disaster relief, public health assistance, and the sponsor is paying for them—not the taxpayer. These people are not discriminated against.

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 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 are 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 are not 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 would 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. 758

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 pitch 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 sitting right here, and nobody, at least the vast majority, decided to do nothing with the flow of legal immigrants.
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. 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.

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.
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 jobs, their lives wrecked by this hurricane, to 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.
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. CRAFEE. 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 legal needs 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. 105 Leg.]

YEAS—40

YEAS—30

NAYS—70

NAYS—60

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.
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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 closure on the bill. The second vote, if closure 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. 356 TO AMENDMENT NO. 274

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. 3. ADMINISTRATIVE REVIEW OF ORDERS.

Section 274A(e)(7) of the Immigration and Naturalization Act (42 U.S.C. 1321A(e)(7)) is amended by striking the phrase "within 30 days,".

Section 274C(d)(4) of the Immigration and Naturalization Act (42 U.S.C. 1321A(d)(4)) is amended by striking the phrase "within 30 days,".

SEC. 4. SOCIAL SECURITY ACT.

Section 117(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 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. 5. 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(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(2)) is amended by striking subsection (1) and inserting the following new subsection:

(1) the institution shall transmit to the Immigration and Naturalization Service either a 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, or under Title II of any Act or with respect to any action taken or proceeding brought to exclude or deport any alien from the United States under Title II of any Act, is as if the question were presented in a civil action in the United States District Court for the District of Columbia."
shall also evaluate the feasibility and cost implications of imposing a user fee for reprinted 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 subsection (a) shall be submitted to the Committees on Ways and Means and the House of Representatives and the Committee on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

(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 is my hope 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 costs and projected 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 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 tactically 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 by 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 fleece 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. Let us also ensure that 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. 355) was agreed to.

WORKER VERIFICATION/IDENTIFICATION SYSTEM

Mr. ROBB. Mr. President, I rise to discuss briefly an amendment I had of¬

tered to S. 1664, the Immigration and Nationality Act of 1996 but have withdrawn it. The amendment was designed to ensure the consid¬

eration of innovative authentication technology as we develop a new ver¬

ification system for alien employment and public assistance eligibility.

There is a large and important debate before us. Should we implement a national verification system for all aliens in the United States? Well, we already have one, but it’s failing America. It allows illegal immigrants to skirt the sys¬

tem—to take jobs away from Ameri¬

cans and immigrants who have played by the rules. Moreover, the current system also allows our public assistance programs that were established to provide a safety net for those who have contributed to our soci¬

ety and deserve help in a time of need.

We need to update the current verifica¬

tion system—and 50 Senate colleagues agree as evidence by their votes to re¬

ject the Abraham amendment to strike the verification system from the bill.

The system in place now requires em¬

ployers to check two forms of identi¬

fication as a list of 29 acceptable documents. We know that these docu¬

ments are far from being tamper-re¬

sistant 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, tech¬

nology, and effectiveness of a new pro¬

gram. Contrary to what many believe, the bill’s provisions address the con¬

cerns that have been expressed regarding privacy, the potential for discrimi¬

nation, and cost. All of these provi¬

sions supplement the protections of the U.S. Constitution and anti-discrimina¬

tion laws. And regarding cost, the un¬

adjusted mandates law and the recently-passed Omnibus Regulatory Flexibility Act will help in¬

sulate businesses and State and local governments against the imposition of exorbitant costs from a new verifica¬

tion 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 innova¬

tive 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 inves¬

tigate the feasibility of creating a new generation of smarter employment au¬

thentication cards, smart cards containing bi¬

ographical information, 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 de¬

vices containing one or more integra¬

ted 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 markup 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 ABRAMAM 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 excusable. 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 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 simply the task of sending criminal aliens home. I am gratified that through the work of Senator ABRAMAM 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 felony 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 be 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.
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 hardworking 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 would only have impeded our desire to provide a safe haven without 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 would only have impeded our desire to provide a safe haven without the need to protect our borders and avoid fraud.

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.

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

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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
down the Chafee amendment. At
a minimum, the Senate should have en-
sured that illegal aliens are not af-
sured to pay more taxes than legal im-
migrants and approved this provision in
the interest of public health.

Finally, I am pleased that S. 1664 in-
cludes my amendment on the interna-
tional matchmaking business. This
amendment is a study of interna-
tional matchmaking companies, hereto-
fore unregulated and operating in
the shadows. These companies may be
exploiting people in desperate situa-
tions. The study is not aimed at the
men and women who use these busi-
nesses for legitimate companionship.
Instead, it is a very positive and impor-
tant step toward gathering the infor-
mation we need so that we can deter-
mine the extent to which these com-
panies 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
immigrants that have chosen to start new lives in Amer-
ica. This bill, by cracking down on il-
legal immigration, will continue this
rich tradition. I commend the hard
work and commitment of the managers
of the bill, Senators SIMPSON and KEN-
NEDY.

Our immigration policies, though not perfect, stand as strong
evidence that the United States is funda-
mentally a generous and compas-
sionate 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 ille-
gal immigration. This bill addresses
this problem.

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 eco-
nomic opportunities and social opportu-
nities for those who come to our Nation
and are intent on working hard and im-
proving their lives and those of their
children.

But this influx of immigrants from
diverse cultures and distant lands that
has made America a melting pot 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 joining 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 Amer-
ica, whether they came over on the
Mayflower or if they came to our land
in just the past few decades.

As Franklin Delano Roosevelt re-
membered us more than 50 years ago, with
the exception of native Americans,
All of our people all over the coun-
try, * are immigrants or descend-
ants of immigrants, including even
those who came over here on the
Mayflower.*

Nearly every Senator in this body is
descent of immigrants. And I be-
lieve 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
that should be followed. If you play by
the rules and follow the laws of our coun-
try 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
businessmen 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 recommend this
administration for all it has done in
curbing illegal immigration. Since
1993, the Clinton administration
increased the Immigration and Natu-
ralization Service budget by 72 percent.

More than 1,000 new Border Patrol
agents have been deployed. Addition-
ally, more than 140,000 illegal and
criminal aliens have been deported
since 1993.

What's more, this administration is
helping more eligible immigrants be-
come citizens. In fact, in the fiscal year
1995 more than half a million citizen-
ship applications were completed.

These are substantial gains, but
there is more to be done and this bill
takes important steps in the right di-
rection.

This legislation increases the size of
the Border Patrol. It authorizes vol-
untary pilot projects to test improved
employee verification system. It forces
sponsors to take more 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 ille-
gal immigration in our country. What's
more they were strongly influenced by the
bipartisan Jordan Commission on Immi-
gration Reform.

While I do remain concerned about
the benefits provisions in this legisla-
tion, 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 essent-
ial that we do not confuse the two is-

Legal immigrants play by the rules
that this government has established.
What's more, legal immigrants have an
overwhelmingly positive benefic-
sive for this Nation.

Legal immigrants pay nearly 95 per-
cent in taxes then they receive in
benefits. More than 80 percent do not
receive welfare benefits. In fact, na-
tive-born Americans are more likely to
receive welfare than poor immigrants.

Legal immigrants are not the prob-
lem. 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 in-
cludes 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 be-
iefs could cause them to face the pos-
sibility of imprisonment, injury, or
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 free-
dom for those who are oppressed or
persecuted. We must not shrink our role
as a haven for those fleeing persecu-
tion.

Unfortunately, I think those facts
have sometimes been lost in our recent
local debate on immigration. They
must always be our core concern
when discussing immigration reform
measures.

Our Nation was founded on the con-
cept of taking in the downtrodden and
persecuted. And throughout our his-
tory, America has prospered because
we have kept the doors open for new
immigrants.

Today, we must continue to main-
tain our obligation to immigration as a
nation and as a people. While not perfect,
accepting this bill takes us in the right
direction toward accomplishing our
commitment to an inclusive and commo-
sense immigration policy.

Mr. HELMS. Mr. President, the U.S.
Government has a duty to control im-
migration, and it is falling miserably.
Passage of this bill will help halt the
large migration of illegals into our
country.

But, in part to the service ren-
dered by the able Senator from Wy-
oming [Mr. SIMPSON] on this bill, S. 1664,
"The Immigration Control and Financial
Responsibility Act of 1996" the
Federal Government will have mean-
gingful tools to discourage illegal immi-
gration and better handle illegal aliens
in this country. We are grateful for the
enormous amount of time and expertise
Mr. SIMPSON has devoted to this
issue in the Senate to the for-
mulation of a workable, credible immi-
gration policy. All of us have benefited
from Mr. SIMPSON's tireless efforts.

Mr. President, immigration is an es-
specially important issue to the Ameri-
can 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 cau- tioned against granting amnesty to the illegal aliens pouring across our boarders. I was among those who stated such an apprehension. It was envi- sioned that such amnesty would establish a dangerous precedent certain to encourage even more illegal immigra- tion. Another concern in the 1985 de- bate 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’s Applied Economics Division has 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 de- crease in the years ahead.

Thousands of North Carolinians, and others across the Nation, have con- tacted me to describe their problems with the current U.S. immigration sys- tem. Most often, citizens express dis- gust at the numbers of noncitizens re- ceiving welfare benefits almost from the time they cross the borders into the United States.

Mr. President, it is impossible to sug- gest to my fellow North Carolinians that there is any wisdom or common sense to an immigration policy that al- lows aliens 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 in- cluding Aid to Families With Dependent Children, Supplemental Security Income, and food stamps. With men- tion 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- out 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 re- ceipt of any Federal, State, or local government benefit by noncitizens.

Mr. President, I am this legislation virtually impos- sible 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 per- mits. 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 500,000 addition to Ameri- ca’s population each year.

At a time when the Federal Govern- ment is wrestling with its $5 trillion debt, it is the responsibility of Con- gress to find out where the taxpayers’ funds are being used. It is my 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 $5,102,048,227,234.22, meaning that every man, woman, and child in our Nation owes $19,271.23 on a per capi- ta basis.

Mr. President, the bill before the Senate tightens the enforcement and improves our immigra- tion law by: First, adding additional Border Patrol and investigative person- nel; second, creating additional deten- tion facilities; third, increasing penal- ties for alien smuggling and docu- ment fraud; fourth, reforming asylum, naturalization and deporta- tion 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 in the best interests of citizens of the United States. It is in the 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, the provisions of our immigra- tion bill by: First, adding additional Border Patrol and investigative person- nel 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 pen-alties authored by the Senator from Michigan, Senator SIMPSON, and myself for those who come here legally and fail to depart when their visas ex-pired 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 immigra- tion problems.

In addition, I am also pleased that we were able to ensure that this legisla-
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 minimize the bill's impact on our Nation's employers, workers, legal immigrants and State and local governments.

I yield the floor.
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, therefore, 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 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.

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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 rendition of convicted 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 welfare of immigrants. For the first time, self-sufficiency will be the watchword for those coming into 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 affiliations, 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, through, 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 Senator SIMPSON and KENNEDY, will require that anyone entering through the Justice Department, to work, go through 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 system 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 authorization 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 that the INS of 1866 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 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 legal and illegal. I do not believe, as I know some do, that this issue 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 us to take a fresh, cold, hard look at our total national immigration policy and its impact on our society. It is time for us to realize 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 forthcoming.

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.

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 in the principles and habits; on the extinction of that spirit of foreign bias and prejudice; and on the love of our country which will almost invariably be found to be closely connected with birth, education, and family.”

But we must agree 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 slippery we need to take positive steps to curtail.

The extreme result of Balkanization of course is the ethnic bloodshed we have seen in the former Yugoslavia. When we talk of immigration in America, I believe most often of an image of America as a melting pot where ethnic differences are subordinated for the benefit of the greater good. Recent evidence throws this image into question. The process of assimilation into the American 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 consider the impact on 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. Sc 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 can neither 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 INS, projecting 1995, apparently triggered huge increases in immigration, and not necessarily by design. Various estimates, including those of the INS, project an average of over 1 million immigrants per year, both legal and illegal. As we are currently 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 new 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 nation has 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 the American mainstream 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 are also concerns of abuse which starkly highlights the need for thorough dispassionate review of certain practices which have reached near ridiculous proportions. It is time we re-examined our policy of rewarding family preferences automatically in combination with 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 resulted in an avalanche. 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 toward immigration 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 achieve this goal.

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 immigration commission 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 identified 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 600,000 workers per year with 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 itself 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 add an additional disincentive 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 the commission on ongoing evaluations of the process and success of immigrant assimilation into American society. Any ethnic and national mix caused by our immigration laws should 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 use the 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, I would like to proceed with the regular order.

VOTE ON AMENDMENT NO. 741, AS AMENDED

The PRESIDING OFFICER. The question now occurs on the underlying amendment as amended. The amendment (No. 3763), 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 XXXI, the Chair directs the clerk to read the motion.

The legislative clerk read as follows: CLOTURE MOTION

Mr. SIMPSON. I thank the Chair.

Mr. SIMPSON. Mr. President, we are here today to deal with immigration, and I support addressing the problem.


VOTE

The PRESIDING OFFICER. The question is, is 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:

(Vote call Vote No. 107 Leg.)

YEAS—100

Abraham  —  Biden  —  Burr  —  Byrd  —  Breaux  —  Boxer  —  Bennett  —  Baucs  —  Bayh  —  Bump  —  Burns

Baucs  —  Breaux  —  Byrd  —  Bump  —  Burns

The yeas and nays resulted—yeas 100, nays 0, as follows:

(Roll call Vote No. 107 Leg.)

YEAS—100

Abraham  —  Biden  —  Burr  —  Byrd  —  Breaux  —  Boxer  —  Bennett  —  Baucs  —  Bayh  —  Bump  —  Burns

Baucs  —  Breaux  —  Byrd  —  Bump  —  Burns
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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 into 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 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

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, I think, for 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 Peter Ted Husbear 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 this chamber.

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 been ordained. 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 long. Well, he did that. He has lost 5 pounds in the last 13 days. I want to thank Charles Word, 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 thank Kristel DeMay, Maureen McCafferty, and some of our marvelous interns at the committee on Immigration. I also want to thank Ted KENNEDY's staff, including Michael Myers; he and Dick Day work together without any kind of parsimony or things that set them apart in that way. Then there are Patry 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 loses 45 minutes would have been considerably short of the minimum wage activity 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 30 hours, we had 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 issues 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.

There is work to do. I wish Senator KENNEDY will do exactly forward with it in the years to come. I will be serving 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, 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 in the House of Representatives. 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.

Senator FORD, 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 not yet been 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. The result of this is 97 to 3. It is an extraordinary personal achievement and accomplishment by my friend and colleague, the Senator from Wyoming, Senator SIMPSON.

AL SMEAD 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 should be willing to take on this issue on immigration has been extraordinary and interesting to me. This is not a burning issue in his particular State.

The Senator from 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 color 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 aspects of human emotions of passion, and discrimination, and renunciation of families, and exploitation, and he has taken this on as a member of the Reshburg Commission for Legal and Illegal Immigration, as a member of the Immigration Commission.

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 is not just the 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 patrol, 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 an 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. This has only been because of the exhaustive time that we have 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 my 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 to a set of recommendations. That has been the basis of this particular proposal.

So I give respect to my chairman, the chairman of this session. I think all of us respect 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, 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, and Senator 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 Senate.

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, parliamentarian inquiry. What is the order of the day?

Mr. BURNS. Mr. President, if I may, the Senator will yield for a moment to let me pose an 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 direct advisor, and was pressed into service on this bill in a most extraordinary way.

1, too, thank my colleagues on the subcommittee: Senator KENNEDY, of course: Senator SIMON, a steady friend.

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 marks 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 funded mandates, as well as Senator CRAFEE and Senator LEARY on those issues of asylum. That has been a matter of particular interest and concern to him. He has been very effective on this.

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 think that 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: Fatch Frist, Tom Perez, Bill Fleming, Jimmy Barnes, Ron Welch, Michael Mershon; and I think that we on our side have felt that the Republican staff, Dick Day, Chip Wood, John Kepper, 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 LEARY; 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 Senate.

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.
May 2, 1996

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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 cases of Senator SPECTER and his steadiness; BILL ROTH, my closest 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 PRESIDENT pro tempore. 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 moved 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 in the public interest.

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 also bears upon our 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.

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 realistion that our Border Patrol can cope with the overwhelmng 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 something that can be addressed by fences along the border—all of 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 out.

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 justifed 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 salatue 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, there is a broad 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 ignore 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.

Immigration Control and Financial Responsibility Act will help ensure that the Federal Government meets its 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, creates 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 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 increase in administrative burdens this legislation may impose on the States by the extension of deeming to all Federal means-tested assistance programs. Additionally, by refusing to exempt some minimal emergency and health services from deeming, I am fearful that we will encourage 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 asylum provisions, I joined Senator LEAHY as a cosponsor of his amendment to limit the use of summary exclusion except in emergency migration situations.

Mr. President, those 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 were added 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 162,000 per year in 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 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 short-sighted 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 its 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 its 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 an unregulated 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", as passed by the Senate on May 2, 1996, is as follows:

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 applying to any section or to any part of a section, 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.
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PART I—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.
(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal years 1996 and 1997 shall increase by no less than 700, and in each of fiscal years 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol Agents in Immigration and Naturalization Service above the number of such positions for which funds were allocated 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 allocated for the preceding fiscal year.

SEC. 102. INVESTIGATIONS.
(a) Authorization.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of Immigration and Naturalization Service to support immigration and naturalization investigations 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.

SEC. 103. LAND BORDER INSPECTORS.
In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully seeking 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 the Secretary of the Treasury except such long-established lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYS.
There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of 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 IMMIGRATION AND NATURALIZATION SERVICE.
(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 no more than 150 of the number of employees on the list who reside in the border area nearest to the border of the United States south of San Diego, California, may be hired pursuant to this subparagraph. This subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, to make determinations, or the taking of any other action 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.

*Not BILINGUAL, AND*.

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.

(b) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.

In hiring new wage and hour inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of bilingual 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 number of number of individuals detained by 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, and 1999, and 2000, the Attorney General shall certify in writing to the Congress that all new hires 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 and appropriateness of standards 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 summary 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 determined require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF BORDER FENCING.

There are authorized to be appropriated funds of $12,000,000 for the construction, expansion, improvement or deployment of triple-fencing in addition to any funds otherwise available to the Congress for construction, expansion, improvement or deployment of triple-fencing. The Secretary of Homeland Security shall—

(1) take effect on the date of enactment of a bill or joint resolution approving the plan.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination, and from loss of privacy caused by use, misuse, or unauthorized use of personal information.

(4) To minimize the 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 are—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status;

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unnecessarily delayed on the basis of the individual's immigration status unless 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;

(ii) the individual is claiming the identity of another person; or

(iii) 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

(iv) must be in a form that is resistant to counterfeiting and to tampering; and

(B) the system must not be fused 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.

(2) Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agencies, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the document or addition of information.

(E) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, the Service, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to work in the United States, that an employee is not an unauthorized alien (as defined in section 274A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)); or

(II) to take other action required to carry out title 11.

(F) To enforce the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(G) To verify the individual's immigration status for purposes of determining eligibility for
Federal benefits under public assistance programs described in section 201(f)(1) or government benefits described in section 201(f)(4).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system must contain appropriate administrative, technical, and physical safeguards, such as—

(1) safeguards to prevent unauthorized disclosure, including passwords, encryption, and other technologies;

(2) audit trails to monitor system use; and

(iii) procedures giving an individual the right to examine the accuracy of any information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and mental retardation, or any day on which the appropriate official is absent or on leave.

- DISCLOSURE.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

(i) 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;

(ii) the employer followed all procedures required in the system; and

(iii) the alien was verified under the system as eligible for the employment;

- 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 taken as a result of information obtained through the use of a verification system that was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

- 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 one or more of the demonstration projects conducted pursuant to paragraph (2) should be renewed, or one or more additional demonstration projects should be conducted before a plan is submitted under section 211(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period without regard to section 214(b)(4) of the Immigration and Nationality Act.

- 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 benefits under public assistance programs for purposes described in section 274A(f)(4); and

(2) to assist the Service and the Administration in determining the benefits and costs of systems for verifying eligibility for benefits under public assistance programs for purposes described in section 274A(f)(4).

(2)(b) OBJECTIVE.—The objectives of the demonstration projects conducted under this section shall be—

(i) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for benefits under public assistance programs for purposes described in section 274A(f)(4); and

(ii) to assist the Service and the Administration in determining the benefits and costs of systems for verifying eligibility for benefits under public assistance programs for purposes described in section 274A(f)(4).

- 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 benefits under public assistance programs for purposes described in section 274A(f)(4); and

(2) to assist the Service and the Administration in determining the benefits and costs of systems for verifying eligibility for benefits under public assistance programs for purposes described in section 274A(f)(4).
shall remain fully applicable to the participants in the project.

(B) If the Attorney General makes the determination in paragraph (A), the Attorney General may require other, or all, employees in the geographical area covered by such project to participate in it during the remaining term of such project, as determined in paragraph (A).

(C) The Attorney General may not require any employer to participate in such a project, except as provided in subparagraph (B).

(2) Grants of the Construction Authority.—

(a) 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.

(b) Establishing Projects.—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.

(c) Congressionally Authorized Grants.—A grant of the Construction Authority under this section may be made for a regional project, including any project conducted under this section, if the grant is concurred in by the Committees on the Judiciary of both Houses of Congress during the 102d Congress.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(e) Definition of 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.

(f) 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.

(g) Establishment of Regional Projects.—The Attorney General shall establish each regional project, in consultation with the Committees on the Judiciary of both Houses of Congress during the 102d Congress.

(h) Federal Participation in Regional Projects.—The Attorney General may require other, or all, employers participating in such project to participate in it during the remaining term of such project, as determined in paragraph (A).

(i) Program Evaluation.—The Attorney General shall require the evaluation of each regional project conducted under this section, including the findings made by the Comptroller General under section 113.

(j) System Requirements.—The Comptroller General shall report on the requirements of this section to the Attorney General not later than the end of the second year after the enactment of this Act and annually thereafter.

(k) 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.

(l) 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.

(m) Establishment of Regional Projects.—The Attorney General shall establish each regional project, in consultation with the Committees on the Judiciary of both Houses of Congress during the 102d Congress.

(n) Federal Participation in Regional Projects.—The Attorney General may require other, or all, employers participating in such project to participate in it during the remaining term of such project, as determined in paragraph (A).

(o) Program Evaluation.—The Attorney General shall require the evaluation of each regional project conducted under this section, including the findings made by the Comptroller General under section 113.

(p) System Requirements.—The Comptroller General shall report on the requirements of this section to the Attorney General not later than the end of the second year after the enactment of this Act and annually thereafter.

(q) 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.

(r) 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.

(s) Establishment of Regional Projects.—The Attorney General shall establish each regional project, in consultation with the Committees on the Judiciary of both Houses of Congress during the 102d Congress.

(t) Federal Participation in Regional Projects.—The Attorney General may require other, or all, employers participating in such project to participate in it during the remaining term of such project, as determined in paragraph (A).

(u) Program Evaluation.—The Attorney General shall require the evaluation of each regional project conducted under this section, including the findings made by the Comptroller General under section 113.

(v) System Requirements.—The Comptroller General shall report on the requirements of this section to the Attorney General not later than the end of the second year after the enactment of this Act and annually thereafter.

(w) 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.
Section 116: Enhanced Civil Penalties of Labor Standards Violations Are Present

(a) In general.—Section 214(a) (8 U.S.C. 1324a(a)) 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 not to exceed the amount of the penalty prescribed by this section in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following:

"(I) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor on a court of competent jurisdiction.

"(II) The Migrant and Seasonal Agricultural Workers Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor on 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 on a court of competent jurisdiction.

(b) Effect of section 116.—The amendments made by subsection (a) 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 this Act.

(i) With respect to driver's licenses or identification documents issued in States that issue such licenses on a period of validity of more than six years,

(A) section 116 shall apply beginning on October 1, 2000; and

(B) the materials described in subparagraph (A) and (B) shall apply.

(2) DOCUMENTS.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(1) by striking "and" and inserting "or"; and

(2) by striking the first paragraph and inserting the following:

"(1) The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys to prosecute cases of unlawful employment of aliens or document fraud."

(b) Effect of section 116.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.
PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATION OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

Section 2518(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 1033 (relating to production of false identification or enrollment 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 the misuse of passports), or section 1546 (relating to fraud and misrepresentation)"; and

(2) by striking "or" at the end of paragraph (1).

(3) in subparagraph (A), by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (1) the following new paragraph:

(2) in inserting after paragraph (1) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1321, 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 "true of the United States;"

(2) by inserting "or" at the end of clause (2); and

(3) by adding at the end the following:

"(F) any act, or conspiracy to commit any act, in violation of—

"(i) section 1033 (relating to production of false identification or enrollment documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction 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 the misuse of passports), or section 1546 (relating to fraud and misrepresentation) 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 SMUGGLERS WHO WILL COMMIT FELONY OR OTHER CRIMES.

Section 1324(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) in paragraph (1)(A)—

(A) by striking the end of clause (ii) and inserting "or;"; and

(B) by adding at the end the following new clause:

"(v) being fined under title 18, United States Code, and shall be imprisoned for not more than 15 years; and

(C) 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(b)(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.

SEC. 124. SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.

Section 1324(a)(2) (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 (ii); and

(3) by inserting after clause (ii) the following new clause:

"(iii) an offense committed with the intent, or with a 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; and"

SEC. 125. 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 who have been convicted of offenses relating to smuggling, transporting, harboring, or inducing aliens in violation of sections 274(a)(1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall—

(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 enhancements for the number of aliens involved (U.S.C.G. 2111(10)); and

(C) impose an appropriate sentence enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act; and

impose the appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that is 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

(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) impose an appropriate sentencing enhancement upon any person 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 another individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or reckless disregard places another in serious danger of death or serious bodily injury; and

(F) consider whether a downward adjustment is appropriate if the offense involves fewer than 6 aliens who 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 practical in accordance with the procedure set forth in section 211 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 VIDEO TAPED WITNESS TESTIMONY.

Section 374 (8 U.S.C. 1324) is amended by adding at the end thereof the following new subsection:

(2) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisual) 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 as evidence in an action brought for that violation if the witness was available for cross examination and the deposition (or similar) complies with the Federal Rules of Evidence.

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

(a) IN GENERAL.—Section 274 (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 or is being used to facilitate, an act of immigration fraud 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 or transferred to or for the person in violation of, or conspiracy to violate, 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 subsection unless it appears that the owner or operator in whose name 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 committed or omitted by any other person other than the owner thereof to have committed or omitted 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;

(C) no property shall be forfeited under this paragraph to the extent of any interest of any owner by reason of any act or omission established by the owner thereof to have committed or omitted unilaterally, 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;

(D) no property shall be forfeited under this paragraph to the extent of any interest of any owner by reason of any act or omission established by the owner thereof to have committed or omitted unilaterally, 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

(E) no property shall be forfeited under this subsection, including any seizure and disposition of property under section 274(a)(1) or (2) of the Tariff Act of 1930 (19 U.S.C. 1616(c), as amended by section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616(c)), as amended by the provisions of section 43 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 1503, as amended by section 103(a) of such title)."

(b) The Attorney General of the United States may be necessarily to carry out this subsection and paragraph (a) shall be punished by—

"(1) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(2) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"

(c) The person convicted under subsection (a) that—

"(A) any other person who, other than an offense described in subsection (a), other than an offense described in paragraph (1)(A) shall be punished by—"

"(1) except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) of subsection (a) shall be punished by—"

"(i) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(ii) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"

(d) A person convicted of an offense under subsection (a) that—

"(A) any other person who, other than an offense described in paragraph (1)(A) shall be punished by—"

"(1) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(2) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT IDENTIFICATION DOCUMENTS.

(a) PEALALTIES 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—

"(i) the production or transfer of an identification document or false identification document that is to appear 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) that—"

shall be punishable under subparagraph (B)."

(b) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) of subsection (a) shall be punished by—

"(1) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(2) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"

(c) A person convicted of an offense under subsection (a) that—

"(A) any other person who, other than an offense described in paragraph (1)(A) shall be punished by—"

"(1) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(2) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"

"(D) a person convicted of an offense under subsection (a) that—

"(A) any other person who, other than an offense described in paragraph (1)(A) shall be punished by—"

"(1) a fine not to exceed $200,000, or imprisonment for not more than 10 years, or both, for a first or second offense; or

"(2) a fine not to exceed $1,000,000, or imprisonment for not more than 15 years, or both, for a third or subsequent offense;"
"(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 is 20 years.

"(4) Sections 1625 through 1626 of title 18, United States Code, are amended by striking "be fined in subsection (1)) for violating, or conspiring to violate, sections 1628(b)(1), 1629 through 1633, and 1636(a) of title 18, United States Code, in accordance with this subsection."

"(1) if committed to facilitate a drug trafficking, crime (as defined in section 928(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."

SEC. 138. CRIMINAL PENALTIES FOR FALSE STATEMENT IN DOCUMENTS OR PASSPORTS.

"Whoever knowingly makes a false statement or knowingly fails to state 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."

"The fourth undesignated paragraph of section 1541(a) of title 18, United States Code, is amended to read as follows:"

"(1) fined under this title, imprisoned for not more than 20 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 subsection is 20 years."
as added by subsection (b), applies to the prepa-
ration of applications before, on, or after the
date of the enactment of this Act.
(2) ENHANCED CIVIL PENALTIES.—The amend-
mations made by subsection (b) apply with respect to
offenses occurring on or after the date of the
enactment of this Act.
SEC. 121. PENALTIES FOR INVOLUNTARY SERVITUDE, SLAVERY, OR SLAVE TRADE OFFENSES.
(a) AMENDMENTS TO TITLE 18.—Sections 581, 1553, 1554, and 1558 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "ten".
(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascer-
tain whether there exists an unwarrented disparity—
(1) between the sentences for peonage, invol-
untary 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, invol-
untary servitude, and slave trade offenses, and
the sentences for alien smuggling offenses in ef-
fect 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
18, United States Code, the United States Senten-
cing Commission shall review its guide-
lines on sentencing for peonage, involuntary
servitude, and slave trade offenses under sec-
tions 581, 1553, 1554, and 1558 of title 18, United States Code, and shall amend such guidelines as nec-
essary to—
(1) reduce or eliminate any unwarrented dis-
parity found under subsection (b) that exists be-
tween the sentences for peonage, involuntary
servitude, and slave trade offenses, and the sen-
tences for kidnapping offenses and alien smug-
glng offenses;
(2) ensure that the applicable guidelines for de-
defendants convicted of peonage, involuntary
servitude, and slave trade offenses are suffi-
ciently stringent to deter such offenses and ade-
quately reflect the heinous nature of such of-
fenses; and
(3) ensure that the guidelines reflect the gen-
eral appropriateness of enhanced sentences for de-
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) an prolonged period of peonage or involun-
tary servitude.
(d) EMERGENCY AUTHORITY TO SENTENCING
COMMISSION.—The Commission shall promul-
gate the guidelines provided for under this sec-
tion as soon as practicable in ac-
cordance with the procedure set forth in section
219(b) of the Sentencing Act of 1987, as though
the authority under that Act had not expired.
(e) EFFECTIVE DATE.—This section and the am-
mendments made by this section shall apply to
offenses occurring on or after the date of the
enactment of this Act.
SEC. 122. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.
PART 4—EXCLUSION AND DEPORTATION
SEC. 141. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.
(a) IN GENERAL.—(1) Paragraphs 235(b) and 236, and subject to subsection (b), a special exclusion shall be granted in accordance with the provisions of this section to aliens who are a member of a particular social group or who are present in the United States, by land, sea, or air, present an extraordinary migration situa-
tion, the Attorney General may, without refer-
ral to the Attorney General, order the exclu-
dation and deportation of any alien who is found to be excludable under section 212(a) (5)(C) or (T).
(2) As used in this section, the term "extraor-
dinary migration situation" means a situa-
tion that arises, or is likely to arise, from an im-
minent arrival in the United States or its ter-
ritorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(3) Subject to paragraph (4), the determina-
tion whether to exclude aliens under this section
is made in accordance with the provisions of this
section and examination of such aliens.
(b) PROVIDING DETERMINATION.—(1) The
Attorney General may provide in accordance with
the provisions of this section and examination of
aliens that an extraordinary migration situa-
tion exists and an alien is subject to subsection (a) if—
(A) the government (or a group within the
country that the government is unable or un-
willing to control) engages in—
(i) torture or other cruel, inhuman, or de-
grading treatment or punishment;
(ii) prolonged arbitrary detention without charges or trial;
(iii) abduction, forced disappearance or clandes-
tine detention; or
(iv) systematic persecution;
(2) an ongoing armed conflict or other ex-
traordinary conditions would pose a serious threat to the alien's safety;
(3) the alien is a member of a social group that is identified by the following:
(A) has had extensive professional training or
(B) has had experience in the case of an alien
who is a former government employee or
(C) has been a political prisoner;
(4) the alien is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee.
(c) SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.
(1) The Attorney General shall provide in-
formation concerning the procedures described in
this section to the Attorney General, or a group in the United
States or its territorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(2) Subject to the provisions of this section, any alien who is found to be excludable under section 212(a) (5)(C) or (T) shall be
excluded and deported pursuant to section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b).
(3) No alien may be ordered specially exclu-
ded under paragraph (1) if—
(A) such alien is a member of a social group that is identified by the following:
(i) has had extensive professional training or
(ii) has had experience in the case of an alien
who is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee;
(4) The Attorney General shall provide in-
formation concerning the procedures described in
this section to the Attorney General, or a group in the United
States or its territorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(5) No alien may be ordered specially exclu-
ded under paragraph (1) if—
(A) such alien is a member of a social group that is identified by the following:
(i) has had extensive professional training or
(ii) has had experience in the case of an alien
who is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee;
(6) The Attorney General shall provide in-
formation concerning the procedures described in
this section to the Attorney General, or a group in the United
States or its territorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(7) As used in this section, the term 'asylum'
defines an immigration officer who—
(A) has had extensive professional training or
(B) has had experience in the case of an alien
who is a former government employee.
(8) As used in this section, the term 'credib-
le fear of persecution' means—
(A) that such alien has a credible fear of persecution in the country or therefrom referred to in paragraph (2), the alien may be
specially excluded and deported in ac-
cordance with this section and examination of
aliens that an extraordinary migration situa-
tion exists and an alien is subject to subsection (a) if—
(A) the government (or a group within the
country that the government is unable or un-
willing to control) engages in—
(i) torture or other cruel, inhuman, or de-
grading treatment or punishment;
(ii) prolonged arbitrary detention without charges or trial;
(iii) abduction, forced disappearance or clandes-
tine detention; or
(iv) systematic persecution;
(2) an ongoing armed conflict or other ex-
traordinary conditions would pose a serious threat to the alien's safety;
(3) the alien is a member of a social group that is identified by the following:
(A) has had extensive professional training or
(B) has had experience in the case of an alien
who is a former government employee or
(C) has been a political prisoner;
(4) the alien is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee.
(c) SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.
(1) The Attorney General shall provide in-
formation concerning the procedures described in
this section to the Attorney General, or a group in the United
States or its territorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(2) Subject to the provisions of this section, any alien who is found to be excludable under section 212(a) (5)(C) or (T) shall be
excluded and deported pursuant to section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b).
(3) No alien may be ordered specially exclu-
ded under paragraph (1) if—
(A) such alien is a member of a social group that is identified by the following:
(i) has had extensive professional training or
(ii) has had experience in the case of an alien
who is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee;
(4) The Attorney General shall provide in-
formation concerning the procedures described in
this section to the Attorney General, or a group in the United
States or its territorial waters of aliens who by their numbers or cir-
cumstances substantially exceed the capacity of the inspection and examination of such aliens.
(5) No alien may be ordered specially exclu-
ded under paragraph (1) if—
(A) such alien is a member of a social group that is identified by the following:
(i) has had extensive professional training or
(ii) has had experience in the case of an alien
who is a former government employee or
(D) has had experience in the case of an alien
who is a former government employee;
Section 243(d) (8 U.S.C. 1225(d)) is repealed.

The petition relating to section 106 of the table of contents of the Immigration and Nationality Act is amended to read as follows:


(a) In General—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

"(a) JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

"SEC. 106. (a) APPLICABLE PROCEDURES.—Except as provided in paragraph (d), a judicial review of any final order of deportation, exclusion, or special exclusion may be had in the district court of the United States for the district in which the final order of exclusion or deportation was entered. 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 in the case of any special deported criminal alien (as defined in section 241(a)(2), 235(e)(2), or 242), the court shall hold the deportation proceeding in abeyance pending the conclusion of the judicial review of the deportation order. In any special deported criminal alien case, the court may, in its discretion, order the deportation proceeding to proceed in the meantime. Nothing in this subsection shall prohibit the Attorney General from entering into an agreement with the Attorney General of another country with respect to the deportation proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order of deportation."

(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (a), (c), (d), or 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 subsections (a)(1), (b), or (c)(3) 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 242(f)(2)(A)(ii), is not subject to review by any court.

(3) No COLLATERAL ATTACK.—In any action brought for the assessment of penalties for immobility or removal, or for any alien under section 212 or 214, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235 or 242.

(b) RESCISSION OF ORDER.—Section 242(b)(3) (8 U.S.C. 1252a(b)(3)) is amended—

(1) by striking the first sentence and
(2) by inserting at the end the following:

"after a hearing on the record considered as a whole."

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by adding 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. 107. CIVIL PENALTIES AND VISAS INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting in section 243(c) (8 U.S.C. 1225c) the following new section.

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) Any alien who is the subject of an order of exclusion or deportation who—

(1) wilfully 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;
(C) present himself or herself for deportation at the time and place required by the Attorney General; or
(D) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order;

shall be subject to 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 offsets against collections in the appropriate accounts of the United States.

"(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 basis for the court's decision."

"(d) REVIEW OF FINAL ORDERS.—

(1) A court may review a final order of exclusion or deportation 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 proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order of deportation."

(2) Any lawful admitted nonimmigrant who remains in the United States for more than
SEC. 274D. Civil penalties for failure to depart.

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

SEC. 244. (a) CANCELLATION OF DEPORTATION.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION.

SEC. 430. RULE OF CONSTRUCTION.
(A) person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

(B) 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 (D).

(F) 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), (C).

(2) CONTINUOUS PHYSICAL PRESENCE NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES OF THE UNITED STATES—The requirements of continuous residence or continuous physical presence in the United States specified in subsection (a)(1) and (B) shall not be applicable to an alien who—

(i) 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

(ii) at the time of his or her enlistment or induction entered into the Armed Forces of 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 may also adjust the status of an alien lawfully admitted for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

(d) ALIEN CROWD: NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING: THE PROVISIONS OF SUBSECTION (A) SHALL NOT APPLY TO ALIENS WHO ARRIVED AFTER JUNE 30, 1961.

(e) VOLUNTARY DEPARTURE.—(1) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense:

(A) 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 surrended upon proof that the alien has departed the United States within the time specified;

(B) in the case of departure pursuant to subparagraph (A)(ii), the Attorney General may require the alien to post a voluntary departure bond, to be surrended 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 do so without the benefit of a bond, the Attorney General may issue a direction of deportation.

(iii) if 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 appropriate appropriation accounts.

(iv) 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 $50 per day and shall be ineligible for any further relief under this subsection or subsection (a)(3).

(f) ADJUSTMENT OF STATUS.—The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

(g) The term ‘stowaway' means any alien who boards a vessel or aircraft arriving at the United States from any place outside the United States to deposit any alien stowaway on the vessel or aircraft on which such stowaway has arrived when required to do so by an immigration officer.

(h) 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.

(i) The provisions of section 244(e)(1) and (2) of the Act are amended by striking the last two sentences and inserting the following: ‘The provisions of this section concerning the deportation of a stowaway shall apply to the deportation of a stowaway under section 237(d).'

(j) CARRIER LIABILITY FOR COSTS OF DETAINING STOWAWAYS—Section 237(d) (8 U.S.C. 1229(d)) is amended to read as follows:

‘(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 deposit any alien stowaway on the vessel or aircraft on which such stowaway has arrived 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 any alien stowaway shall apply to the deportation of a stowaway under section 237(d).'

(k) EFFECTIVE DATE.—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 244(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)), 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.

(l) 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(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)), except that, for purposes of determining the period of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SECTION 151. ALIEN STOWAWAYS.

(A) DEFINITION.—Section 202(a) (8 U.S.C. 1221(a)) is amended by striking the following paragraphs:

‘(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, and shall deposit amounts received under this paragraph as offsets against 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 and costs of detention of the vessel or aircraft through court action to secure the payment thereof approved by the Commissioner.'
(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 as a defense base real estate program 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 the Treasury, 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. 103. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF UNLAWFUL ENTRANTS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall prescribe such regulations as may be necessary by the Secretary prior to arrival in the United States for permanent residence for whom the United States for the purpose of performing the alien's record of required examinations as a fee for the issuance of a visa at a United States consulate abroad who may be admitted to permanent residence under section 212(a), 209, 210, 245, or 245A, and the Secretary shall inform the alien of the amount of the fee and shall be set at such amounts as may be determined by the Secretary.

(b) USER.—(1) The Attorney General shall ensure that each alien to be inspected, as described in subsection (A), that the alien has the level of competence in the United States, or within 30 days of adjustment to that of an alien lawfully present in the United States for the purpose of performing the alien's record of required examinations.

(2) The Attorney General or the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, in accordance with the Immigration and Naturalization Service, 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.

(c) REPORT.—Not later than 35 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of the Treasury, 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.

(d) FUNDING.—(1) The Attorney General shall ensure that each alien to be inspected, as described in subsection (A), that the alien has the level of competence in the United States, or within 30 days of adjustment to that of an alien lawfully present in the United States for the purpose of performing the alien's record of required examinations.

(2) The Attorney General or the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, in accordance with the Immigration and Naturalization Service, 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.

(e) DEFINITIONS.—In this section—

(A) the term 'Secretary' means the Secretary of Health and Human Services.

(B) the term 'Secretary' means the Secretary of Health and Human Services.
PART 5—CRIMINAL ALIENS

SEC. 151. AMENDED DEFINITION OF AGGRAVATED CRIMINAL FELON.

(a) In GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking "$10,000" and inserting "$100,000"; and

(2) in subparagraph (E), by striking "5 years' imprisonment," and inserting "a term of imprisonment of not less than 5 years or a fine of not more than $10,000, or both.".

(b) EFFECTIVE DATE.—This amendment applies with respect to an alien admitted on or after the date of the enactment of this Act.

SEC. 152. ENFORCEABILITY OF VISAS FOR ENTRY INTO THE UNITED STATES.

(a) AMENDED DEFINITION OF AGGRAVATED CRIMINAL FELON.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is further amended by striking "at least one year"," and inserting "at least one year or a fine of not more than $100,000, or both".

(b) EFFECTIVE DATE.—This amendment applies with respect to an alien admitted on or after the date of the enactment of this Act.

SEC. 153. INCREASED PENALTIES FOR VIOLATION OF CONDITIONS OF ENTRY.

(a) AMENDED DEFINITION OF AGGRAVATED CRIMINAL FELON.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is further amended—

(1) by striking the last sentence and inserting the following: "For purposes of subparagraph (B), an alien shall be deemed to have committed an aggravated felony for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

(b) EFFECTIVE DATE.—This amendment applies with respect to an alien admitted on or after the date of the enactment of this Act.
attorney general of any finding of deportability as a condition of the plea agreement for such alien, who is deportable under this Act, to waive the right to notice and hearing under this section, and to stipulate to the entry of a judicial order of deportation, in 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 misdemeanor 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 and Nationality Act of 1990 is amended by striking "242A(c)" and inserting "242A(c)(1)".

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "242A(b)(1)" and inserting "242A(b)(4)".

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(b) 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 excludability and deportability from the United States."*

SEC. 167. JUDICIAL DEPORTATION.

(a) IN GENERAL.—Section 242A (8 U.S.C. 1252a(d)) is amended—

(1) by redesignating paragraphs (b), (c), and (d) as paragraphs (1), (2), and (3), respectively,

(2) by striking paragraph (1) and inserting the following:

"(1) by striking paragraph (1) and inserting the following:

"(b) who has at any time been convicted of a violation of section 276 (a) or (b) (reliiiting to entry of a deportable alien);"

(2) 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

(c) 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 against an alien—

"(A) whose criminal conviction causes such alien to be deportable under section 241 (a)(2)(A)(ii) (relating to conviction of a controlled substance offense);"

"(B) who has at any time been convicted of a violation of section 276 (a) or (b) (reliiting to entry of a deportable 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 an order of deportation at the time of sentencing when the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act," and

(2) by striking 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, the State court shall have jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a deportable criminal alien (as defined in section 241 (a)(2)(D)).

(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment or conviction, shall for all purposes be conclusive on the State court but may not be reviewed 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

concerne of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into an information agreement which alien, who is deportable under this Act, to waive the right to notice and hearing under this section, and to stipulate to the entry of a judicial order of deportation, in 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 misdemeanor 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 356(b) of the title 18, United States Code, is amended by striking "or" at the end of paragraph (2), and inserting "or;" and

(2) 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. 1252c), 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 242(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.

(a) Not later than 12 months after the date of 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 detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed offenses, 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 to include deportable aliens, 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 aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful presence of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORIZATION.

(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 287(a) of the Revised Statutes (31 U.S.C. 137) or section 373(a) of the Revised Statutes (41 U.S.C. 133(b)) and, after approval of the President June 30, 1949 (63 Stat. 296; 41 U.S.C. 255), the third paragraph of the under Section 14, Act of March 3, 1877 (15 Stat. 376; 36 U.S.C. 54), section 3482 of the Revised Statutes (31 U.S.C. 332c), 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. 355; 41 U.S.C. 254 (a) and (c));

(B) to establish or acquire proprietary corporations or business enterprises as part of an undercover operation, and to own, lease, or corporation or business enterprises on a commercial basis, without regard to the provisions of section 237 of the Federal Property and Administrative Services Act of 1949 (31 U.S.C. 9101); and

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to

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reporting 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 immigration status of any alien."

"(4) For purposes of this Act, "specialty deportable criminal alien means any alien convicted of an offense described in subdivision (A), (B), (C), or (D) of section 241(a)(2)(A)(ii), or any other offense or, or more offenses described in clause (ii) of section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(ii)(I), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years."

"(5) Nothing in this section shall be construed so as to mandate a judicial determination of the alien's deportability solely by the United States Magistrate Court in misdemeanor 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 and Nationality Act of 1990 is amended by striking "242A(c)" and inserting "242A(c)(1)".

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "242A(b)(1)" and inserting "242A(b)(4)".

"(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(b) 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 excludability and deportability from the United States.

(1) by adding at the end the following new subsection:

(2) by adding at the end the following new paragraph:
the provisions of section 546 of title 18 of the United States Code, section 3539 of the Revised Statutes (31 U.S.C. 3302); and

(2) to prevent or facilitate enforcement of offenses, under Federal law or treaties with foreign nations.

SEC. 170B.alien who has committed a criminal offense in the United States or in any country, party to the agreement for the suppression of the white-slave traffic, may be transferred pursuant to treaties entered into after the date of the enactment of this Act, 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, trial, and incarceration 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, trial, and incarceration 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 release of the United States citizens 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.

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; and

(B) by inserting after “individual” the first period a semicolon and “and the individual is in the United States”; and

(2) in the second undesignated paragraph of subsection (b), before the period at the end of the second sentence, by inserting “, 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”; and

(3) in the second undesignated paragraph of subsection (a)—

(A) by striking “thirty” and inserting “five”; 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”; and

(4) in the test following the third undesignated paragraph of subsection (a), by striking “two” and inserting “ten”; and

(C) by striking subsection (b), and inserting in lieu thereof 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”, and

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACTS.

(a) In General.—The amendments made by subsection (d) 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 (i) of such section.

SEC. 170. DELEGATION OF FUNCTION TO LOCAL GOVERNMENT OR DEPARTMENT OF JUSTICE.

SEC 171. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN IMMIGRATION INSPECTION 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) REPORT OF SECRETARY.—The project authorized by subsection (a) shall include the following:

(1) the date on which the project is to begin;

(2) the date on which the project is to end;

(3) the methodology to be used in the identification of illegal aliens for the purpose of training local law enforcement officials in the identification of such aliens;

(4) the extent to which the project shall be feasible.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of enactment of this Act.

SEC 172. JOINT STUDY OF AUTOMATED DATA COLLECTION.

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 the Attorney General of the United States, shall conduct a joint study to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.

(b) REPORT.—(1) The Attorney General shall submit a report to the Committee on Judiciary of the Senate and the House of Representatives on the results of the joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of enactment of this Act.

SEC 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 5 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 aliens who remain in the United States beyond the period authorized by the Attorney General.

SEC 175. USE OF LEGAL SERVICES AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(a)(6) (8 U.S.C. 1255A(a)(6)) is amended by striking "(6)", and inserting "and", and inserting "(b)", and inserting "(c)".

(b) LIMITATION.—Such person may not administrate or score tests and may not adjudicate.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of enactment of this Act.

SEC 176. RESIDENT STATUS.

Subsection (e) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by striking "1965", and inserting "1985", and inserting "(e)".

(d) RESIDENT STATUS.—The authority of this section shall cease to be effective 6 months after the date of enactment of this Act.

SEC 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action 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 the court.

The provisions of this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC 178. USE OF FEDERAL EQUIPMENT FOR BORDERS.

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 and helicopters, vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined to be necessary and useful by the Attorney General to the Department of Justice by any other agency of the Federal Government upon request of the Attorney General.
the alien was an unauthorized alien, as defined in section 274A(a)(3), or who 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 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 inadmissible or deportable aliens who may lawfully be deported, or
(2) detaining all inadmissible or deportable aliens who previously have been excluded, but have not been deported, 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

(b) the current policy.

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 Homeland Security, designated as IJ—1, IJ—1.1, IJ—2, and IJ—4, respectively, and each such officer shall be at an appointed rate of basic pay consistent with the seniority of the office, in accordance with the provisions of this subsection.

(b) Rates of Pay.—(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

<table>
<thead>
<tr>
<th>Level</th>
<th>Rate of Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-1</td>
<td>70 percent of the next highest rate of basic pay for the Senior Executive Service</td>
</tr>
<tr>
<td>I-2</td>
<td>80 percent of the next highest rate of basic pay for the Senior Executive Service</td>
</tr>
<tr>
<td>I-3</td>
<td>90 percent of the next highest rate of basic pay for the Senior Executive Service</td>
</tr>
<tr>
<td>I-4</td>
<td>100 percent of the next highest rate of basic pay for the Senior Executive Service</td>
</tr>
</tbody>
</table>

(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 at IJ—1, and shall be advanced to IJ—2 upon completion of 164 weeks of service, to IJ—3 upon completion of 164 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 immigration judges at an appointed 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.

(5) 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 USC 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 political 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 all 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 carry out a written certification that the officer or employee 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 agreed upon 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, 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 the function under the agreement shall be set forth in a written agreement between the Attorney General and the State or subdivision.

“(6) The Attorney General may not accept a service under this subsection which would be used to displace any Federal employee.

“(7) Except as provided in paragraph (6), 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 section 2371 through 2650 of title 28, United States Code (relating to compensation for injury) and sections 2671 through 2650 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 such agreement, 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 law 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 which an officer or employee of a State or political subdivision of a State—

‘‘(A) to communicate with the Attorney General relating to an alien who is an individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

‘‘(B) agrees 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. 1101(a)(5)(J)) is amended by adding the following:

‘‘(1) Nothing in this subsection shall be construed to require an alien who is not lawfully present in the United States to enter into an agreement with the Attorney General relating to an alien who is an individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

‘‘(2) Nothing in this subsection shall be construed to require an alien who is not lawfully present in the United States to enter into an agreement with the Attorney General relating to an alien who is an individual, including reporting knowledge that a particular alien is not lawfully present in the United States’’.

SEC. 186. ENACTMENT OF THIS ACT.

This Act shall take effect on the date of its enactment.
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 amended by adding at the end the following new subsection:

"(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.

(b) REPEAL.—Subject to subsection (b), Public Law 98-532 (98 U.S.C. 1632 et seq.), as amended by this Act, in section 208(m) of the Immigration and Nationality Act (8 U.S.C. 1158(m)) and in section 214 of the Housing and Community Development Act of 1974 (42 U.S.C. 4603(f)), by this Act shall become effective only upon a determination by the President under section 202(c)(3) of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 that a democracy-orientated 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 Act, subsections (a) and (b) of section 214 of the Social Security Act (42 U.S.C. 402(q) and 402(q)-1), as added by this Act, 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 NONMIGRANT 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 any public assistance or public benefit, or any other benefit administered by any Federal, State, or local governmental entity.

(b) Employment services.—(1) Subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 92-66, 7 U.S.C. 1612 note), and


(VI) section 110 of the Hunger Prevention Act of 1988 (Public Law 100-433, 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. 1964(a)).

(c) Provision of pharmaceutical services.—(1) In general.—Any institution, agency, or entity authorized to expend out of funds made available to it from the Federal Government from determining the eligibility of any alien to receive any service or benefit described in subsection (a), the Commissioner of Social Security shall determines that the individual is ineligible for the service or benefit.

(d) Provision of other services or benefits.—In the case of any service or benefit described in subsection (a) that is provided to individuals under this Act, the Commissioner of Social Security shall determine that the individual is ineligible for the service or benefit.

(e) Limitation on payments to aliens.—Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be paid 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.

(f) Limitation on payments to aliens.—Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be paid 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.

Subsection (c) shall affect only the withholding of any obligation or liability of any individual or employer under title II of part B of this title.

(g) Right to be heard.—Nothing in this Act shall prevent an alien who is declared to be an ineligible alien under this Act from being heard regarding the determination of such alien's eligibility under this Act for any service or benefit described in subsection (a).
program (as defined in subsection (f)(5)) or for government benefits (as defined in subsection (f)(3)); or

(ii) definitions.—For the purposes of this section—

(1) Eligible alien.—The term ‘eligible alien’ means—

(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 240(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 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 consents or acquiesces in such conduct; or

(ii) has petitioned (or petitions within 45 days after the first application for means-tested government assistance under SSA, SSI, AFDC, or any other federal, state, local, or private program, including 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)(2) 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 alien’s family residing in the same household as the alien and the spouse or parent consents or acquiesces in such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for assistance under 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)(2) of such Act, or

(H) the beneficiary of a petition for status as a spouse or a child of a United States citizen pursuant to clause (ii) of section 204(a)(1)(A) of the Immigration and Nationality Act, or 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 alien’s family residing in the same household as the alien and the spouse or parent consents or acquiesces in such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for assistance under 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, or a petition filed for classification.

(2) Ineligible alien.—The term ‘ineligible alien’ means an individual who is not—

(A) a U.S. 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 by any State or local government entity, for which eligibility for benefits is based on need, except that the term does not include agricultural purposes as excepting in clauses (i) through (vi) of section 204(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.

(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.

(5) Special rule for battered women and children.—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 the alien’s entry as an immigrant. If 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 the alien’s child has been battered or subjected to extreme cruelty in the United States by 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, the period is extended for an additional period of up to 48 months

(B) unemployability 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. 1837); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 292. DEFINITION OF ‘PUBLIC CHARGE’ FOR PURPOSES OF DEPORTATION—

(a) In general.—Except as provided in subparagraph (B), 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 10 years following the date of entry of the alien. If the alien entered the United States as an immigrant, 5 years after entry, or if the alien entered the United States as a non-immigrant, 5 years after the alien adjusted to permanent resident status (in the case of an alien who entered as a non-immigrant), and

(iii) 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;

(5) 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—

(iii) the alien is not excludable as a public charge under any alien who enters the United States as an immigrant, 5 years after entry, or

(II) for an alien who entered the United States as a non-immigrant, 5 years after the alien adjusted to permanent resident status (in the case of an alien who entered as a non-immigrant), and

(I) an alien who entered the United States as an immigrant, 5 years after entry, or

(II) an alien who entered the United States as a non-immigrant, 5 years after the alien adjusted to permanent resident status (in the case of an alien who entered as a non-immigrant), and

(iii) the aid to families with dependent children program described in subparagraph (D) for an aggregate period of more than 12 months.

(4) Programs described.—The programs described in this subparagraph are the following:

(i) The food stamp program described in subparagraph (D) for an aggregate period of more than 12 months.

(5) Food stamp program.—The term ‘food stamp program’ includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

(6) Programs described.—The programs described in this subparagraph are the following:

(i) The aid to families with dependent children program described in subparagraph (D) for an aggregate period of more than 12 months.

(ii) The food stamp program described in subparagraph (D) for an aggregate period of more than 12 months.

(iii) The medicare program described in subparagraph (D) for an aggregate period of more than 12 months.

(iv) Any State general assistance program.

(v) Any public assistance program that is 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 that the term does not include agricultural purposes as excepting in clauses (i) through (vi) of section 204(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.

(6) Special rule for battered women and children.—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 the alien’s entry as an immigrant. If 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 the alien’s child has been battered or subjected to extreme cruelty in the United States by 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, the period is extended for an additional period of up to 48 months

(7) Public charge period.—For the purposes of a

(b) Construction.—Nothing in subparagraphs (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 alien 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, and by any consular officer to establish

(a) Enforcement.—No affidavit of support may be relied upon by the Attorney General or any consular officer to establish

(b) Requirements for sponsor’s affidavit of support.—

(a) No affidavit of support may be relied upon by the Attorney General or any consular officer to establish

(b) 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 public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a
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(B) in which the sponsor agrees to financially support the sponsored individual, so that she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters; and,

(C) the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d).

(2) In determining the number of qualifying quarters for which a sponsored individual has worked for purposes of paragraph (1)(B), an individual shall be deemed to meet the requirements of subparagraphs (A) or (B) of subsection (f)(2) for any quarter shall be treated as meeting such requirements if—

(a) the individual 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) Form.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary of Health and Human Services shall prescribe such regulations as the Secretary determines to be necessary to carry out this subsection.

(c) Notification of Change of Address.—(1) General Requirement.—The sponsor shall notify the Attorney General and the State, the individual is a resident of 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 earnings and through receipt of a copy of the individual's Federal income tax return for the most recent tax year (which returns need not show such line 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 766 of title 26, 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 (b) shall be applied by substituting “100 percent” for “125 percent”.

(2) Federal Poverty Line.—The term "Federal poverty line" means the level of income official 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, or for each period for which the sponsor is 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 in which the period was part.

(4) Reimbursement Order.—The term "reimbursement order" means a 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 by mailing a notice of the determination to the last known address of the alien).

(B) Determination Described.—A determination described in subparagraph (B) is a decision by an agency that a sponsored alien would, in the absence 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 by mailing a notice of the determination to the last known address of the alien).

(B) Determination Described.—A determination described in subparagraph (B) is a decision by an agency that a sponsored alien would, in the absence 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 by mailing a notice of the determination to the last known address of the alien).

(B) Determination Described.—A determination described in subparagraph (B) is a decision by an agency that a sponsored alien would, in the absence 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 by mailing a notice of the determination to the last known address of the alien).

(B) Determination Described.—A determination described in subparagraph (B) is a decision by an agency that a sponsored alien would, in the absence 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 by mailing a notice of the determination to the last known address of the alien).

(B) Determination Described.—A determination described in subparagraph (B) is a decision by an agency that a sponsored alien would, in the absence 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 by mailing a notice of the determination to the last known address of the alien).
State or local government (other than a program of cash 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 a limitation 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 from the date such alien first lawfully entered the United States after the execution of such affidavit or agreement, whichever period is longer.

(3) RULE OF 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 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 or any other member of the household has agreed, in such affidavit or agreement, to allow the alien to remain in the United States;

(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 protection by a court or to a prior determination of the Service that such battery or cruelty has a causal relationship to the need for the public benefits applied for; and

(3) for more than 60 months if the alien can demonstrate that such battery or cruelty, or the battery or cruelty described in clause (1) or (2), has a causal relationship to the need for the public benefits applied for and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (1) or (2) has a causal relationship to the need for the public benefits applied for.

(4) 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 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 or any other member of the household has agreed, in such affidavit or agreement, to allow the alien to remain in the United States;

(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 protection by a court or to a prior determination of the Service that such battery or cruelty has a causal relationship to the need for the public benefits applied for and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (1) or (2) has a causal relationship to the need for the public benefits applied for.

SEC. 208. FTAT OPTION UNDER THE MEDICARE 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 (68); and

(2) by striking the period at the end of paragraph (68) and inserting "; and";

(b) REPORT ELEMENTS.—The report shall include—

(1) the total amount expended for such program under section 1902(a)(68) of such Act, or any comparable Federal program, in the first fiscal year beginning after the date such program is first authorized by the Congress; and

(2) the ratio of the amount expended for such program under section 1902(a)(68) of such Act, or any comparable Federal program, in the first fiscal year beginning after the date such program is first authorized by the Congress, to the total amount expended for all comparable Federal programs or programs of any State for the fiscal year ending in such year.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1967.

SEC. 209. COMPUTATION OF TARGETED ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after 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 established by subsection (a) of section 1905(b) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include—

(1) an assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment; and

(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. 210. AUTHORITY OF STATES AND LOCAL GOVERNMENTS 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 impose such limitations on the receipt of any Federal benefit, the penalties which may be imposed for an offense under this section, or any other action by Federal authorities: and

(3) by additing at the end of paragraph (68) and inserting "; and";

(2) by striking the period at the end of paragraph (68) and inserting "; and";

(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, restrictions imposed by 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 any benefit shall be considered less restrictive than a restriction of eligibility for such benefits.

SEC. 210. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEALS OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE FUGITF BY AN UNLAWFUL ALIEN.

Section 306 of title 18, United States Code, is amended to read as follows:

"$500. Seals or department or agency.

(a) Whoever—

(1) falsely makes, forgges, 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 fraudulent seal, forged, counterfeited, mutilated, or altered seal or facsimile thereof, or upon any paper or document, or any part of any writing, record, or document, or of any description; or

(3) with fraudulent intent, possesses, seizes, takes, offers for sale, furnishes, offers to furnish, gives, transfers, 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, or 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 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 an offense under subsection (a) shall be twice 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;

(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1905(e) of the Social Security Act), 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—

(A) is a United States citizen or national;

(B) is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act; or

(C) is an alien granted asylum under section 208 of such Act;

(2) a refugee admitted under section 207 of such Act;

(3) an alien whose deportation has been withheld under section 243(h) of such Act; or

(4) 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. 210. STATE OPTION UNDER THE MEDICARE 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 (68); and

(2) by striking the period at the end of paragraph (68) and inserting "; and";

(3) by adding after paragraph (68) the following paragraph:

"(69) 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 determine the 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 (68); and

(2) by striking the period at the end of paragraph (68) and inserting "; and";

(3) by adding at the end of the following new paragraph:

"(69) 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)(69)."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on May 6, 1996.

SEC. 211. REIMBURSEMENT FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the limitations of this section, reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency medical assistance services provided to any alien under this section—

(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) LIMITATION.—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 the sum of $5,000,000 to provide 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 (b) the Attorney General, at the time of conclusion of the program, at the end of clause (i) the following: "Provided, That nothing in this paragraph shall be construed to prevent a child who is present in the United States on or after the date on which such conclusion occurred from being reimbursed at a rate other than that conferred by paragraph (B), (C), (D), or (M), from seeking admission to a public secondary school for which such child may otherwise be qualified; and (2) Exclusion of Student Visa Abusers.—Section 101(a)(15)(F) 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 to study at a private elementary school or public 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).

(4) 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 crossings established by the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses" in Title 103-121, the Attorney General may establish pilot projects 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 feasibility 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) In General.—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) for each student described in paragraph (1). The Attorney General and the Secretary of State shall jointly designate the colleges and universities included in the program, and such colleges and universities may designate additional countries and may designate additional countries at any time while the pilot program is being conducted.

(b) Information to be Collected.—The information described in subsection (c) includes—

(1) the status of the student or the status of the nonimmigrant under section 101(a)(15)(F), (I), (II), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (I), (II), or (M)); and

(2) the name of the country designated under subsection (b).

The pilot program shall commence not later than January 1, 1996.

(c) Effective Date.—This section shall become effective 1 day after the date of enactment.

SEC. 215. COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—The Attorney General and the Secretary of State shall jointly conduct a program to collect information relating to nonimmigrant foreign students.

(b) Coverage.—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 of State shall jointly determine whether a country is a country designated under subsection (a)(1)(B). The Attorney General and the Secretary of State may designate additional countries at any time while the pilot program is being conducted.

(c) Information to be Collected.—The information described in subsection (a) for each student described in paragraph (1) consists of—

(1) the name of the student;

(2) the name of the country designated under subsection (b); and

(3) the date of entry into the United States.

The pilot program shall commence not later than January 1, 1996.

(d) Effective Date.—This section shall become effective 1 day after the date of enactment.

SEC. 216. 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 secondary school"; (2) in the section 1097, the portion of section 101(a)(15)(F) relating 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, with respect to the established educational institution, with schools to which the individual is admitted, 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 (b) the Attorney General, at the time of conclusion of the program, at the time of conclusion of the program, at the end of clause (i) the following: "Provided, That nothing in this paragraph shall be construed to prevent a child who is present in the United States on or after the date on which conclusion of the program occurred from being reimbursed at a rate other than that conferred by paragraph (B), (C), (D), or (M), from seeking admission to a public secondary school for which such child may otherwise be qualified; and (2) Exclusion of Student Visa Abusers.—Section 101(a)(15)(F) 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 at a private elementary school or public 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).

(b) Effective Date.—This section shall become effective 1 day after the date of enactment.

SEC. 217. PILOT PROGRAMS.

(a) Additional Commuter Border Crossing Fees Pilot Projects.—In addition to the land border crossings established by the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses" in Title 103-121, the Attorney General may establish pilot projects 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 feasibility of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Attorney General the sum of $5,000,000 to provide 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 (b) the Attorney General, at the time of conclusion of the program, at the end of clause (i) the following: "Provided, That nothing in this paragraph shall be construed to prevent a child who is present in the United States on or after the date on which conclusion of the program occurred from being reimbursed at a rate other than that conferred by paragraph (B), (C), (D), or (M), from seeking admission to a public secondary school for which such child may otherwise be qualified; and (2) Exclusion of Student Visa Abusers.—Section 101(a)(15)(F) 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 at a private elementary school or public 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).

(b) Effective Date.—This section shall become effective 1 day after the date of enactment.

SEC. 215. COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—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) for each student described in paragraph (1). The Attorney General and the Secretary of State shall jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

(b) Effective Date.—This section shall become effective 1 day after the date of enactment.

(c) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(d) Report.—Not later than two 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 Committee on the Judiciary of the United States Senate and House of Representatives a report on the operations of the pilot program and the costs of expanding the program to cover the nationals of all countries of the world.

_SEC. 216. 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 secondary school";
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 an institution of higher education approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (I), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1110(a)(15)).

SEC. 216. FALSE CLAIMS OF UNITED STATES CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED 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 deportable."

(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 subparagraph:

"(G) 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 6611: Voting by aliens.

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of selecting a candidate for the office of President, Vice President, Senator, or Representative in Congress or 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 municipal charter;

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner as to prevent any alien from voting for a candidate for any purpose other than to vote for a candidate for such Federal offices; and

"(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 UNFAVORABLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new subparagraph:

"(1) UNFAVORABLE VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excluded.

(c) EXCLUSION OF ALIENS WHO HAVE UNFAVORABLY VOTED.—Section 212(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new subparagraph:

"(2) UNFAVORABLE VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excluded."

SEC. 218. EXCLUSION CLAUSES FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, AND CRIMES AGAINST CHILDREN AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(1) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(2) Any alien who at any time after entry engages in certain portion of a crime of domestic violence in 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.

"(3) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(4) 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.

"(5) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a 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 definitions:

"(A) By inserting "or to be" after "being":

"(i) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(ii) 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.

"(b) The term "crime of sexual violence" means any felony or misdemeanor of crime of violence committed by a current or former spousal or romantic partner of the victim, a person who 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 past or present cohabiting romantic partner or spouse under domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(c) EFFECTIVE DATE.—This section shall become effective one day after the date of enactment of the Act."
"(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 the case of individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, delayed, deny, refuse, or terminate the eligibility of that individual from obtaining the benefits of that subsection for the reason that the individual has not provided a copy of his immigration status under section (a) before the date specified in that subsection, this Act shall not be subject to paragraphs (3) and (4) of section (a) before the date specified in that subsection.

"(ii) pending such verification or appeal, the Secretaries shall:

"(i) 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, 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, inserting the following: "status, the Secretary shall:

"(A) deny the application of that individual for financial assistance or terminate the eligibility of the individual for financial assistance, as applicable; and;

"(B) provide to the individual written notice of the determination under this paragraph and the right to request a 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 eligibility of the ineligible individual at issue was considered in calculating any proportion of assistance provided for the family.

Title III—Miscellaneous Provisions

Section 201. Changes Regarding Visa Application Process

"(A) Nonimmigrant Applications—Section 221(c) (8 U.S.C. 1221(c)) is amended—

"(i) by striking all that follows after "United States," through "martial status,"; and

"(ii) 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 visas being requested.""

"(B) Disposition of Applications—Section 221(e) (8 U.S.C. 1221(e)) is amended—

"(i) in the third sentence, by striking "required by this section" and inserting "for an immigrant visa;" and

"(ii) in the third sentence, by striking "or other document" after "document," and

"(A) by striking "by the consular officer.

Section 202. Visa Waiver Program

"(A) Extension of Program—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1998" and inserting "1999".

"(B) Repeal of Probationary Program—(1) Section 217(i)(1) (8 U.S.C. 1187(i)(1)) is hereby repealed.

"(2) A country designated as a pilot program country with probationary status under section 217(p) of the Immigration and Nationality Act shall not be subject to paragraphs (3) and (4) of that subsection as if such paragraphs were not repealed.

"(C) Eligibility of Families.—For purposes of this subsection, the term 'eligibility' means the eligibility of each family member.

SEC. 323. REGULATIONS.

(1) Submission of Regulations—Not later than 180 days after the date of enactment of this Act, the Secretaries shall submit to the Congress, for its approval, and may not implement until the approval of the Congress, proposed regulations for the purposes of applying the changes made by this section."

"(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:

"(D) Effective Date of Termination.—Notwithstanding any other provision of this section, the Attorney General shall terminate the program of the country that was designated as a pilot program country at the end of the fiscal year in which the determination is made.

"(E) Extension of Program.—Section 217, as amended by this section, is further amended by adding at the end the following:

"(F) Eligibility of Nonimmigrants.—If on the date of enactment of this Act, a country was designated as a pilot program country under section 217 of the Immigration and Nationality Act, the Attorney General may, if the program of the country is terminated by the Attorney General, designate the country as a nonimmigrant visa waiver program country, effective at the beginning of the fiscal year following the fiscal year in which the determination is made.

"(G) Nonapplicability of Certain Provisions.—Paragraphs (1)(C) and (3) shall not apply to the total number of nationals of a designated country, as described in paragraph (4) (A), in excess of 100.

"(H) Definition. —For purposes of this subsection, the term 'eligibility' means the ratio of—

"(a) the total number of nationals of the visa waiver program country, as defined in paragraph (4) (A), to

"(b) the total number of nationals of that country who applied for admission as nonimmigrant visitors during such fiscal year.

"(ii) who were admitted as nonimmigrant visitors on or after the date of enactment of this Act; and

"(iii) who were admitted as nonimmigrant visitors during the fiscal year in which the analysis was conducted and for which data is available; and

"(C) Eligibility of Nonimmigrants.—If on the date of enactment of this Act, a country was designated as a pilot program country under section 217 of the Immigration and Nationality Act, the Attorney General may, if the program of the country is terminated by the Attorney General, designate the country as a nonimmigrant visa waiver program country, effective at the beginning of the fiscal year following the fiscal year in which the determination is made.

"(D) 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:

"(E) Effective Date of Termination.—Notwithstanding any other provision of this section, the Attorney General shall terminate the program of the country that was designated as a pilot program country at the end of the fiscal year in which the determination is made.

"(F) Extension of Program.—Section 217, as amended by this section, is further amended by adding at the end the following:

"(G) Eligibility of Nonimmigrants.—If on the date of enactment of this Act, a country was designated as a pilot program country under section 217 of the Immigration and Nationality Act, the Attorney General may, if the program of the country is terminated by the Attorney General, designate the country as a nonimmigrant visa waiver program country, effective at the beginning of the fiscal year following the fiscal year in which the determination is made.
(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 vehicles chassis endanger law enforcement officers, their passengers, 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 16, United States Code, is amended by inserting the following new section:

"§2758. High speed flight from immigration checkpoints

(a) Whoever flees or creates 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, with the intent to evade an inspection or other duty of any such law enforcement agent is guilty of a Class A misdemeanor.

(b) 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 as a new clause (3):

"(e) HIGH SPEED FLIGHT.—Any alien who is convicted of high speed flight from a checkpoint (as defined by section 1586(a) of chapter 35) is deportable.

(c) COUNCILS 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 as a new clause (3):

"(e) HIGH SPEED FLIGHT.—Any alien who is convicted of high speed flight from a checkpoint (as defined by section 1586(a) of chapter 35) is deportable.

(d) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—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 legal fees and other expenses transmitted to the United States, shall be deemed to have been paid.

(e) APPLIANCE.—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)(30) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(30)).

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 test under section 1213(a)(6) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY 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 paragraph (a). The Attorney General 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 Yuma Port of Entry shall be designated as the "Timothy C. McCarthy Customs Administrative Building."
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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 aliens, for all such grants, allowed for that State for that fiscal year to exceed...........

"(D) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies, under that section and subsection (a) of that alien described in section 101(a)(15)(H)(ii)(B).

"(A) a person who has obtained a change of status under paragraph (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 additional number of nonimmigrant resident status; or for any other change of nonimmigrant status until it is established that such person has re-established and been physically present in the country of his nationality or his last, or an aggregate of at least two years following departure from the United States.

Notwithstanding any other provisions of this subsection, a foreign professional athlete requested by an interested State Government agency for a professional athlete under subsection (a) and subsection (b) of this section who has not otherwise been accorded a permanent resident status under section 214(a)(15)(H)(ii)(B).

"(A) in the case of a request for employment in a health facility or organization named in the waiver application.

(a) The certification received for a professional athlete shall 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 this subsection, 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 Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.

(b) The certification required by subsection (a) of this section is amended by adding at the end the following: "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 this subsection, 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 Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.

SEC. 318. 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 spouses 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 marriages or relationships. There is also evidence to suggest that a substantial number of mail-order marriages constitute marriage fraud.

(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, their visas 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 estimated that at least one million 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.

SEC. 311. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND PERMITS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5) is amended by striking paragraph (A) and inserting the following:

(D) PROFESSIONAL ATHLETES.—The labor certification required under section 212(a)(5) as amended by adding at the end the following: "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 this subsection, 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 Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.

(b) LABOR CERTIFICATION.—The labor certification required under section 212(a)(5) is amended by adding at the end the following:

"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 this subsection, 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 Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.

SEC. 315. 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 spouses 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.
(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 11, 1934 (22 U.S.C. 221) is amended—

(1) by striking "Before" and inserting "(a) In GENERAL.—Before", and

(2) by adding at the end the following new subsection:

(b) Passports issued for children under 16 shall have a validity period of not more than five years, unless the child, on or before the date of issue of the passport, demonstrates good cause for remaining in the United States without the authorization of the Attorney General.

SEC. 319. EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNIFICATION PROGRAM.

Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

"(e) Exclusion 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—

(A) the alien has committed an act of terrorism, as defined in section 237(a)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1255a note), or

(B) the alien is a member of an organization that sponsors or engages in acts of terrorism.

SEC. 320. TO SECURE APPROPRIATELY STAFFED CONTROL STATIONS.

(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 competes with, or aids, or abets, a person who is a citizen or national of the United States in committing a violation of section 928 of title 18, United States Code, the Controlled Substances Act (21 U.S.C. 848a), or any other law of the United States, to determine whether the guidelines provide a sufficient deterrent to criminal activity.

(b) Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall issue new sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

SEC. 321. REVIEW AND REPORT ON H-2A NON-IMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the enactment of this Act may provide an effective tool to meet the future needs for the work force of the producers of our Nation's labor intensive agricultural commodities and livestock.

(b) REVIEW.—The Commissioner General shall review the effectiveness of the H-2A non-immigrant 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. For that purpose, the Commissioner 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 Commissioner 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) "Border Patrol" means the Commissioner General of the United States Border Patrol.

(2) "Southwest border" means the boundary between the United States and Mexico.

SEC. 322. FINDINGS RELATED TO THE ROLE OF BORDER PATROL STATIONS.

The Congress makes the following findings:

(a) 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 those agents to the Southwest border.

(b) The INS has stated that it intends to carry out this transfer without disrupting service and account to the communities in which interior stations are located.

(c) Briefings conducted by INS personnel in communities with interior Border Patrol stations have indicated that: First, that the removal of agents from interior stations, particularly those located in Southwest border states, perform valuable law enforcement functions that cannot be performed by other INS personnel.

(d) 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.

(e) 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.

(f) 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.

(g) Therefore, it is the sense of the Congress that—

(1) the United States Border Patrol plays a key role in apprehending and deporting undocumented aliens throughout the United States;

(2) interior Border Patrol stations play a unique and critical role in the agency's enforcement mission and serve as an insurable second line of defense in controlling illegal immigration and its penetration to the interior of our country.

(h) Therefore, it is the sense of the Congress that—

(1) 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 staff cannot be practically assigned to meet enforcement needs along the Southwest border; and

(9) The Attorney General may hire, train and assign new staff based on a strong Border Patrol presence in the region to enhance both on the Southwest border and in interior stations that support border enforcement.

SEC. 237. LAND ACQUISITION AUTHORITY.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by redesignating paragraphs (c), (d), (e) and (f) accordingly, and inserting the following new subsection:

"(a) Nothwithstanding any other provision of law, the Attorney General may acquire by condemnation proceedings pursuant to section 257 of title 40, United States Code,

(1) any interest in any land identified pursuant to subsection (a) as soon as the lawful owner of that interest agrees to sell the land to the Attorney General for a price that is fair and reasonable in the Attorn
gener's judgment, and the Attorney General may exercise such authority and perform such duties as the Department of Justice may authorize to exercise such authority and perform such duties as the Department of Justice may authorize to accomplish the purposes of this section.

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) transfer any property held in evidence in any criminal proceeding if the transfer is necessary to carry out the purposes of this section.

(B) The Attorney General may provide for the furnishing of information furnished under this section to law enforcement agencies to be used solely for legitimate law enforcement purposes.

(2) Assistance by Attorney General.—The Attorney General of the United States shall provide such information and assistance as the Attorney General shall determine necessary to achieve the purposes of this section.

(3) Distribution of Report.—Copies of the report described in subsection (a) shall be distributed to all Federal officers and employees of the Department of Justice and of the Department of the Treasury with respect to the inspection of Federal financial and insurance institutions so as to assure that the report is available for the use of officers and employees of the Department of Justice and of the Department of the Treasury in the performance of the duties of their respective agencies.

II. ALIEN FAMILY MEMBERS OF INS OFFICERS KILLED IN THE LINE OF DUTY

SEC. 239. 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 (d) by adding the following to 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 service, and personal 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 may make such payments 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 clothing, medical care, personal security, food or local jurisdiction which agrees to provide guaranteed care, and necessary services for persons detained by the Immigration and Naturalization Service, in the States or political subdivisions thereof, for the purpose of providing necessary clothing, medical care, personal security, and such necessary services as the Attorney General deems necessary to achieve the purposes of this section.

(1) The Attorney General shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) The report shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over 3, 5, and 10 year periods. 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 cards prior to the scheduled 3, 5, and 10 year phase-in options.

(3) Distribution of Report.—Copies of the report 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.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be 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.

(3) REPORT ON ALLEGATIONS OF EMERGENCY OR CUSTODY OF 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 activities along the United States-New Brunswick border. Such study shall include an examination 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.

(3) 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. 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 guarantee 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

(b) REASON.—It is the sense of Congress that the United States Government can take steps to help end the harassment by Canadian Customs agents found to have occurred.

SEC. 336. 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 PST on 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

(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. 337. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 338. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 339. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 340. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 341. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 342. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 343. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 344. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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. 345. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents 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.

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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 recognized 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 550 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 valid passports, no right in this country, and that is coming in and they have been investigated. INS is conducting investigations on them. It is a serious inquiry and a serious charge and it is being investigated by INS now, but this gives reason for the instruction motion that I would urge 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 550 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
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 move to further 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 bill is near completion.

The Immigration in the National Interest Act is just what it says, an effort to fundamentally reorder 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 have arrived in the past five years. Half of these illegal aliens use fraudulent documents to wrongfully 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.

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 were streamlined, and opportunities for illegal aliens and criminal aliens to "game the system" in order to stay in the United States disappeared. Aliens who show up with no documents or who illegally enter the United States will be deported quickly rather than be given lengthy deportation hearings to which a vast majority now 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 should not be abused. 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 can support the 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. CONTERS, 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.

And it is, Mr. Speaker, from 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 conflict 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. And 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 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 check that and disrupt the illegal immigration. What happened?

We came out of the committee with 150 additional inspectors, just as the Jordan commission reported, but before we got to conference, 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 we are facing, and it is time for us to act 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:
Mr. Speaker, California alone spends over $2 billion per year to educate illegal immigrants in public schools. In addition, my amendment has been submitted to prevent the Federal Government to force States or local governments to provide a free public education to illegal immigrants. I yield 5 minutes to the gentleman from Texas, Mr. LAMIT SMITH.

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 yet to pass laws 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 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 costs 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 to receive a free public education in public schools 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 would be, then they would be perfectly entitled to continue that policy.

Mr. Speaker, California alone spends over $2 billion per year to educate illegal immigrants in public schools. 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 immigration. 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.

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Mr. Speaker, I believe that 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 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 bipartisanism. 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 a participatory process.

Now, I understand why they did it that way. So way. There are in this bill several provisions which do not deal with illegal immigration, they deal with discrimination. I believe this is the right way. I believe this is the right way.

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 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 for you to give them a chance to prove that they are here legally.

We had provisions there that protected people. They now changed that. Those provisions are not before us. This sanction is not. This sanction is not. These provisions were not stricken. The General Accounting Office said, yes, the sanctions have led to discrimination.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California, Mr. GALLEGLY, 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.

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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 to receive a free public education in public schools that choose to deny illegal immigrants a free public education. If a State, be it New York, Oregon, or any other State,
No wonder they didn't want to let us see it until last week. 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 they are trying to get 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 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 White House decision. Apparently the decision was made by the White House, 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 day 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. Everybody I talked to was saying let's play games, having apparently made us feel good, pretending we were paying attention to us. It seems to me, during the committee process, they then systemically 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 American 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 we systematically 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 conference. 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. It deals 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 amendment. I yield to the gentleman from California.
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 too 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 anyway 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 work, 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 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 of us 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 initiative, 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 clause of all of those in K through 6 and those in K through 12, watered it down considerably, and even now 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 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. 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.

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 how the Governor of California do that, with a chance to get meaningful provisions.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 1 minute and 30 seconds to the gentlewoman from Texas, Ms. 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 show of 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 working 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 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 given permission to revise and extend 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 we 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 have threatened to fire 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 the school system. I could not have him have a stroke over the insensitive, the gentility 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 and we have eliminated the 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 somewhere else. 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. CONGERS. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Pennsylvania has confused me, 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 of 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. CONGERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California. Mr. XAVIER BECERRA, who I have asked to discuss this discussion by saying 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 gentle for yielding time to me.

Mr. Speaker, there are a number of problems with this so-called conference report. 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 me 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 that this is going to infiltrate this country, whether with or without documents, 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, 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 workers. They said let us have otherwise not been employed, and those people who are not employed and are in jobs that are not authorized, get to be carried away.

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 provide 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 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 monies, funds for 300 additional border patrol agents more than even what the administration, the Clinton administration, 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, we are 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. CONGERS).
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

Abacconie...Abercrombie...Ackerman...Ailland...Allard...Andrey...Andrews...Angie...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews...Andrews..
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.
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 disagreement between the House and the Senate 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:

The House recedes from its disagreement to the amendment of the Senate and agrees 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; 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 specified 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 specified provided in this Act, for purposes of titles I and VI of this Act, the terms “alien”, “Attorney General”, “border crossing identification card”, “criminal alien”, “immigrant”, “immigrant visa”, “lawfully admitted for permanent residence” “national”, “naturalization”, “political subdivision” “Secretary”, “United States”, and “United States citizen” shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

T A B L E OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; application of certain definitions of such Act; table of contents; severability.

Sec. 2. Improvements to border control facilities of legal entry and interior enforcement.

Sec. 3. Increased penalties for illegal entry.

Sec. 4. Hiring and training standards.

Sec. 5. Report on border strategy.

Sec. 6. Criminal penalties for high speed flights from immigration checkpoints.

Sec. 7. Joint operation of automated data collection.

Sec. 8. Automated entry-exit control system.

Sec. 9. Submission of final plan on realignment of border patrol positions from interior stations.

Sec. 10. Nationwide fingerprinting of apprehended aliens.

Sec. 11. Facilities of Legal Entry.

Sec. 12. Land border inspectors.

Sec. 13. Land border inspection and automated permit pilot projects.


Sec. 15. Preclearance authority.

Sec. 16. Increase in number of certain investigations.

Sec. 17. Authorization of appropriations for increase in number of certain investigators.

Sec. 18. Authorization of appropriations for increased border resources.

Sec. 19. Acceptance of State services to carry out immigration enforcement.

Sec. 20. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling.

Sec. 21. Increased criminal penalties for fraudulent use of government-issued documents.

Sec. 22. New penalties for fraudulent alien smuggling.

Sec. 23. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.

Sec. 24. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.

Sec. 25. Criminal penalty for false claim to citizenship.


Sec. 27. Criminal forfeiture for passport and identity fraud.

Sec. 28. Criminal forfeiture for immigration fraud.

Sec. 29. Penalties for involuntary servitude.

Sec. 30. Admissibility of videotaped and other evidence.

Sec. 31. Subpoena power of Attorney General in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DEFLECTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Grounds for Exclusion.

Sec. 32. Grounds of exclusion.

Sec. 33. Increased penalties for failure to depart, illegal reentry, and passport and visa fraud.


Sec. 34. Provisions relating to State criminal alien assistance program.

Sec. 35. Designation of illegal aliens.

Sec. 36. Waiver of exclusion and deportation for certain section 214(c) violators.

Sec. 37. Inadmissibility of certain student visa abusers.

Sec. 38. Removal of aliens who have unlawfully voted.

Sec. 39. Waivers for immigrants convicted of crimes.

Sec. 40. Waiver of misrepresentation ground of inadmissibility.

Sec. 41. Offenses of domestic violence and stalking as ground for deportation.

Sec. 42. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.

Sec. 43. Exclusion of former citizens who renounced citizenship to avoid U.S. tax liability.

Sec. 44. Reference to changes elsewhere in Act.


Sec. 45. Treatment of classified information.

Sec. 46. Exclusion of representatives of terrorist organizations.
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:

Sec. 1. Short title; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions from interior stations.
Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preinspection at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Pre-clearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens
Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions
Sec. 321. Amended definition of aggravated felony.
Sec. 322. Definition of conviction and term of imprisonment.
Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 324. Penalty for reentry of deported aliens.
Sec. 325. Change in filing requirement.
Sec. 326. Criminal alien identification system.
Sec. 327. Appropriations for criminal alien tracking center.
Sec. 328. Provisions relating to State criminal alien assistance program.
Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Sec. 330. Prisoner transfer treaties.
Sec. 331. Prisoner transfer treaties study.
Sec. 332. Annual report on criminal aliens.
Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.
Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation
Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.
Sec. 343. Certification requirements for foreign health-care workers.
Sec. 344. Removal of aliens falsely claiming United States citizenship.
Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 346. Inadmissibility of certain student visa abusers.
Sec. 347. Removal of aliens who have unlawfully voted.
Sec. 348. Waivers for immigrants convicted of crimes.
Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.
Sec. 350. Offenses of domestic violence and stalking as ground for deportation.
Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.
Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.

Sec. 353. References to changes elsewhere in Act.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.

Sec. 355. Exclusion of representatives of terrorist organizations.

Sec. 356. Standard for judicial review of terrorist organization designations.

Sec. 357. Removal of ancillary relief for voluntary departure.

Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.

Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.

Sec. 372. Delegation of immigration enforcement authority.

Sec. 373. Powers and duties of the Attorney General and the Commissioner.

Sec. 374. Judicial deportation.

Sec. 375. Limitation on adjustment of status.

Sec. 376. Treatment of certain fees.

Sec. 377. Limitation on legalization litigation.

Sec. 378. Revocation of lawful permanent resident status.

Sec. 379. Administrative review of orders.

Sec. 380. Civil penalties for failure to depart.

Sec. 381. Clarification of district court jurisdiction.

Sec. 382. Application of additional civil penalties to enforcement.

Sec. 383. Exclusion of certain aliens from family unity program.

Sec. 384. Penalties for disclosure of information.

Sec. 385. Authorization of additional funds for removal of aliens.

Sec. 386. Increase in INS detention facilities; report on detention space.

Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.

Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.

Sec. 402. Voluntary election to participate in a pilot program.

Sec. 403. Procedures for participants in pilot programs.

Sec. 404. Employment eligibility confirmation system.

Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.

Sec. 412. Paperwork and other changes in the employer sanctions program.

Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.

Sec. 414. Reports on earnings of aliens not authorized to work.

Sec. 415. Authorizing maintenance of certain information on aliens.

Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENs

Sec. 500. Statements of national policy concerning public benefits and immigration.

Subtitle A—Ineligibility of Excludable, Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

Sec. 501. Means-tested public benefits.

Sec. 502. Grants, contracts, and licenses.
Sec. 503. Unemployment benefits.
Sec. 504. Social security benefits.
Sec. 505. Requiring proof of identity for certain public assistance.
Sec. 506. Authorization for States to require proof of eligibility for State programs.
Sec. 507. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 508. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 509. Verification of immigration status for purposes of social security and higher educational assistance.
Sec. 510. No verification requirement for nonprofit charitable organizations.
Sec. 511. GAO study of provision of means-tested public benefits to ineligible aliens on behalf of eligible individuals.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

Sec. 531. Ground for exclusion.
Sec. 532. Ground for deportation.

Subtitle C—Affidavits of Support and Attribution of Income

Sec. 551. Requirements for sponsor's affidavit of support.
Sec. 552. Attribution of sponsor's income and resources to sponsored immigrants.
Sec. 553. Attribution of sponsor's income and resources authority for State and local governments.
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.

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.
Sec. 562. Computation of targeted assistance.
Sec. 563. Treatment of expenses subject to emergency medical services exception.
Sec. 564. Reimbursement of States and localities for emergency ambulance services.
Sec. 565. Pilot programs to require bonding.
Sec. 566. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.
Sec. 572. Prorating of financial assistance.
Sec. 573. Actions in cases of termination of financial assistance.
Sec. 574. Verification of immigration status and eligibility for financial assistance.
Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.
Sec. 576. Regulations.
Sec. 577. Report on housing assistance programs.

Subtitle F—General Provisions

Sec. 591. Effective dates.
Sec. 592. Statutory construction.
Sec. 593. Not applicable to foreign assistance.
Sec. 594. Notification.
Sec. 595. Definitions.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

Sec. 601. Persecution for resistance to coercive population control methods.
Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.
Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.
Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H-2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

(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 obtaining 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”;

(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”;

(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 REFERREES.—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
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(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(c)(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 reg-
istered 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 confirma-
tion 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 per-
son or other entity receives an appropriate confirmation of
an individual's identity and work eligibility under the con-
firmation system within the time period specified under sec-
tion 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 SEC-
ONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other en-
tity receives a tentative nonconfirmation of an individ-
ual'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 con-
test the nonconfirmation within the time period speci-
fied in section 404(c), the nonconfirmation shall be con-
sidered 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 proc-
ess 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 speci-
fied 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).
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 NECESSARY 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).


(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.
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 non-immigrant 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 non-immigrant 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."
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"(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 of 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. 2018(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).


"(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).


(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

(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 public benefits applied for; and

(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 estab-
lished 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 ac-
cording to State law.

(c) REPORT.—Not later than 1 year after the date of the enact-
ment 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-RESIST-
ANT SOCIAL SECURITY CARD.

(a) DEVELPOMNT.—

(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 mate-
rial such as plastic or polyester;

(B) shall employ technologies that provide security fea-
tures, 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 Gen-
eral shall provide such information and assistance as the Com-
missioner deems necessary to achieve the purposes of this sec-
ction.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Com-
misseeioner 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 eval-
uations 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 re-
placement 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 de-
scribed 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 GALLEGGY,
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 increased 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 non-confirmation 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 Pell Grants) 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-alién 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.
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,

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.
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

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
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.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2. 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:
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.
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

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.
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 material)

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.

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 the past 24 years of the immigration debate. The only way to gain a sense of the passage 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 passing bills 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 that the American people want us to do.

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 on 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. 2922 fills that bill. It is not perfect, Mr. Speaker. 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 immigrant 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 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 issue. Congress has taken up this matter on a daily basis, and we are now ready to pass this legislation. 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, fair to say, a sad commentary on the condition of our political system, 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 before we can seriously and finally deal really serious about stopping illegal immigration and reducing legal immigration.

One of this bill's greatest defects is its leastens treatment of employers who hire illegal immigrants. An estimated 300,000 illegal immigrants settle permanently in the United States. But as we all know, virtually all of them are here by the prospect of jobs that they know they are able to obtain because the legislation 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, I am afraid 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 before we can seriously and finally deal really serious about stopping illegal immigration and reducing legal immigration.

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States that have the highest numbers of undocumented workers. Because these workers will be voluntary, employers will be able to avoid tracking 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 focused on problems 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 surrounding our legal immigration laws is ignored, 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 legally.

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 will be in our overcrowded urban 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 33 or 34 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.

Many 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 1980's, not prior immigration, but just the immigration that is occurring, 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 contain similar 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 immigration 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 decides to act 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 areas, are 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 already magnets for immigrants, whether legal or illegal, already straining to meet the needs of 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, for example, especially health care and public safety, is going 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 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 the views of the majority party, this measure contains essentially 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 will fail 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 reduced the number of illegal immigrants who 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 do justice to the problems which confront us, and I urge my colleagues to vote it down, both the rule and the conference report, so that Congress and the President, and the administration, which did not do its duty, instead of the conference committee, 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 that put together this bill.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the comments by opponents to 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 9½ 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 gentleman from California for his efforts on this important bill. I can say that he has been consistent and 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 mix-up in the vote. Mr. Speaker, I wish to commend the gentleman for his efforts on this bill. I do agree with the gentleman from California on the importance of this bill.

Mr. Speaker, many months ago the House passed H.R. 2202 to reform our Nation's broken immigration laws. 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 employers to verify the legal status of workers, and make illegal immigrants ineligible for most public benefits.

All along in this process, the drum beat 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 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 H.R. 2202 to reform our Nation's broken immigration system. This conference report does not contain the Senate provision that would have provided subpoena authority to the Secretary of Labor to carry out employment 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 are locked out of the process 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, Terrorism, & Homeland Security.

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, which 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 that 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.

The question here is whether 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 hours at the airport, an asylum officer specially trained will screen you, if you think you have been given a raw deal of 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 verify if legal immigrants hired to do work 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 through within a matter of 24 hours or so, at most.

It is a very, very positive provision, because if 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.

It is an 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. Bunning] 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 street, including Social Security cards, driver's 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.

Chairman. The gentleman is recognized for 3 minutes.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BORRACH], the minority whip.

Mr. BORRACH. 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 who 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 protections 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 Americans 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. And 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.

We have all seen it in our districts. We are in illegal 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 discriminate 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 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 we should pay attention to: An individual in 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 of 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. 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 do anything to keep aliens from coming in through any type of legislation. Here 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.

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 go to our citizens, the people that are paying taxes, not to war. 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 nipping from the other side of why why why we do not have a perfect bill. But the American people should understand, it is this type of nipping 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. BELLENSEN, Mr. Speaker, I yield 2 1/2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from California, and 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 is put together as a combination of some effort in response to illegal immigration and illegal immigration.

Unfortunately, the provisions of the legal immigration part of this legislation were extremely harsh and, in fact,
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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 amendment today. "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 dark 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. This is the conference committee.

In conference we happened to have found out, because we were handed a sheet that same morning, that a proviso in the bill that we thought was in, which would deny a millionaire a visa to come into this country after that millionaire had renounced his U.S. citizenship.

In other words, we have a billionaire in this country who renounces his U.S. citizenship. He says, "I do not want to be a U.S. citizen any more." Why? Because he does not want to pay 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. We walked in that morning, and that provision is no longer there. So these billionaires can come back into the country without having paid their taxes.

We said, why did you put that back in there? Why did we not have a chance to discuss this? Our billionaires' Billonaires 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 spicing. I do not call it spicing. I call it prevarication. I do not think they should be prevaricating on this issue.

We move 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 validated 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.

We did not capture the spirit of the Statue of Liberty, which indicates that this Nation, based on the standards used by other countries, we do not follow, led us, 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 to seek political asylum, to seek political asylum 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.

Further, 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 9 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.

Mr. Speaker, let me go on to say that I am very disappointed in what we have here today. We have provisions, not only because I think substantially 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 Repub-

licans, the majority in this Con- gress, saw fit not to allow anyone to participate in the structuring of this final version of the bill unless one hap-

pened to be Republican.

Not one Member, since the bill first passed out of the House of Rep- resentatives back in March, have Democrats had an opportunity to pro-

vide amendments to this particular conference report or to participate even in discussion of amendments on this report.

Most of the provisions of the bill, I think, are in accord with good sound policy. However, there does come 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 Cali-

fornia-Texas-Mexico border. However, the way this section is written, the ex-

emption applies to the entire border of the United States, not just the Califor-

nia-Mexico segment.

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 ad-

dress 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 im-

portant 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, why do we not just exempt the De-

partment of Transportation? Flood control is very 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 seri-

ous problem.

Mr. BEIJLENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. BEJLENSON. Mr. Speaker, I think that this is a bill that needs a great deal of un-

derstanding. I thought this country was responsible for

aid, has been victorious in high school without having paid their taxes.

Good news? Billionaires cannot come back in, if they renounce their citizen-

ship. 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 spicing. I do not call it spicing. I call it prevarication. I do not think they should be prevaricating on this issue.

We move 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 validated 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 hardworking 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 that fine introduction. Let me 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 front door for 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 her admission, and she was admitted. She was a legal immigrant child who is going to high school. The conference agreement does not do, they decided to do any better simply by removing the bar on undocumented children attending public school. The conference agreement still severely restricts legal immigrants' access to welfare benefits, even though they pay by the rules, they work hard and they obey the law. And for 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 day 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 today. One term I think we should hear 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 they are losing, and 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, which is the only right that is handed to us at birth. If someone is born in this country, they are a citizen of 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 4 minutes to the gentleman from California [Mr. Berman].

(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 full support for 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. The bill not only attacks but totally fell apart on the House floor with the best 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 is not 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 Gagley amendment was removed. The Gallegly amendment was removed, but in a dozen different ways the conference report is worse than the original 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 legal immigrants? No. Draconian against illegal 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 illegal immigration to do the same thing, but in the most unfair fashion. It is carried out primarily by reducing the numbers but by breaking up 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 for 5 years. It gives States the ability to permanently deny AFDC and Medicaid to legal immigrants.

This conference report goes much, much further. It makes legal immigrants not ineligible for 1 or 2 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, who 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 program, and then you are subject to deportation. What an outrageous provision that is. What a slap in the face of this country's traditions that is.

Just tell me 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. In my lifetime, it seems, on trying to resolve the various immigration problems. They are affecting southern California and California generally and the Nation generally in very significant ways.

Mr. BILBRAY. Mr. Speaker, I rise to 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 other would provide 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 coming here illegally. It is about protecting American taxpayers from those 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 burden by removing the incentives for immigrants to cross our borders illegally, and by reimbursing those States who have to incorporate illegal immigrant felons.

Mr. BILBRAY. 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 those who have worked so hard on it. I 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 the speakers task force on illegal immigration, former mayor of Simi City.

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.

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 of those entering our country to 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 manufacture or production of counterfeit currency.

Mr. BILBRAY. 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 California, for his efforts in 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 the gentleman for himself 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 until something else in the next Congress.

I as a mayor and as a county supervisor, I worked with the problem in our community with illegal immigration, crime, the impact 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.

Mr. DREIER. Mr. Speaker, we urge 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 provide our services and our jobs in this country more than it affects 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 over by our free ways, 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 over by our freeways, than we have seen in our neighborhood along the border than we have seen in our lifetime. If Oklahoma's explosion was so important that we address that, then why do we 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 you.

I urge a "no" vote on the rule. Let us reform illegal immigration and let us do it now. Quit finding excuses.

Mr. BILBRAY. 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. BILBRAY. 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 working with it. Passage of this legislation will allow employers who hire illegal immigrants to continue working with it.
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 that we need to do.

So I suggest, Mr. Speaker, that we defeat this rule and force the President and the Congress 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 and I move the previous question on the resolution that the ayes appeared to have it.

Mr. BUCHanan. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Sergeant at Arms will notify absent Members.
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 read.

(For conference report and statement, see proceedings of the House of Tuesday September 24, 1996, at page H1041.)

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 for it.

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 enforces citizens' 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 afford to let alien smugglers continue, especially since 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 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 verification 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 by 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 door.

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 their 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 97 to 3, 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, the question before us 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 such time as I may consume.

(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 this bill. This bill repeals that law, in effect, that is OK to ignore the immigration conference report that is now before them.

What we do to the environment is a crime. The 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 runoff, 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 defects.

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 progress has been complete. Do you know 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 railroaded every conference bill for the last year. We do not even get a conference report 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 discrimination 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 such time as I may consume. 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 rolcall vote. The bill, when we actually got 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 permitted to offer an amendment. Do 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
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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 the resolution of 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 illegal immigration 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 conference 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 context, I appreciate the fact that concerns about the welfare of unregistered 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 conferee that our present House and Senate conferees initially developed, but it did not provide for an expressio 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 it would be preferable to address this issue in the context of other legislation rather than place at risk the many needed enforcement-related provisions of this bill.

The conference 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 potential legal 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 candidates to determine whether aliens have a "credible fear of persecution"—and thus qualify for more elaborate procedures. The credible fear standard is redefined 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 conference provided for potential immigration judge review of adverse credible fear determinations by asylum officers. This is a major change providing the same judicial role for a quasi-judicial official outside the Immigration and Naturalization Service.

The conference document includes a House provision offered in the Committee on the Judicary to protect victims of coercive population control practices. Our law—which appropriately recognizes the rights of reproductive choice—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 most important of actual 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 illegal immigration practices.

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 immigration 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 enable our country legally to afford 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 new changes in the immigration and Nationality Act. 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. 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. HRYB] 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 co-sponsor of this legislation. I stood in a press conference alongside the gentleman from Texas [Mr. SMITH] and said we've 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 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 employers of 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 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, which was an enhanced civil penalties bill 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 through the border. They are jobs 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 best 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 wanted illegal aliens taken away, he said, "Mr. Gingrich, you Republicans do your job and get us off the hook." And that is exactly what they did.

Mr. Speaker, the gentleman from Texas [Mr. SMITH] have spoken of the increased enforcement to stop inegal aliens from coming into the country and taking jobs.

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 done got done in this bill, and what working Americans who need to have their jobs protected from being lost by 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 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 and they will say we should not vote for this, but I am probably going to have to vote, if you do not have to vote. For the motion to recommit. We fix all 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 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 for the apprehension, detention 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, as opposed to limited detention after 12 months, which, of course, if you are HIV positive, 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 is immigration reform 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 change it, but the leadership amended the military bill to do that, it was not in either bill. It has not been used yet. It is a popular issue, a popular issue, a popular issue.

But this, we said "Gee, we made a mistake and it was repealed. But here they go again."

What we 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 protections. Here they are doing it. 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 want to pass 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 12 months a year. That in and of itself seems to me to be cruel and inhumane.

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. This was in the bill as it came out.

There is the common notoriety 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 change it, but the leadership amended the military bill to do that, it was not in either bill. It has not been used yet. It is a popular issue, a popular issue, a popular issue. 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, 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...
Mr. FRANK of Massachusetts. 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 meanest provision I can imagine. When something is 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 the behavioral conduct ring out of the 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 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 one hand, to deny the behavioral conduct ring out of the 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 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. GALLEGTY] or the gentleman from Texas or the people who have worked out an excellent piece of legislation. I just, for my 5 grown children, for my other constituents, want to get up money, fail in love and marry a physician in France, and I am sorry he will be leaving this body.

The people of my congressional district and of southern California, and the entire country, desperately want 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 employment of illegal aliens, 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 have had no major new initiatives. We are discussing this as what it is, a major new initiative. He has proposed and the Congress refused 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 56 percent. We are deposing more criminal aliens and more illegal immigrants than we ever did before, and all the trend lines are going back.

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 is serious if we do not 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 gentle.”
we had moratoriums on immigration in this country, we allowed U.S. citizens to bring in their relatives. 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. HUNTER. 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 1,000.

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, has authorized appropriations that 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. It is a recognition, nearly a decade ago, and since that comprehensive 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 here 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 the generosity but, in fact, it does nothing more than set the law over again.

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. WAAN. 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 whatever. That is going to put a burden on the counties and on the State 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, understanding this bill would allow a pregnant woman 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.

For those of us who call ourselves pro-life, understanding this bill would allow a pregnant woman 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 to 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 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 in our hospitals who are born to illegal aliens. Members should consider that. This bill does not help all of those children. Prop 187, 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. McKeeon].

Mr. McKeeon. 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. 2220 not only increases the Border Patrol agents, it also streamlines the deportation of criminal aliens, protects American jobs and holds individuals responsible to support immigrants that they employ and, in the process, it 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 of New York. Mr. Speaker, I rise in strong support of this conference report. Today when this bill passes, the American people will be saying to the immigrants who live on our streets and take illegal dollars from our tax 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 want to help them. I do not care if it is AIDS or malaria. But if somebody 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 people. What does this provide? It provides for visas and passport fraud and related offenses for American values and vote no.

Mr. SMITH of Texas. Mr. Speaker, I rise in strong support of this conference report. Today when this bill passes, the American people will be saying to the immigrants who live on our streets and take illegal dollars from our tax 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.
Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BRUNO], who actually lives on the border and faces the crisis of illegal immigration every day.

Mr. SILBAY. Mr. Speaker, I rise in strong support of this conference report. I would like to thank Chairman Smith and Chairman Goodson 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.

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 citizens 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 unnecessary expenses.

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 Immigration.

(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. HR 2003 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 some 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, which currently would not 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. The way, is already law as a result of the Homeland 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 have included some 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 is a year for the photographs 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 some steps are taken in this bill, not enough, we've 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 the right to arrive by air is 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. GUTTIERREZ].

Mr. GUTTIERREZ. 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 idea 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 incedency.

And, under this bill the simple idea of using your Social Security number, 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 it?

Under this bill legal immigrants are deportation eligible. By this, Congress is 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 one year, you are out 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 apply punish immigrants, it punishes all Americans. It punishes all American contributions that immigrants make to our Nation. Let us defeat this sad, cynical, and shortsighted legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes 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 administer the laws 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 have to kick a fence 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 simplified the process 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 earlier 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 racial, and the efforts of the welfare reform, and 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 the deportation 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 that would 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 INS inspectors 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 a recourse if there was discrimination. All of these inspectors, all of these enforcement 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 deportations 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 meaningful 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 tougher than on illegal immigrants. 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?

The Chair. 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.

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 overlooked is that in this bill we have added an additional 900 inspectors, 300 each year for 5 years, and these are INS inspectors. It makes far more sense to have Immigration and Naturalization 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 strengthens 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 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 responsibilities.

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 discussion 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 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 passage of the 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 Senate voted on. It is not the bill that the Senate voted on.

The other thing about the inspectors that seems to be conveniently overlooked is that, we have already voted twice.

The reason I say that they do not represent a majority of 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.

On the other side, we are talking about more people on the border if the Committee on Appropriations goes along with this. That sounds good. I am certain 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 use illegal aliens, and we had many, many inspectors in the House committee, had many, many inspectors in the House committee version, the 156. We had 350 in the Senate bill. They are gone. Of the enhanced sanctions 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, the provisions that we 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.
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There is a core of agreement on measures to restrict illegal immigration that would not be controversial.

But there is what happens, and people should understand. It is wrong to 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 recorded 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 bill, that this would lead to discrimination against those who are 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, and they have 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 this recommit and it will not affect 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 just did 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.

This bill does not 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 certifies they are not eligible to work, they have no recourse. Our bill would have given some recourse.

This bill protects the employers. This bill is in fact, 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 that are now 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. 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 ½ minutes to the gentleman from Florida [Mr. Mica]. Mr. Mica. Mr. Speaker, I come before the House today to debate this immigration reform legislation, from a State that has been impacted and sometimes devastated by a lack of a national immigration policy.

I yield myself 1 minute. 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 restructuring some payments, some benefits, to illegal aliens, and we should go beyond inspections.

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 on our borders, but 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, or 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 our senior citizens. So this is a much larger debate.

Finally, my colleagues, we must have a President who will enforce the laws, a President who 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. Mr. Speaker, I yield permission to revise and extend his remarks.

Mr. TORRES. Mr. Speaker, I rise to voice my strong opposition to the 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."

But that tells us that any attempt to reform immigration should address these 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 the backbone of illegal immigration. 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 hour laws.

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 their moderate wages, with little or no health insurance, and those who 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? 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 on the other side of the aisle want to walk 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 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. MILLER].

Mr. MILLER. 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 332 to 67. 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 accounts to 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. She worked and supported herself and her family. 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] is recognized for 15 seconds.

The SPARR pro tempore. The gentleman from Texas [Mr. SMITH] is recognized for 1 minute and 30 seconds.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPARR pro tempore. All time may be consumed.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. 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.

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The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 1 minute and 30 seconds.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPARR pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 1 minute and 30 seconds.
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.

Mr. BRYANT of Texas (during the previous question). There was no objection.

Mr. BRYANT of Texas. Yes, I am, Mr. Speaker.

The Clerk will report the motion.

The gentleman opposed to the conference substitute recommended by the committee of conference, in this motion referred to as the "conference substitute") section 165 of the Senate Amendment (relating to increased leverage levels for the Labor Department).

(A) Recede to and include in the conference substitute (section 165 of the Senate Amendment) (relating to increased leverage levels for the Labor Department) the provisions of section 407(b) (relating to treatment of certain administrative practices as employment practices) of H.R. 2292, as passed the House of Representatives.

(B) Recede to and include in the conference substitute section 165A 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, pursuant to the provisions of sections 407(b) (relating to treatment of certain administrative practices as employment practices) of H.R. 2292, as passed the House of Representatives.

(D) Recede to and include section 623 (relating to authority to determine visa processing procedures) in the conference substitute.

(E) Insist that the phrase "which may not include treatment for HIV infection or acquired immune deficiency syndrome" be deleted from the place in the provisions of section 5(b)(4) and 552(d)(X2) of the conference substitute and in the provision of section 213A(c)(X2) of the Immunization and Nationality Act (as proposed to be inserted by section 5(3)(a) of the conference substitute).

(2) PRESERVING ENVIRONMENTAL SAFEGUARDS AGAINST DISCRIMINATION.—

(A) Dissagree to and delete section 421 (relating to the conference substitute) (section 119 of the Senate Amendment) (relating to enhanced civil penalties if labor standards violations are present, pursuant to the provisions of sections 407(b) (relating to treatment of certain administrative practices as employment practices) of H.R. 2292, as passed the House of Representatives).

(B) Dissagree 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 from the place in the provisions of section 5(b)(4) and 552(d)(X2) of the conference substitute and in the provision of section 213A(c)(X2) of the Immunization and Nationality Act (as proposed to be inserted by section 5(3)(a) of the conference substitute).

(3) PRESERVING ENVIRONMENTAL SAFE-

GUARDS AGAINST DISCRIMINATION.—

(A) Dissagree 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 previous question). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The motion to recommit. The SPEAKER pro tempore. The question is on the motion to recommit.
September25, 1996

CONGRESSION RECORD — HOUSE

The SPEAXER 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.

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Mr. SMITH of Texas. Mr. Speaker, I
demand a recorded vote.
A recorded vote was ordered.
The SPE&R pro tempore. This
will be a 5-minute vote.
The vote was taken by electronic device, and there were—ayes 305, noes .223,
not voting 6; as follows:

T

Pàshard

Lincoln
Mascara

Peterson (FL)
Wilson

01521
Ms. KAPTUR changed her vote from

"aye" to "no."

Messrs. KIM, BROWN of California;

and HO5T'prLER changed their vote
from "no" to "aye."
So the conference report was agreed
to.

The resnit of the vote was announced
as above recorded.
A motion to reconsider was laid on
the table.

H11091


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 entry 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.)
Mr. LOT'T, 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. 2302, the illegal immigration reform bill.

Trent Lott, Richard Shelby, Jon Kyl, Craig Thomas, Bob Bennett, Slade Gorton, Mark O. Hatfield, Sheila Frum, Orrin Hatch, Bank Brown, Dan Coats, Judd Gregg, Rod Chafee, Frank H. Murkowski, Al Simpson, and Don Nickles.

Mr. LOT'I. 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. LOT'T. Mr. President, in view of this agreement that has been worked out, I would like to announce that 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.
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
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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 fis-
cal year ending September 30, 1997, and for other purposes,” hav-
ing 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 amend-
ment 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 Govern-
ment for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101(a) For programs, projects or activities in the Depart-
ments of Commerce, Justice, and State, the Judiciary, and Related
Agencies Appropriations Act, 1997, provided as follows, to be effec-
tive 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.
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.
SOCL}AL SECUPJ7Y 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, $319,000,000, 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.

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) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C.
(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 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."

(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.

(8) 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-
(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.—Not 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) REMEDIAL 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”;

(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.


(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:

Sec. 1. Short title of division; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents of division; severability.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions from interior stations.
Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preinspection at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Preclearance authority.
Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.
Sec. 322. Definition of conviction and term of imprisonment.
Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 324. Penalty for reentry of deported aliens.
Sec. 325. Change in filing requirement.
Sec. 326. Criminal alien identification system.
Sec. 327. Appropriations for criminal alien tracking center.
Sec. 328. Provisions relating to State criminal alien assistance program.
Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Sec. 330. Prisoner transfer treaties.
Sec. 331. Prisoner transfer treaties study.
Sec. 332. Annual report on criminal aliens.
Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.
Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.
Sec. 343. Certification requirements for foreign health-care workers.
Sec. 344. Removal of aliens falsely claiming United States citizenship.
Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 346. Inadmissibility of certain student visa abusers.
Sec. 347. Removal of aliens who have unlawfully voted.
Sec. 348. Waivers for immigrants convicted of crimes.
Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain aliens.
Sec. 350. Offenses of domestic violence and stalking as ground for deportation.
Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.
Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.
Sec. 353. References to changes elsewhere in division.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.
Sec. 355. Exclusion of representatives of terrorist organizations.
Sec. 356. Standard for judicial review of terrorist organization designations.
Sec. 357. Removal of ancillary relief for voluntary departure.
Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.
Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.
Sec. 372. Delegation of immigration enforcement authority.
Sec. 373. Powers and duties of the Attorney General and the Commissioner.
Sec. 374. Judicial deportation.
Sec. 375. Limitation on adjustment of status.
Sec. 376. Treatment of certain fees.
Sec. 377. Limitation on legalization litigation.
Sec. 378. Rescission of lawful permanent resident status.
Sec. 379. Administrative review of orders.
Sec. 380. Civil penalties for failure to depart.
Sec. 381. Clarification of district court jurisdiction.
Sec. 382. Application of additional civil penalties to enforcement.
Sec. 383. Exclusion of certain aliens from family unity program.
Sec. 384. Penalties for disclosure of information.
Sec. 385. Authorization of additional funds for removal of aliens.
Sec. 386. Increase in INS detention facilities; report on detention space.
Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.
Sec. 402. Voluntary election to participate in a pilot program.
Sec. 403. Procedures for participants in pilot programs.
Sec. 404. Employment eligibility confirmation system.
Sec. 405. Reports.
Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.
Sec. 412. Paperwork and other changes in the employer sanctions program.
Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.
Sec. 414. Reports on earnings of aliens not authorized to work.
Sec. 415. Authorizing maintenance of certain information on aliens.
Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

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.
Sec. 502. Pilot programs on limiting issuance of driver's licenses to illegal aliens.
Sec. 503. Ineligibility of aliens not lawfully present for Social Security benefits.
Sec. 504. Procedures for requiring proof of citizenship for Federal public benefits.
Sec. 505. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 506. Study and report on alien student eligibility for postsecondary Federal student financial assistance.
Sec. 507. Verification of immigration status for purposes of Social Security and higher educational assistance.
Sec. 508. No verification requirement for nonprofit charitable organizations.
Sec. 509. GAO study of provision of means-tested public benefits to aliens who are not qualified aliens on behalf of eligible individuals.
Sec. 510. Transition for aliens currently receiving benefits under the Food Stamp program.

Subtitle B—Public Charge Exclusion

Sec. 531. Ground for exclusion.

Subtitle C—Affidavits of Support

Sec. 551. Requirements for sponsor's affidavit of support.
Sec. 552. Indigence and battered spouse and child exceptions to Federal attribution of income rules.
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.

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.
Sec. 562. Treatment of expenses subject to emergency medical services exception.
Sec. 563. Reimbursement of States and localities for emergency ambulance services.
Sec. 564. Pilot programs to require bonding.
Sec. 565. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.
Sec. 572. Prorating of financial assistance.
Sec. 573. Actions in cases of termination of financial assistance.
Sec. 574. Verification of immigration status and eligibility for financial assistance.
Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.
Sec. 576. Eligibility for public and assisted housing.
Sec. 577. Regulations.

Subtitle F—General Provisions

Sec. 591. Effective dates.
Sec. 592. Not applicable to foreign assistance.
TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum
Sec. 601. Persecution for resistance to coercive population control methods.
Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act
Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency
Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions
Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.
Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H-2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections
Sec. 671. Miscellaneous technical corrections.

(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 REFER- RERS.—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 PRO- GRAM.

(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 elect- ing 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 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 1-9 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.
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 sub-clause:
“(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) 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
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."
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 Nat-
uralization 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 sub-
stantial 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 DISTIN-
GUISH AMONG CLASSES OF ALIENS IN PROVIDING GEN-
ERAL 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 eligi-
bility of aliens or classes of aliens for programs of general cash pub-
lic 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, limita-
tions, 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 Respon-
1631)) for purposes of determining eligibility for, and the amount of;
benefits shall be considered less restrictive than a prohibition of eli-
gibility 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 UN-
LAWFUL 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.
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 re-
quire 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 con-
form; and

(III) shall accommodate the differences be-
tween 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 certifi-
cates that conform to the standards set forth in the reg-
ulation.

(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 certifi-
cates 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 Na-
tional 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 de-
ceased persons. In developing the capability described
in the preceding sentence, a State that receives a grant
under this subparagraph shall focus first on individ-
uals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The
Secretary shall provide grants to States under this sub-
paragraph 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 DRIVER'S 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.
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.

DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (ii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

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.

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.

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.

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.

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 HOBSO,
HENRY BOKTRA,
GEORGE R. NETHERCUTT, Jr.,
ERNEST ISTOOK,
JOHN P. MURTHA,
NORM DICKS,
CHARLES WILSO,
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. INOUIE (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.

<table>
<thead>
<tr>
<th>Antiterrorism, counterterrorism, and security funding</th>
<th>FY 1997 Conference Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>TITLE I, SEC. 101(a)—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES</td>
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<td>The Judiciary: Antiterrorism and Effective Death Penalty Act workload/security</td>
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<td>Department of Commerce: Expert Administration: Hire criminal investigators/engineers to review export licenses</td>
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<td>Department of Justice: Security upgrades from General Administration account</td>
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<td>Executive Office of Immigration Review: Removal of criminal aliens/immigration court security</td>
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<td>US Attorneys: Wiretap activity/computer fraud/building security</td>
<td>10.9</td>
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</table>

(769)
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.
<table>
<thead>
<tr>
<th></th>
<th>FY 1996</th>
<th>FY 1997</th>
<th>House</th>
<th>Reported</th>
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<td>(1,003)</td>
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<td>Salaries and expenses</td>
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<td>Federal Enforcement</td>
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<td>118,856</td>
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<td>Compliance Assistance</td>
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<td>337,724</td>
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<td>FY 1996 Comparable</td>
<td>FY 1997 Request</td>
<td>House</td>
<td>Reported Senate</td>
<td>Conference</td>
<td>FY 1995 House</td>
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<td>Final Disposition</td>
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<td>Benefit Payments</td>
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<td>626,460</td>
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<tr>
<td>Subtotal, Black Lung, FY 1997 program level</td>
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<td>630,070</td>
<td>630,070</td>
<td>630,070</td>
<td>35,325</td>
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<tr>
<td>Less funds advanced in prior year</td>
<td>-160,000</td>
<td>-170,000</td>
<td>-170,000</td>
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<td>-170,000</td>
<td>-10,000</td>
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<tr>
<td>Total, Black Lung, current request, FY 1997</td>
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<td>460,070</td>
<td>460,070</td>
<td>460,070</td>
<td>25,325</td>
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<tr>
<td>New advances, 1st quarter FY 1997 / 1998</td>
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<td>160,000</td>
<td>160,000</td>
<td>160,000</td>
<td>10,000</td>
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1/ No-year availability for these funds related to sections 5704 & 5705 of the Internal Revenue Code of 1986.
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<td><strong>SUPPLEMENTAL SECURITY INCOME</strong></td>
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<td>Federal benefit payments</td>
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<td>26,889,100</td>
<td>26,889,100</td>
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<td>Beneficiary services</td>
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<td>-78,400</td>
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<td>Research and demonstration</td>
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<td>10,000</td>
<td>7,000</td>
<td>7,000</td>
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<td>Administration I/</td>
<td>1,167,276</td>
<td>1,218,973</td>
<td>1,061,016</td>
<td>1,061,016</td>
<td>1,069,016</td>
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<tr>
<td>Automation investment initiative</td>
<td>55,000</td>
<td>104,927</td>
<td>55,000</td>
<td>19,696</td>
<td>19,696</td>
<td>-36,106</td>
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<tr>
<td><strong>Subtotal, SSI FY program level</strong></td>
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<td>28,866,000</td>
<td>28,682,115</td>
<td>28,817,010</td>
<td>28,817,010</td>
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<tr>
<td>Less funds advanced in prior year</td>
<td>-2,000,000</td>
<td>-9,360,000</td>
<td>-9,260,000</td>
<td>-9,260,000</td>
<td>-9,260,000</td>
<td>-2,000,000</td>
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<tr>
<td><strong>Subtotal, regular SSI current year, FY 1996 / 1997</strong></td>
<td>28,805,813</td>
<td>29,206,000</td>
<td>29,022,115</td>
<td>29,077,010</td>
<td>29,077,010</td>
<td>+2,010,464</td>
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<td>Additional COA funding</td>
<td>18,000</td>
<td>280,000</td>
<td>26,000</td>
<td>28,000</td>
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<td>-10,000</td>
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<tr>
<td><strong>SSI reforms welfare</strong></td>
<td>---</td>
<td>28,000</td>
<td>---</td>
<td>280,000</td>
<td>280,000</td>
<td>+160,000</td>
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<tr>
<td><strong>Total, SSI current request, FY 1996 / 1997</strong></td>
<td>18,560,513</td>
<td>20,116,000</td>
<td>19,447,115</td>
<td>19,832,010</td>
<td>19,832,010</td>
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<td>New advance, 1st quarter, FY 1997 / 1998</td>
<td>9,280,000</td>
<td>9,650,000</td>
<td>9,590,000</td>
<td>9,650,000</td>
<td>9,650,000</td>
<td>+430,000</td>
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</table>

I/ Figures include amounts for the SSI disability initiative previously displayed as a separate line item.
### LIMITATION ON ADMINISTRATIVE EXPENSES

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<tbody>
<tr>
<td>OASDI trust funds</td>
<td>$2,687,228</td>
<td>$2,620,073</td>
<td>$2,091,183</td>
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<td>$3,080,000</td>
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<td>$+27,478</td>
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<td>HI/SWI trust funds</td>
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<td>$918,419</td>
<td>$848,099</td>
<td>$848,099</td>
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<td>SSI</td>
<td>$1,817,278</td>
<td>$2,048,973</td>
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<tr>
<td>Social Security Advisory Board</td>
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<td>$1,900</td>
<td>$1,900</td>
<td>$1,900</td>
<td>$+1,208</td>
<td>$-16,000</td>
<td>$-16,000</td>
<td>$-16,000</td>
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</tr>
<tr>
<td><strong>Subtotal, regular LAE</strong></td>
<td>$(6,348,613)</td>
<td>$(9,772,468)</td>
<td>$(9,899,787)</td>
<td>$(9,873,382)</td>
<td>$(9,826,766)</td>
<td>$(+384,185)</td>
<td>$(+384,185)</td>
<td>$(+384,185)</td>
<td>$(+384,185)</td>
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<tr>
<td>DI disability initiative</td>
<td>$(388,332)</td>
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<tr>
<td>OASDI automation</td>
<td>$(112,000)</td>
<td>$(198,073)</td>
<td>$(198,073)</td>
<td>$(204,396)</td>
<td>$(210,000)</td>
<td>$(+62,000)</td>
<td>$(+62,000)</td>
<td>$(+62,000)</td>
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<tr>
<td>SSI automation</td>
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<td>$(65,000)</td>
<td>$(104,927)</td>
<td>$(104,927)</td>
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<tr>
<td><strong>Subtotal, automation initiative</strong></td>
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<td>$(302,000)</td>
<td>$(350,073)</td>
<td>$(354,396)</td>
<td>$(354,927)</td>
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<td>$(+67,000)</td>
<td>$(+67,000)</td>
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<tr>
<td>TOTAL, REGULAR LAE</td>
<td>$(8,535,613)</td>
<td>$(12,772,468)</td>
<td>$(9,899,787)</td>
<td>$(9,873,382)</td>
<td>$(9,826,766)</td>
<td>$(+384,185)</td>
<td>$(+384,185)</td>
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<tr>
<td>Additional COR funding</td>
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<td>$(280,000)</td>
<td>$(280,000)</td>
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<td>$(+160,000)</td>
<td>$(+160,000)</td>
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<tr>
<td>SSI reforms (welfare)</td>
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<td>$(280,000)</td>
<td>$(280,000)</td>
<td>$(280,000)</td>
<td>$(280,000)</td>
<td>$(+160,000)</td>
<td>$(+160,000)</td>
<td>$(+160,000)</td>
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<tr>
<td><strong>TOTAL, LAE</strong></td>
<td>$(8,615,613)</td>
<td>$(13,052,468)</td>
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<td>$(9,873,382)</td>
<td>$(9,826,766)</td>
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<td>$(+384,185)</td>
<td>$(+384,185)</td>
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</tbody>
</table>

**Note:** The table shows the limitations on administrative expenses comparing FY 1996 to FY 1997, with adjustments for House, Senate, and conference. The table also includes additional funding for various initiatives and the total LAE. The values are in millions of dollars.
## OFFICE OF INSPECTOR GENERAL

<table>
<thead>
<tr>
<th>FY 1996</th>
<th>FY 1997</th>
<th>House</th>
<th>Reported</th>
<th>Senate</th>
<th>Conference</th>
<th>Conference</th>
<th>House</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperate</td>
<td>Request</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>FY 1995</td>
<td>FY 1995</td>
<td></td>
</tr>
</tbody>
</table>

| Federal funds | 4,801 | 6,336 | 6,336 | 6,336 | 6,336 | 6,336 | 41,636 | 41,636 |
| Trust funds  |       |       |       |       |       |       |        |        |
|              | (10,033) | (21,085) | (21,085) | (21,085) | (21,085) | (21,085) | (21,085) | (21,085) |
| Portion treated as budget authority | 41,636 | 41,636 | 41,636 | 41,636 | 41,636 | 41,636 | 41,636 | 41,636 |

**Total, Office of the Inspector General:**
- Federal funds
  - FY 1996: 4,801
  - FY 1997: 6,336
  - House: 6,336
  - Senate: 6,336
  - FY 1995: 41,636

<table>
<thead>
<tr>
<th>Trust funds</th>
<th>FY 1996</th>
<th>FY 1997</th>
<th>House</th>
<th>Senate</th>
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<tr>
<td></td>
<td>(10,033)</td>
<td>(21,085)</td>
<td></td>
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<tr>
<td>Portion treated as budget authority</td>
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<td></td>
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</tr>
</tbody>
</table>

**Total:**
- FY 1996: 4,801
- FY 1997: 6,336
- House: 6,336
- Senate: 6,336
- FY 1995: 41,636

## SOCIAL SECURITY ADMINISTRATION

<table>
<thead>
<tr>
<th>FY 1996</th>
<th>FY 1997</th>
<th>House</th>
<th>Reported</th>
<th>Senate</th>
<th>Conference</th>
<th>Conference</th>
<th>House</th>
<th>Senate</th>
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</thead>
<tbody>
<tr>
<td>Cooperate</td>
<td>Request</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>FY 1995</td>
<td>FY 1995</td>
<td></td>
</tr>
</tbody>
</table>

| Federal funds | 30,813,350 | 30,656,328 | 29,784,449 | 29,874,338 | 29,844,328 | 1,380,000 | 1,380,000 | 10,000 |
| Trust funds  | (19,199,260) | (20,156,278) | (19,904,442) | (20,029,358) | (20,044,358) | (498,000) | (498,000) | (10,000) |

**New advances, 1st quarter FY 1997 / 1998**
- FY 1997: 9,430,000
  - House: 9,430,000
  - Senate: 9,430,000
  - FY 1996: 9,430,000

**Trust funds considered BA**
- FY 1996: 875,076
  - House: 875,076
  - Senate: 875,076
  - FY 1995: 875,076

**Total, Social Security Administration:**
- Federal funds: 30,813,350
- House: 30,813,350
- Senate: 30,813,350
- FY 1995: 30,813,350

## UNITED STATES INSTITUTE OF PEACE

<table>
<thead>
<tr>
<th>FY 1996</th>
<th>FY 1997</th>
<th>House</th>
<th>Reported</th>
<th>Senate</th>
<th>Conference</th>
<th>Conference</th>
<th>House</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperate</td>
<td>Request</td>
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<td></td>
<td></td>
<td></td>
<td>FY 1995</td>
<td>FY 1995</td>
<td></td>
</tr>
</tbody>
</table>


**Total, Title IV, Related Agencies:**
- Federal Funds: 30,813,350
  - FY 1996: 30,813,350
  - FY 1997: 30,813,350
  - House: 30,813,350
  - Senate: 30,813,350
  - FY 1995: 30,813,350

**Trust funds considered BA**
- FY 1996: 977,264
  - House: 977,264
  - Senate: 977,264
  - FY 1995: 977,264

**TITLE V**
- FY 1996: 977,264
- FY 1997: 977,264
- House: 977,264
- Senate: 977,264
- FY 1995: 977,264

**IN Cap on performance awards**
- FY 1996: 977,264
- FY 1997: 977,264
- House: 977,264
- Senate: 977,264
- FY 1995: 977,264

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**Hand Dis.**
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 DICEs,
CHARLES WILSON,
W.G. "BILL" HEPNER,
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.
CONGRESSional RECORD—HOUSE

September 28, 1996

H11644

TITLE I—OMNIBUS APPROPRIATIONS

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:

PART 1

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—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

FOR unavoidable personnel or funds on either a temporary or long-term basis.

CONGRESSIONAL RECORD—HOUSE

September 28, 1996

H12033


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.
The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBETZ) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

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 OBETZ, who has been a 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 Kedzie; 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. OBETZ); and all of the other dedicated staff, many of whom have not been selected to sit in the 103rd or 104th Congress. I would like to thank each and every one of them.

They have done an incredible job against overwhelming odds, bearing a tremendous work load, and I can tell you, and 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 some of 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 packages could be addressed.

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 $81 million, we are giving $3.8 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. LUCAS) and the legislation for special operations [Mr. 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 $33 billion in cumulative savings under the
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.

Mr. OBEXER. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, I think it is useful for us to take just a few moments to analyze just how different this appropriations bill is from a number of appropriations bills which this House was considering just about a year ago.

Last year, 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 those 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 disappointed that it was not.

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 1 1/2 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 street or 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 to those investments that are so important to our children and our workers.

For instance, Head Start will now add children rather than dumping them on the rolls, as this Congress was asked to do last year.

Title I, the important, most necessary educational program we have to help young children learn how to read, to deal with math, to deal with science, Title I will be funding an additional 450,000 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 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.

Pelgrants - 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 100,000 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.

This year, 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 tax-payers will be happy.

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 this committee and you in particular to ask you to examine whether 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 gentleman 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 horns lifting it. I have been asked, and I think, whether 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 were not made by the Committee.

In addition, there are a number of 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 introduced again.

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. There is an enormous amount of somebodies 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 Members who have also 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 discussions of the legislation, and I am, frankly, comfortable with it. 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. Livingstone). The House Committee on Appropriations did do its job by finishing its work on time. It did so 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 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 know absolutely nothing because that responsibility was thrust upon us.

I would also like to thank everyone single member of the Committee on Appropriations staff, and especially on the staff of our chairman, George Dalbarger, Mark Murray, Nancy Madden, Bob Bonner, Cheryl Smith, Mark Moduski, Scott Lilly, Tom Forhan, Pat Schlueter, and Del Davis. Many of them have, indeed, 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 the task.

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 simply no doubt about that.

Mr. Speaker, anyone who watched those meetings this week understands
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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 have been 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 shorter comments on our side of the aisle. I would again like to thank everyone who co-operated.

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 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.

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, 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 ISTOCK. 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 patriarch 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 NIMRER and MARRY 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 congratulate 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 to a strong National Defense for our Nation. They are Doug Gregory, Tina Jones, Alicia Jones, Paul Jueda, Patricia Ryan, David Killian, Steve Nixon, Julie Pasquing, John Pleshal, 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 manning, for training, for military personnel, pay raises, with family 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 $650 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. LIVINGTON] 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.
Mr. LIVINGSTON. Mr. Speaker, I yield 1 1/2 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 non-citizens to receive welfare. They threatened to shut down the Government unless we make it harder to deport non-citizens 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.

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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. OBEEY 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 LIVING- 
STON and all 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 or 8 another night, 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, re- 
markably 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 Presi- 
dent. And at one point last night we were sitting right over here with ALAN SNIPSON and LAMAR SMITH working on the 
illegal immigration bill. It was a very great effort to scrub the bill and, I think, went from being 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 ex- 
ecutive 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 de- 
signed, in the Constitution, they saw themselves as engineers. They wanted a machine so inefficient that no dic- 
tator 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 to what we do as government, what the American people think. Then across the way they created the Senate to represent the States, where we rep- resent the people and where this is the people’s House, the constitutional model, that is the States House, 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 legiti- 
mately slower. When the country be- 
comes 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 
vote. 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 Re- 
publican 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 com- 
plicated, the Founding Fathers put a little building right over there called the Supreme Court which watches all the, work that we do and requires that we do something 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 insur- 
ance 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 the Democratic Party, Mr. OBEY did, your former colleague, your Party, 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.

For that same short week, we re- 
formed welfare, ending an entitlement after 61 years. And for some it was a bitter defeat and for others it was won- 
derful victory. Yet at the end of the 
week, everyone had won something and everyone had some positive accomplishments that the process was working.

Now we are here tonight. I could not 
not say enough about Chairman LIVING- 
STON, the team he assembled, the 
recessional staff that Jim Dyer leads and the way in which this committee has served, saving $5 billion in domestic spending for the American people, the most successful Committee on Appro- 
priations from a taxpayer’s standpoint since World War II. The gentleman from Louisiana [Mr. LIVONSTON] 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 com- mend you.”

And I would say across the way, if I 
might, we have two great giants in the Senate, MAER EATIFIELD, who we will all miss, who whether one agrees or disagrees with, who worked on this career as a young boy governor re- 
former, whether it was as one of earli- 
est opponents of the Vietnam war as an 
act of conscience, whether it was the 
vote last year against the balanced 
deficit plan budget, they demonstrated the courage of conscience, or whether it was work- 
ing with him as we all did the last week, a remarkable tribute to the American system.

And his counterpart, I think prob- 
ably the wildest, 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 personi- 
fies the Senate at its most cagey, its most obstinate, and at the same time it is the Senate at its most cagey, its most obstinate. And yet, because 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 in- 
deed. And John said, we thought we had a Senate, even if we in the House often wonder why we have a Senate.

And yet tempered to some extent; we would argue about the tempering by very 
important negotiations with the White House and with our friends, the Demo- 

crats.

The defense bill: I would just say to my colleagues watching what is hap- 
pening in the Middle East, and I say 
this as an Army man, we in this Con- 
gress, stood firm for our men and women in uniform, and we have pro- 
vided 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 gen-
tleman from Pennsylvania [Mr. MUR-
zan], 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. DEL-
LUMS] and everybody who works on the Committee on National Security, and the committees have worked to- 
gether for a bill that is good 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. FOR- 
GUS] 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 mir- 
acles of research, whether named 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 close-

ly together, and I thank all my friends on both sides of the aisle, and 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. Rodgers] 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. Callaway] 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. 104–826) 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.
The SPEAKER pro tempore (Mr. DREXER). 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:
## CONGRESSIONAL RECORD — HOUSE

**Roll No. 455**

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### ANSWERED "PRESENT"—1

- Doman

### NOT VOTING—26

- Baker (LA) Filner
- Berman Gleckman
- Bunker Gherman
- Burton Ginsburg
- Callahan Giffords
- Campbell Giffords
- Canady Giffords
- Castle Giffords
- Chauncey Giffords
- Chapman Giffords
- Christensen Giffords
- Chyall Giffords
- Clay Giffords
- Clayton Giffords
- Clement Giffords
- Clinger Giffords
- Clyburn Giffords
- Collins (GA) Giffords
- Collins (IL) Giffords
- Combett Giffords
- Costello Giffords
- Coyne Giffords
- Coyle Giffords
- Creehan Giffords
- Crenshaw Giffords
- Culberson Giffords
- Cummings Giffords
- Danforth Giffords
- Davis —
- de la Garza —
- Deal —
- DeLauro —
- Delay —
- Deutsch —
- Diaz-Balart —
- Dickey —
- Dickens —
- Dingell —
- Doolittle —
- Doyle —
- Dreier —
- Dunn —
- Edwards —
- Eilers —
- Ehlers —
- Ehlers —
- Easton —
- Eshoo —

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**The Clerk announced the following pair:**

Mr. Berman for, with Mr. Menendez against.

Mr. **SENSENBRENNER** and Mr. **BELLENSON** 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 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 $243.8 billion, an increase of $8.3 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 $155 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 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.

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:
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
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.
AN ACT

Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

1  Be it enacted by the Senate and House of Representa-
2  tives 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

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 So-
cial 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 ex-
pended as authorized by section 201(g)(1) of the Social
Security Act from the Federal Old-Age and Survivors In-
surance 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.

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

•HR 4278 EH
has been currently employed for a continuous period
of at least 3 years, but does not include—

(A) a reemployed annuitant under sub-
chapter 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 eli-
gible for disability retirement under subchapter
III of chapter 83 or chapter 84 of title 5, Unit-
ed States Code, or another retirement system
for employees of the agency;

(C) an employee who is in receipt of a spe-
cific notice of involuntary separation for mis-
conduct 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
note), would qualify for a voluntary separation
incentive payment under section 3 of such Act;

(E) an employee who has previously re-
ceived any voluntary separation incentive pay-
ment by the Federal Government under this
section or any other authority and has not re-
paid such payment;

(F) an employee covered by statutory re-
employment rights who is on transfer to an-
other organization; or

(G) any employee who, during the twenty-
four-month period preceding the date of separa-
tion, 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, re-
ceived 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 Ap-
propriations and the Committee on Governmental
Affairs of the Senate and the Committee on Govern-
ment Reform and Oversight of the House of Rep-
resentatives a strategic plan outlining the intended
use of such incentive payments and a proposed orga-
nizational 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(e) 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 pay-
ment 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 separa-
tion of any employee who has received, or is due to
receive, a voluntary separation incentive payment
under this section. For the purposes of this sub-
section, 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 ef-
flect 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. 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.”
1 SEC. 665. DESIGNATION OF FINANCIAL AGENTS.

2 1. 12 U.S.C. 90 is amended by adding at the end thereof the following:

3 "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."

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 recom-
manding a comprehensive set of accounting con-
cepts and standards for the Federal Government.
When the accounting concepts and standards devel-
oped by FASB are incorporated into Federal finan-
cial management systems, agencies will be able to
provide cost and financial information that will as-
sist the Congress and financial managers to evaluate
the cost and performance of Federal programs and
activities, and will therefore provide important infor-
mation that has been lacking, but is needed for im-
proved 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 Fed-
eral 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;

(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 respon-
sible for the non-compliance; and

(iv) any relevant comments from any
responsible officer or employee; and

(C) a statement with respect to the rec-
ommended 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 man-
agement 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...

(d) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 1. Short title of division; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents of division; severability.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions from interior stations.
Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preclearance at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Preclearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.
TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.
Sec. 322. Definition of conviction and term of imprisonment.
Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 324. Penalty for reentry of deported aliens.
Sec. 325. Change in filing requirement.
Sec. 326. Criminal alien identification system.
Sec. 327. Appropriations for criminal alien tracking center.
Sec. 328. Provisions relating to State criminal alien assistance program.
Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Sec. 330. Prisoner transfer treaties.
Sec. 331. Prisoner transfer treaties study.
Sec. 332. Annual report on criminal aliens.
Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.
Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.
Sec. 343. Certification requirements for foreign health-care workers.
Sec. 344. Removal of aliens falsely claiming United States citizenship.
Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 346. Inadmissibility of certain student visa abusers.
Sec. 347. Removal of aliens who have unlawfully voted.
Sec. 348. Waivers for immigrants convicted of crimes.
Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.
Sec. 350. Offenses of domestic violence and stalking as ground for deportation.
Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.
Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.
Sec. 353. References to changes elsewhere in division.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.
Sec. 355. Exclusion of representatives of terrorist organizations.
Sec. 356. Standard for judicial review of terrorist organization designations.
Sec. 357. Removal of ancillary relief for voluntary departure.
Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.
Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.
Sec. 372. Delegation of immigration enforcement authority.
Sec. 373. Powers and duties of the Attorney General and the Commissioner.
Sec. 374. Judicial deportation.
Sec. 375. Limitation on adjustment of status.
Sec. 376. Treatment of certain fees.
Sec. 377. Limitation on legalization litigation.
Sec. 378. Rescission of lawful permanent resident status.
Sec. 379. Administrative review of orders.
Sec. 380. Civil penalties for failure to depart.
Sec. 381. Clarification of district court jurisdiction.
Sec. 382. Application of additional civil penalties to enforcement.
Sec. 383. Exclusion of certain aliens from family unity program.
Sec. 384. Penalties for disclosure of information.
Sec. 385. Authorization of additional funds for removal of aliens.
Sec. 386. Increase in INS detention facilities; report on detention space.
Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.
Sec. 402. Voluntary election to participate in a pilot program.
Sec. 403. Procedures for participants in pilot programs.
Sec. 404. Employment eligibility confirmation system.
Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.
Sec. 412. Paperwork and other changes in the employer sanctions program.
Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.
Sec. 414. Reports on earnings of aliens not authorized to work.
Sec. 415. Authorizing maintenance of certain information on aliens.
Sec. 416. Subpoenas authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

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.
Sec. 502. Pilot programs on limiting issuance of driver's licenses to illegal aliens.
Sec. 503. Ineligibility of aliens not lawfully present for Social Security benefits.
Sec. 504. Procedures for requiring proof of citizenship for Federal public benefits.
Sec. 505. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 506. Study and report on alien student eligibility for postsecondary Federal student financial assistance.
Sec. 507. Verification of immigration status for purposes of Social Security and higher educational assistance.

Sec. 508. No verification requirement for nonprofit charitable organizations.

Sec. 509. GAO study of provision of means-tested public benefits to aliens who are not qualified aliens on behalf of eligible individuals.

Sec. 510. Transition for aliens currently receiving benefits under the Food Stamp program.

Subtitle B—Public Charge Exclusion

Sec. 531. Ground for exclusion.

Subtitle C—Affidavits of Support

Sec. 551. Requirements for sponsor’s affidavit of support.

Sec. 552. Indigence and battered spouse and child exceptions to Federal attribution of income rule.

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.

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.

Sec. 562. Treatment of expenses subject to emergency medical services exception.

Sec. 563. Reimbursement of States and localities for emergency ambulance services.

Sec. 564. Pilot programs to require bonding.

Sec. 565. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.

Sec. 572. Prorating of financial assistance.

Sec. 573. Actions in cases of termination of financial assistance.

Sec. 574. Verification of immigration status and eligibility for financial assistance.

Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.

Sec. 576. Eligibility for public and assisted housing.

Sec. 577. Regulations.

Subtitle F—General Provisions

Sec. 591. Effective dates.

Sec. 592. Not applicable to foreign assistance.

Sec. 593. Notification.

Sec. 594. Definitions.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

Sec. 601. Persecution for resistance to coercive population control methods.

Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.
Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H-2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.

Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

1 (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-
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gration and Naturalization Service for a Service Dis-

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Agric tion for a Service District in which a pilot program is being imple-

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mented—

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(A) to inform persons and other entities

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that seek information about pilot programs of

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the voluntary nature of such programs, and

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(B) to assist persons and other entities in

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electing and participating in any pilot programs

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in effect in the District, in complying with the

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requirements of section 274A, and in facilitat-

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ing confirmation of the identity and employ-

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ment eligibility of individuals consistent with

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such section.

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(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN

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A PILOT PROGRAM.—

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(1) FEDERAL GOVERNMENT.—

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(A) EXECUTIVE DEPARTMENTS.—

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(i) IN GENERAL.—Each Department

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of the Federal Government shall elect to

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participate in a pilot program and shall

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comply with the terms and conditions of

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such an election.

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(ii) ELECTION.—Subject to clause

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(iii), the Secretary of each such Depart-

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ment—
(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-
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 em-
ploymcnt eligibility must be confirmed presents to
the perrsn or entity hiring (or recruiting or refer-
ring) the individual a license or other document de-
scribed in paragraph (2) that includes a machine-
readable social security account number, the person
or entity must make an inquiry through the con-
firmation system by using a machine-readable fea-
ture of such document. If the individual does not at-
test to United States citizenship under section
274A(b)(2), the individual’s identification or author-
ization 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 par-
ticipating 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 SYS-
tem.

(a) IN GENERAL.—The Attorney General shall estab-
lish a pilot program confirmation system through which
the Attorney General (or a designee of the Attorney Gen-
eral, 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-
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 enforce-
ment 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 busi-
ness days (beginning after the date of the
explanation) within which to correct the
failure, and

“(iii) the person or entity has not cor-
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 engag-
ing in a pattern or practice of violations of sub-
section (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 sub-
paragraph:

“(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 para-
“(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-
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 in-
dividual and relies upon the provisions of
subparagraph (A) to comply with the re-
quirements of subsection (b) and the indi-
vidual 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 au-
thorized 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 con-
vincing 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 au-
thorized 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) CLASSIFICATION 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 author-
ization of appropriations for investigators for violations of
sections 274 and 274A of the Immigration and National-
ity Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHOR-
IZED 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 Commiss-
ioner 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 ac-
count numbers issued to aliens not authorized to be em-
ployed, 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 Com-
missioner and the Attorney General.”.

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECU-
RITY 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 pur-
poses.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN IN-
FORMATION 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 pro-
vide the alien’s social security account number for pur-
poses 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 amend-
(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)”.

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(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 Sec-
retary and the Commissioner jointly consider
appropriate.

(c) APPROPRIATE COMMITTEES OF THE CON-
GRESS.—For purposes of this section the term “ap-
propriate committees of the Congress” means the Committee
on Economic and Educational Opportunities and the Com-
mittee 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 cop-
ies of such documents, or information from
such documents, as specified by the Immi-
grantion and Naturalization Service, for of-
ficial verification,”.

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SEC. 508. NO VERIFICATION REQUIREMENT FOR NON-
PROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work
is amended by adding at the end the following new sub-
section:

"(d) No VERIFICATION REQUIREMENT FOR NON-
PROFIT CHARITABLE ORGANIZATIONS.—Subject to sub-
section (a), a nonprofit charitable organization, in provid-
ing 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 deter-
mine, 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 enact-
ment of this Act, the Comptroller General shall submit
to the Committees on the Judiciary of the House of Rep-
resentatives and of the Senate and to the Inspector Gen-
eral 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
Subitle 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 en-
sure 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 EX-
PENSES.—

"(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 Govern-
ment, a State, or any political subdivision of a
State shall request reimbursement by the spon-
sor in an amount which is equal to the unreim-
bursed costs of such benefit.

"(B) REGULATIONS.—The Attorney Gen-
eral, 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
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the absence of the assistance provided by the agency,
be unable to obtain food and shelter, taking into ac-
count the alien's own income, plus any cash, food,
housing, or other assistance provided by other indi-
viduals, including the sponsor. The agency shall no-
ify the Attorney General of each such determina-
tion, 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 sec-
tion, subsection (a) shall not apply to benefits—

“(A) during a 12 month period if the alien
demonstrates that (i) the alien has been bat-
tered 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 resid-
ing 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 cru-
elty in the United States by the spouse or par-
et 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 (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 Transpor-
tation after consultation with the American
Association of Motor Vehicle Administra-
tors. The form shall contain security fea-
tures designed to limit tampering, counter-
feiting, photocopying, or otherwise dupli-
cating, the license or document for fraudu-
 lent purposes and to limit use of the li-
cense or document by impostors.

(B) EXCEPTION.—The requirement in sub-
paragraph (A)(ii) shall not apply with respect
to a driver’s license or other comparable identi-
fication document issued by a State, if the
State—

(i) does not require the license or doc-
ument to contain a social security account
number; and

(ii) requires—

(I) every applicant for a driver’s
license, or other comparable identi-
fication document, to submit the ap-
plicant’s social security account num-
ber; 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-
documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(e) 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.
1829

(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. LOTTT. 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. LOTTT. 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. LOTTT. 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 S E C O N D 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.
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 omnibus-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 time and the effort 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 yield the floor to him today in the course of 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 we 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, as well as another $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. I 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. Livingstone, who has proved himself to be a very able and articulate chairman—and I have enjoyed immensely the opportunity to work with Mr. Livingstone—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 midtown resident of this Senate when he met in 1789. Mr. Obey is very knowledgeable, very edgy and extremely able. And so both of these men, Mr. Livingstone 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 appropriations bills enacted separately rather than having them conglomeration into this one 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 on 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 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.

With the efforts of all those who have worked so hard on this measure, I nevertheless ask 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 efforts of the President and 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.
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.

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 and educating or providing health care for illegals; "English only" laws are being discussed; and the increasing 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 look now 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 22 to 31 percent of all new-comers to the State during that period. This is the point. As the State's economy stalled in the 1980'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 wanes, that job magnet attraction clearly decreases.

I came to this body in 1983 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 1980 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 this 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 President of 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 punitive anti-immigration measure ever 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 child 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 a youngster 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 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 it 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 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 not seem to be strong reform. This is not a perfect bill, but the 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 at the border at the rate of 500 per year, over the same period. This provision 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, is very difficult to find them to enforce that visa. This bill essentially strengthens the INS investigative, 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 luxury and the opportunity to 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 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 could 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 the work verification programs to identify those documents. So this is a step forward.

I want to speak for just a moment about income requirements. I recently heard that there probably 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 so. They were manufactured to highest standards. And they were sold in California and throughout three states, Social Security cards and driver's licenses, wholesale. It is wholesaler. It is retail. I want to speak for just a moment about this problem. This provision costs California $7 million in Federal funds. The withholding of the $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.

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In conclusion, Mr. President, I must say, I am very pleased that the Gallelego 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. Many 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 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 President and this administration 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."
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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 104-929.

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 Galllegly provision on public education for illegal aliens, a compromise which was not even yet at that point in final form. Republican conference 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 the report did the President interpose final objections related to Title V of the conference re-

port, 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, wire-tap 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
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 to be appropriated for the period from 1997 to 2001 for the criminal alien identification 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.

The 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 lane 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 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 provisions. 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 requirements 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 a period of up to one year. This 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 seek 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. 104-583) on H.R. 2002, the Illegal Immigration Reform and Immigration Responsibility Act of 1996, with certain modifications to Title V of the Conference Report.

The legislative history of Division C shall be considered as an explanatory statement of the Committee of Conference in Report 104-583, as well as the reports of the Committees on the Judiciary, Agriculture, Economic and Educational Opportunities of the House of Representatives on H.R. 2002 (Rept. 104-449, 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 following Tities 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.

Section 502: Strike.

Section 503: 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 constitutionality 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 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 requirement (b) regarding Report of the Comptroller General.

Section 509: Redesignate as section 507.

Section 510: Redesignate as section 508.

Modify requirement (a) as an amendment to section 422 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 512. No change.

Section 513. Strike.

Section 514. Modify to reduce sponsor income requirements to one hundred percent of poverty level. Strike subsection (e) of Immigration and Nationality Act (INA) section 213A as added by this section. Make other changes to IIRIRA section 213A as added by this section to similar provision enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (f).

Section 515. Modify to amend section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to include the provisions in sections 555(c)(1) and 555(f).

Strike all other provisions.

Section 533. Strike.

Section 534. Redesignate as section 533.

Section 535. No change.

Section 536. Strike.

Section 537. Redesignate as section 536.

Section 538. Redesignate as section 537.

Section 539. Redesignate as section 538.

Section 540. Redesignate as section 539.

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Section 548. Redesignate as section 547.

Section 549. Redesignate as section 548.

Section 550. Redesignate as section 549.

Section 551. Modify to reduce sponsor income requirements to one hundred percent of poverty level. Strike subsection (e) of Immigration and Nationality Act (INA) section 213A as added by this section. Make other changes to IIRIRA section 213A as added by this section to similar provision enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (f).

Section 552. Modify to amend section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to include the provisions in sections 555(c)(1) and 555(f).

Strike all other provisions.

Section 553. Strike.

Section 554. Redesignate as section 553.

Section 555. No change.

Section 556. Strike.

Section 557. Redesignate as section 556.

Section 558. Redesignate as section 557.

Section 559. Redesignate as section 558.

Section 560. Redesignate as section 559.

Section 561. Redesignate as section 560.

Section 562. Redesignate as section 561.

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 567. Redesignate as section 566.

Strike and insert sections 221 through 227 of the Senate amendment to H.R. 2002, as amended.

Section 581. No change.

Section 582. Strike.

Section 583. Redesignate as section 582.

Section 584. Redesignate as section 583.

Section 585. Redesignate as section 584.

Section 586. Redesignate as section 585.

Section 587. Redesignate as section 586.

Section 588. Redesignate as section 587.

Section 589. Redesignate as section 588.

Section 590. Redesignate as section 589.

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.

Section 596. Redesignate as section 595.

Section 597. Redesignate as section 596.

Section 598. Redesignate as section 597 and modify. Strike subsection (a) and modify requirement (b) regarding Report of the Comptroller General.

Section 599. Redesignate as section 598.

Section 600. Redesignate as section 599.

Section 601. Redesignate as section 600.

The conference report would add to the Immigration and Nationality Act a new section providing that an alien may not apply for asylum if the alien is a noncitizen who has been paroled into the United States 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. Congress 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 including, 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 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.
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 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, 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
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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 cycle of 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. This act makes 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 conference. 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 language 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 deciding that 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 red tape 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 chair...

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.

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.

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.

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 now 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 Congress was weak in addressing illegal immigration and reflected the ant个工作, 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 the Senate, and the Senate Majority leader, the Republican bill that came out of their conference that assaulted legal immi-

grants and made it impossible for working Americans to reunite their families here are now gone. Gone, too, is the so-called Gallegly amendment which would have allowed States to expel immigrant children from public schools and dump them on the streets. This unwisely 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 a good bill 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 review 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 Senator ALBANY. 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 concerned with these type 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 affecting illegal immigration, and refugees. He 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 possible coalition in the best interests of our country. As for 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 had he been here. 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 this 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 during 18 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.

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 bipartisanism 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 rekindle 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 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, for example, 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 who 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

sponsors 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, 30 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, those 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 income, 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 that 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 ABaBui, Senator DEWVE and others. In fact, in June, Jack Kemp urged congressional leaders to adopt this sponsorship formula. He wrote, "The Senate bill reasonably requires those with high income equal to 125 percent of the Federal poverty level," and he called on Congress to oppose sponsorship formulas that imposed stiff burdens on sponsorship.

The 125 percent requirement ensures that very few sponsors will be pulled 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. As a result, they do not 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 non-profit 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 non-profit 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 open the door to the world, and to our own past, with 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
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 immigrant 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 authorizes $500 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.
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 driver's 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 conference 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 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, 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 certain crimes that is significant.

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 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.

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 the theory 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 some 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. This proverb 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 exactly 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 detention space instead. We also could ask the Department 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 necessary.

I am speaking, of course, of the problem of illegal immigration. This bill contains the most serious provision 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 the House. 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 can use our resources 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 that our 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 $2700 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 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 drug 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 800 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. This bill provides the resources 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 trained 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 immigration 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 the immigration 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—a problem 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 the seeking political asylum. The United States is always ready to present their case, and assured 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.
The conference agreement provides substantial increases in education programs—$3.5 billion over last year. Medical research is increased by more than $220 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 procedures 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 bidding 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, to assure 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.

NATIONAL INSTITUTE OF HEALTH

For the National Institutes of Health, the bill before us contains nearly $12.747 billion, an increase of $230 million, or 6.5 percent, above the fiscal year 1996 level. These funds will be critical in catalyzing scientific discoveries in medical research, 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 $3.130 billion for the substance abuse block grants 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. It includes a $275 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.

HEAD 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 an early supporter of 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 $86 million, $20 million above the President’s request, to continue the program 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 Breast Cancer 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 President, 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 $50 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.
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 $19 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.
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.
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.”

That means that in those States that are included in this pilot program, the verifiable 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 bi-verification programs alone are enough to oppose this legislation. But there are a number of other provisions that were jammed into this conference report that made 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 $30 and $100 million by the time construction is complete.

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 the Government’s 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”. The 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.

We have new agents o1marines on the southwestern 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 non-immigrant to demonstrate good cause to the INS. Instead, this conference report strips away the important exception, and effectively removes the ability of immigrants to demonstrate good cause to leave.

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 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 than 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 an expedited fashion as possible.

The summary exclusion provisions in this legislation are unnecessarily harsh and make little sense. This provision America has a proud history of receiving people 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
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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 increases are not the right things to do. 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 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 $560 billion, including $5.5 billion more than congressional Republicans thought they should 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 increase almost $1 billion to the fight against terrorism. We came up with $3.8 billion to combat drug abuse and the drug traffic. We allotted $550 million for fire emergencies in our western States.

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 were able 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 $600 million over the President's request.

Title I of the Omnibus Consolidated Appropriations Act, 1997, is now before us.

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 I, 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 $19.6 billion. The annual Pell Grant will be increased by 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 the illegal supply of drugs and smuggling illegal aliens. It requires 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 continuation 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 expended. 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 unite behind the President.

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 vote and nay were ordered.
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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.

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 disagreement of the two Houses of 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 conference.

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 $3.3 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 conferes, 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 Bosnian; and $165 million for the President's counterdrug initiatives.

Second, the bill adds $390 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 $127.5 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, a 31-1/2 percent increase in quarters allowances.

Clearly, these few examples demonstrate that the conferees have responded to the needs of our men and women 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 Senate have done a masterful job in keeping this bill clean. It safeguards our national defense, the priorities of the Senate, and rejects controversial riders.
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

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.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
2 That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the
3 Departments of Labor, Health and Human Services, and
4 Education, and related agencies for the fiscal year ending
5 September 30, 1997, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR
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.

HR 3755 RH
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.
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.
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

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.
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<td>Agency</td>
<td>1996 comparable</td>
</tr>
<tr>
<td>-------------------------------------------------------------</td>
<td>-----------------</td>
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<tr>
<td>Department of Labor</td>
<td>$11,345</td>
</tr>
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<td>Department of Health and Human Services:</td>
<td></td>
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<tr>
<td>Public Health Service</td>
<td></td>
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<tr>
<td>Health Resources and Services Administration</td>
<td>2,257</td>
</tr>
<tr>
<td>Centers for Disease Control</td>
<td>2,112</td>
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<tr>
<td>National Institutes of Health</td>
<td>11,928</td>
</tr>
<tr>
<td>Substance Abuse and Mental Health Services Administration</td>
<td>1,883</td>
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<td>167</td>
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<td>Health Care Policy and Research</td>
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<td>Subtotal, Public Health Service</td>
<td>19,472</td>
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<tr>
<td>Health Care Financing Administration</td>
<td>146,687</td>
</tr>
<tr>
<td>Administration for Children and Families</td>
<td>32,767</td>
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<td>Administration on Aging</td>
<td>829</td>
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<td>Office of the Secretary</td>
<td>222</td>
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<td>Total, HHS current year</td>
<td>199,577</td>
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<td>Advances</td>
<td>30,955</td>
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<td>Department of Education</td>
<td>25,230</td>
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<td>Related Agencies</td>
<td>35,468</td>
</tr>
<tr>
<td>Social Security Administration</td>
<td>34,399</td>
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<tr>
<td>Grand Total, current year</td>
<td>271,620</td>
</tr>
<tr>
<td>Advances</td>
<td>40,635</td>
</tr>
<tr>
<td>Current year total using 602(b) scorekeeping</td>
<td>264,191</td>
</tr>
<tr>
<td>Mandatory</td>
<td>200,943</td>
</tr>
<tr>
<td>Discretionary</td>
<td>63,248</td>
</tr>
<tr>
<td>Department of Labor</td>
<td>$6,419</td>
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<td>---------------------</td>
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<tr>
<td>Department of Health and Human Services</td>
<td>28,881</td>
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<tr>
<td>Department of Education</td>
<td>21,512</td>
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<tr>
<td>Related Agencies</td>
<td>3,800</td>
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<tr>
<td>Scorekeeping Adjustments</td>
<td>424</td>
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</tbody>
</table>

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**

<table>
<thead>
<tr>
<th>Fiscal year—</th>
<th>1996</th>
<th>1997</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual appropriation bill, current year</td>
<td>$271,820</td>
<td>$294,370</td>
<td>+$22,550</td>
</tr>
<tr>
<td>Annual appropriation bill, advances</td>
<td>40,525</td>
<td>43,900</td>
<td>+3,375</td>
</tr>
<tr>
<td>Permanent appropriations</td>
<td>606,780</td>
<td>644,392</td>
<td>+37,612</td>
</tr>
<tr>
<td>Deduct interfund payments</td>
<td>−79,931</td>
<td>−79,194</td>
<td>+737</td>
</tr>
<tr>
<td>Total</td>
<td>839,104</td>
<td>903,468</td>
<td>+64,364</td>
</tr>
</tbody>
</table>

**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-
suits 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.

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<thead>
<tr>
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<tr>
<td>Department of Labor:</td>
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<tr>
<td>Black Lung Disability Trust Fund</td>
<td>$996,606</td>
<td>$1,007,644</td>
<td>$11,038</td>
</tr>
<tr>
<td>Department of Health and Human Services:</td>
<td></td>
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</tr>
<tr>
<td>Health Care Financing Administration:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medicaid current law benefits</td>
<td>91,140,563</td>
<td>98,141,139</td>
<td>7,000,576</td>
</tr>
<tr>
<td>Medicare Payments to Health Care Trust Funds</td>
<td>63,313,000</td>
<td>60,079,000</td>
<td>(3,234,000)</td>
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<tr>
<td>Administration for Children and Families:</td>
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<tr>
<td>Aid to Families with Dependent Children</td>
<td>12,999,000</td>
<td>11,713,000</td>
<td>(1,286,000)</td>
</tr>
<tr>
<td>Child Support Enforcement</td>
<td>1,068,000</td>
<td>1,225,000</td>
<td>157,000</td>
</tr>
<tr>
<td>Social Service Block Grant</td>
<td>2,381,000</td>
<td>2,480,000</td>
<td>99,000</td>
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<td>Department of Education:</td>
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<tr>
<td>Federal Family Education Loan Program</td>
<td>3,275,000</td>
<td>2,322,000</td>
<td>(957,000)</td>
</tr>
<tr>
<td>Federal Direct Student Loan Program</td>
<td>706,000</td>
<td>683,000</td>
<td>(23,000)</td>
</tr>
<tr>
<td>Federal Family Education Loan Liquidating Account</td>
<td>103,000</td>
<td>(103,000)</td>
<td></td>
</tr>
<tr>
<td>Related Agencies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security Administration:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Special Benefits for Disabled Coal Miners</td>
<td>655,396</td>
<td>632,070</td>
<td>(33,325)</td>
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(Dollars in thousands)
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 $92 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.
Socia! 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 1997 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:

<table>
<thead>
<tr>
<th>Discretionary:</th>
<th>Sec. 602(b)</th>
<th>This bill</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Budget</td>
<td>Outlays</td>
</tr>
<tr>
<td>General purposes</td>
<td>65,500</td>
<td>65,442</td>
</tr>
<tr>
<td>Violent Crime Trust Fund</td>
<td>61</td>
<td>38</td>
</tr>
<tr>
<td>Mandatory</td>
<td>222,270</td>
<td>222,355</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Budget authority in the bill</th>
<th>234,073</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outlays:</td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>206,951</td>
</tr>
<tr>
<td>1998</td>
<td>33,428</td>
</tr>
<tr>
<td>1999</td>
<td>6,974</td>
</tr>
<tr>
<td>2000</td>
<td>854</td>
</tr>
<tr>
<td>2001</td>
<td>82</td>
</tr>
</tbody>
</table>
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:

<table>
<thead>
<tr>
<th>Budget authority</th>
<th>125,499</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal year 1997 outlays resulting therefrom</td>
<td>105,369</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Appropriation Transfers Recommended in the Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account to which transfer is to be made</td>
</tr>
<tr>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>Department of Health and Human Services:</td>
</tr>
<tr>
<td>Administration on Aging: Aging Services Programs</td>
</tr>
<tr>
<td>Employment Standards Administration: Special Benefits</td>
</tr>
<tr>
<td>Department of Labor: Employment Standards Administration: Salaries and expenses</td>
</tr>
<tr>
<td>Departmental management: Salaries and expenses</td>
</tr>
<tr>
<td>Office of Inspector General</td>
</tr>
</tbody>
</table>

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

#### Pension Benefit Guaranty Corporation

<table>
<thead>
<tr>
<th>Agency and Item</th>
<th>FY 1996 comparable</th>
<th>FY 1997 Budget</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996 comparable</th>
<th>Bill compared with 1997 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Administraion subject to limitation (Trust Funds)</td>
<td>(10,557)</td>
<td>(12,043)</td>
<td>(135,720)</td>
<td>(+125,163)</td>
<td>(+123,677)</td>
</tr>
<tr>
<td>Services related to terminations not subject to limitations (non-add)</td>
<td>(127,933)</td>
<td>(128,496)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, PBGC</td>
<td>(138,490)</td>
<td>(140,539)</td>
<td>(135,720)</td>
<td>(-2,770)</td>
<td>(-4,819)</td>
</tr>
</tbody>
</table>

#### Employment Standards Administration

<table>
<thead>
<tr>
<th>Subitem</th>
<th>Federal funds</th>
<th>Trust funds</th>
<th>Total, salaries and expenses</th>
<th>Federal funds</th>
<th>Trust funds</th>
<th>Total, Special Benefits</th>
<th>Black Lung Disability Trust Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total, Special Benefits</td>
<td>214,000</td>
<td>209,000</td>
<td>213,000</td>
<td>5,000</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, Black Lung Disability Trust Fund</td>
<td>996,606</td>
<td>1,007,644</td>
<td>1,008,000</td>
<td>10,638</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, Employment Standards Administration</td>
<td>1,480,600</td>
<td>1,526,913</td>
<td>1,480,400</td>
<td>46,508</td>
<td>46,434</td>
<td></td>
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</tr>
</tbody>
</table>

#### Special Benefits

<table>
<thead>
<tr>
<th>Subitem</th>
<th>FY 1996</th>
<th>FY 1997</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996 comparable</th>
<th>Bill compared with 1997 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal employees compensation benefits</td>
<td>214,000</td>
<td>209,000</td>
<td>209,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Longshore and harbor workers' benefits</td>
<td>4,000</td>
<td>4,000</td>
<td>4,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total, Special Benefits</td>
<td>218,000</td>
<td>213,000</td>
<td>213,000</td>
<td>5,000</td>
<td></td>
</tr>
</tbody>
</table>
### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1996 AND
### BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1997—Continued

<table>
<thead>
<tr>
<th>Agency and item</th>
<th>FY 1996 comparable</th>
<th>FY 1997 Budget</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996 comparable</th>
<th>Bill compared with 1997 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAILROAD RETIREMENT BOARD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dual benefits payments account</td>
<td>239,000</td>
<td>223,000</td>
<td>223,000</td>
<td>-16,000</td>
<td></td>
</tr>
<tr>
<td>Less income tax receipts on dual benefits</td>
<td>-17,000</td>
<td>-9,000</td>
<td>-9,000</td>
<td>+8,000</td>
<td></td>
</tr>
<tr>
<td>Subtotal, Dual Benefits</td>
<td>222,000</td>
<td>214,000</td>
<td>214,000</td>
<td>-8,000</td>
<td></td>
</tr>
<tr>
<td>Federal payment to the Railroad Retirement Account</td>
<td>300</td>
<td>300</td>
<td>300</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limitation on administration:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consolidated account</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retirement</td>
<td>(90,558)</td>
<td>(87,898)</td>
<td>(+87,898)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unemployment</td>
<td>(72,955)</td>
<td></td>
<td>(-72,955)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal, administration</td>
<td>(67,503)</td>
<td>(90,558)</td>
<td>(87,898)</td>
<td>(-1,794)</td>
<td>(-2,660)</td>
</tr>
<tr>
<td>Special management improvement fund</td>
<td>(657)</td>
<td>(90,558)</td>
<td>(87,898)</td>
<td>(-1,794)</td>
<td>(-2,660)</td>
</tr>
<tr>
<td>Total, limitation on administration</td>
<td>(90,341)</td>
<td>(90,558)</td>
<td>(87,898)</td>
<td>(-2,451)</td>
<td>(-2,660)</td>
</tr>
<tr>
<td>Inspector General</td>
<td>(5,636)</td>
<td>(5,750)</td>
<td>(5,268)</td>
<td>(-388)</td>
<td>(-482)</td>
</tr>
</tbody>
</table>

### SOCIAL SECURITY ADMINISTRATION

#### PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>22,641</td>
<td>20,923</td>
<td>20,923</td>
<td>-1,718</td>
<td></td>
</tr>
<tr>
<td>ADDITIONAL ADMINISTRATIVE EXPENSES 1/</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 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]**

<table>
<thead>
<tr>
<th>Agency and item</th>
<th>FY 1996 comparable</th>
<th>FY 1997 Budget</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996</th>
<th>Bill compared with 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUPPLEMENTAL SECURITY INCOME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal benefit payments</td>
<td>23,548,636</td>
<td>26,559,100</td>
<td>26,559,100</td>
<td>+3,010,464</td>
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<td>100,000</td>
<td>-79,000</td>
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<td>Research and demonstration</td>
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<td>7,000</td>
<td>7,000</td>
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<tr>
<td>Administration 1/</td>
<td>1,817,276</td>
<td>2,018,973</td>
<td>1,961,015</td>
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<td>-57,958</td>
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<td>104,927</td>
<td>55,000</td>
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<td>28,869,000</td>
<td>28,682,115</td>
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<tr>
<td><strong>Less funds advanced in prior year</strong></td>
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<td></td>
<td></td>
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<td></td>
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<tr>
<td><strong>Subtotal, regular SSI current year, FY 1996 / 1997</strong></td>
<td></td>
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<tr>
<td>Additional CDR funding</td>
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<td>25,000</td>
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<td>-235,000</td>
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<tr>
<td>SSI reforms (welfare)</td>
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<td></td>
<td></td>
<td>-250,000</td>
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<tr>
<td><strong>Total, SSI, current request, FY 1996 / 1997</strong></td>
<td>18,560,512</td>
<td>20,119,000</td>
<td>19,447,115</td>
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<td>New advance, 1st quarter, FY 1997 / 1998</td>
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<td>9,690,000</td>
<td>+430,000</td>
<td></td>
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1/ Figures include amounts for the SSI disability initiative previously displayed as a separate line item.

### LIMITATION ON ADMINISTRATIVE EXPENSES

<table>
<thead>
<tr>
<th></th>
<th>FY 1996 comparable</th>
<th>FY 1997 Budget</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996</th>
<th>Bill compared with 1997</th>
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<tr>
<td>OASDI trust funds</td>
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<td>(1,500)</td>
<td>(+1,500)</td>
<td>(+1,500)</td>
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<td><strong>Subtotal, regular LAB</strong></td>
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<td>OASDI automation</td>
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<td>(195,073)</td>
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<td>(55,000)</td>
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<td><strong>Subtotal, automation initiative</strong></td>
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<td><strong>TOTAL, LAE</strong></td>
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## 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

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<th>Agency and item</th>
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<th>FY 1997 Budget</th>
<th>Recommended in bill</th>
<th>Bill compared with 1996 comparable</th>
<th>Bill compared with 1997 Budget</th>
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<td><strong>Total, Office of the Inspector General:</strong></td>
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</tr>
<tr>
<td>Federal funds</td>
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<td>6,335</td>
<td>6,335</td>
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<td>(27,424)</td>
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<td><strong>Total, Social Security Administration:</strong></td>
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<td>(19,944,443)</td>
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<td>(-671,885)</td>
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<td>New advances, 1st quarter FY 1997 / 1998</td>
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<td>(9,850,000)</td>
<td>(9,850,000)</td>
<td>(+420,000)</td>
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<tr>
<td>Trust funds</td>
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<td>(6,603,557)</td>
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<td>(-272,598)</td>
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<td>Trust funds considered BA</td>
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<td>(918,418)</td>
<td>(846,099)</td>
<td>(-28,977)</td>
<td>(-72,319)</td>
</tr>
</tbody>
</table>
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

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.
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 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, $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 reem-
ployment rights who is on transfer to another or-
 ganization; or

(G) any employee who, during the twenty-
four-month period preceding the date of separa-
tion, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month pe-
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 App-
propriations and the Committee on Governmental Af-
fairs 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 in-
centive 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 separa-
tion 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.
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

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<th>Amount</th>
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<tr>
<td>Amount of Senate bill under House bill</td>
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<tr>
<td>Total bill as reported to Senate</td>
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<tr>
<td>Amount of adjusted appropriations, 1996</td>
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<tr>
<td>Budget estimates, 1997</td>
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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
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<td>Occupational Safety and Health Administration</td>
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<td>Bureau of Labor Statistics</td>
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<td>29</td>
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<td>Assistant Secretary for Veterans' Employment and Training</td>
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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 $847,018,000 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.

Women's 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 $955,120,000 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 $6,153,000 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.
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

<table>
<thead>
<tr>
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<td>30,923,000</td>
</tr>
<tr>
<td>Committee recommendation</td>
<td>30,923,000</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
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</thead>
<tbody>
<tr>
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<td>460,070,000</td>
</tr>
<tr>
<td>Committee recommendation</td>
<td>460,070,000</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Description</th>
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<tbody>
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<td>Appropriations, 1996</td>
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<tr>
<td>Budget estimate, 1997</td>
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<tr>
<td>House allowance</td>
<td>$19,447,115,000</td>
</tr>
<tr>
<td>Committee recommendation</td>
<td>$19,532,010,000</td>
</tr>
</tbody>
</table>

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-
Applicants 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.

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<th>Appropriations, 1996</th>
<th>$5,864,935,000</th>
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<td>Budget estimate, 1997</td>
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<td>House allowance</td>
<td>6,302,870,000</td>
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<tr>
<td>Committee recommendation</td>
<td>6,357,188,000</td>
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</tbody>
</table>

The Committee recommends a program funding level of $6,357,188,000 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-
ttiative 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**

<table>
<thead>
<tr>
<th>Appropriations, 1996</th>
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<td>Budget estimate, 1997</td>
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<tr>
<td>Committee recommendation</td>
<td>27,424,000</td>
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</table>

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 Medicare 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)

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<th>Item</th>
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<td>Subtotal, Black Lung Disability Trust Fund, approp</td>
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<tr>
<td>Trust funds</td>
<td>(1,003)</td>
<td>(1,057)</td>
<td>(983)</td>
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**MINE SAFETY AND HEALTH ADMINISTRATION**

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**BUREAU OF LABOR STATISTICS**

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<td>(51,665)</td>
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**DEPARTMENTAL MANAGEMENT**

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## 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]

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<th>Item</th>
<th>1996 appropriation</th>
<th>Budget estimate</th>
<th>House allowance</th>
<th>Committee recommendation</th>
<th>Senate Committee recommendation compared with (+ or —)</th>
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<td>(87,898)</td>
<td>(+ 87,898)</td>
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<td>Unemployment</td>
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<td>(87,898)</td>
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<td>(87,898)</td>
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<td>630,070</td>
<td>630,070</td>
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<td>— 170,000</td>
<td>— 170,000</td>
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<td>160,000</td>
<td>160,000</td>
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**LIMITATION ON ADMINISTRATIVE EXPENSES**

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<td>DI disability initiative</td>
<td>280,322</td>
<td>195,073</td>
<td>206,396</td>
<td>206,396</td>
<td>+94,396</td>
<td>+11,323</td>
</tr>
<tr>
<td>OASDI automation</td>
<td>112,000</td>
<td>104,927</td>
<td>55,000</td>
<td>19,925</td>
<td>-35,105</td>
<td>-85,032</td>
</tr>
<tr>
<td>SSI automation</td>
<td>250,000</td>
<td>150,000</td>
<td>150,000</td>
<td>150,000</td>
<td>+150,000</td>
<td></td>
</tr>
<tr>
<td>Subtotal, automation initiative</td>
<td>167,000</td>
<td>300,000</td>
<td>250,000</td>
<td>226,291</td>
<td>+59,291</td>
<td>-73,709</td>
</tr>
<tr>
<td>Total, REGULAR LAE</td>
<td>5,804,935</td>
<td>6,072,468</td>
<td>6,149,760</td>
<td>6,047,198</td>
<td>+424,263</td>
<td>-102,672</td>
</tr>
<tr>
<td>Additional CDR funding</td>
<td>60,000</td>
<td>260,000</td>
<td>160,000</td>
<td>160,000</td>
<td>+100,000</td>
<td></td>
</tr>
<tr>
<td>SSI reforms (welfare)</td>
<td>250,000</td>
<td>150,000</td>
<td>150,000</td>
<td>150,000</td>
<td>+150,000</td>
<td></td>
</tr>
<tr>
<td>Total, LAE</td>
<td>5,864,935</td>
<td>6,322,468</td>
<td>6,309,870</td>
<td>6,357,198</td>
<td>+492,263</td>
<td>-225,270</td>
</tr>
</tbody>
</table>

**OFFICE OF INSPECTOR GENERAL**

<table>
<thead>
<tr>
<th>Description</th>
<th>176,400</th>
<th>179,000</th>
<th>100,000</th>
<th>100,000</th>
<th>-76,400</th>
<th>-79,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal funds</td>
<td>4,801</td>
<td>6,335</td>
<td>6,335</td>
<td>6,335</td>
<td>+1,534</td>
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<tr>
<td>Trust funds</td>
<td>4,037</td>
<td>21,089</td>
<td>21,089</td>
<td>21,089</td>
<td>+11,052</td>
<td></td>
</tr>
<tr>
<td>Portion treated as budget authority</td>
<td>10,977</td>
<td>10,977</td>
<td>10,977</td>
<td>10,977</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 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

<table>
<thead>
<tr>
<th>Item</th>
<th>1996 appropriation</th>
<th>Budget estimate</th>
<th>House allowance</th>
<th>Committee recommendation</th>
<th>Senate Committee recommendation compared with</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1996 appropriation</td>
</tr>
<tr>
<td>Total, Office of the Inspector General:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal funds</td>
<td>4,801</td>
<td>6,335</td>
<td>6,335</td>
<td>6,335</td>
<td>+1,534</td>
</tr>
<tr>
<td>Trust funds</td>
<td>(21,014)</td>
<td>(21,089)</td>
<td>(21,089)</td>
<td>(21,089)</td>
<td>(+75)</td>
</tr>
<tr>
<td>Total</td>
<td>(25,815)</td>
<td>(22,424)</td>
<td>(22,424)</td>
<td>(22,424)</td>
<td>(+1,609)</td>
</tr>
<tr>
<td>Total, Social Security Administration:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal funds</td>
<td>28,513,350</td>
<td>30,466,328</td>
<td>29,794,443</td>
<td>29,915,338</td>
<td>+1,365,988</td>
</tr>
<tr>
<td>Current year, fiscal year 1996/1997</td>
<td>(19,083,350)</td>
<td>(20,616,328)</td>
<td>(19,944,443)</td>
<td>(20,029,338)</td>
<td>(+945,988)</td>
</tr>
<tr>
<td>New advances, 1st quarter fiscal year 1997/1998</td>
<td>(9,430,000)</td>
<td>(9,850,000)</td>
<td>(9,850,000)</td>
<td>(9,850,000)</td>
<td>(+470,000)</td>
</tr>
<tr>
<td>Trust funds</td>
<td>(5,885,949)</td>
<td>(6,603,557)</td>
<td>(6,330,959)</td>
<td>(6,378,287)</td>
<td>(+492,338)</td>
</tr>
<tr>
<td>Trust funds considered BA</td>
<td>(875,076)</td>
<td>(914,416)</td>
<td>(856,095)</td>
<td>(846,095)</td>
<td>(-28,911)</td>
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<tr>
<td>United States Institute of Peace</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>11,481</td>
<td>11,160</td>
<td>11,160</td>
<td>11,160</td>
<td>-321</td>
</tr>
<tr>
<td>Total, Title IV, Related Agencies:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal funds</td>
<td>29,419,805</td>
<td>31,490,674</td>
<td>30,729,335</td>
<td>30,944,119</td>
<td>+1,364,314</td>
</tr>
<tr>
<td>Current year, fiscal year 1996/1997</td>
<td>(19,799,805)</td>
<td>(21,365,674)</td>
<td>(20,629,335)</td>
<td>(20,744,119)</td>
<td>(+944,314)</td>
</tr>
<tr>
<td>Fiscal year 1997/1998</td>
<td>(9,430,000)</td>
<td>(9,850,000)</td>
<td>(9,850,000)</td>
<td>(9,850,000)</td>
<td>(+420,000)</td>
</tr>
<tr>
<td>Fiscal year 1998/1999</td>
<td>(250,000)</td>
<td>(275,000)</td>
<td>(250,000)</td>
<td>(250,000)</td>
<td>(-25,000)</td>
</tr>
<tr>
<td>Trust funds</td>
<td>(5,988,137)</td>
<td>(6,707,767)</td>
<td>(6,430,308)</td>
<td>(6,478,251)</td>
<td>(+450,114)</td>
</tr>
<tr>
<td>Trust funds considered BA</td>
<td>(877,504)</td>
<td>(1,022,628)</td>
<td>(946,448)</td>
<td>(946,063)</td>
<td>(-31,201)</td>
</tr>
</tbody>
</table>

**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) | (3,544,428) | (3,380,711) | (+639) | -293,657 | (-123,063) |

| Title II—Department of Health and Human Services: |                   |                |                |                          |                  |                |                |
| Federal Funds | 197,401,625 | 220,777,907 | 218,833,913 | 214,854,883 | +17,453,258 | -5,923,024 | -4,915,030 |

(In thousands of dollars)
<table>
<thead>
<tr>
<th>Year</th>
<th>Federal Funds</th>
<th>Trust Funds</th>
<th>Grand Total, Current Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>263,772,305</td>
<td>6,478,251</td>
<td>263,832,305</td>
</tr>
<tr>
<td>1998 advance</td>
<td>260,088,520</td>
<td>6,444,666</td>
<td>266,533,186</td>
</tr>
<tr>
<td>1999 advance</td>
<td>250,000</td>
<td>250,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Total, all lifetimes</td>
<td>263,772,305</td>
<td>6,478,251</td>
<td>263,832,305</td>
</tr>
</tbody>
</table>

*Current funded.*

*Grand total, current year.*

<table>
<thead>
<tr>
<th>Year</th>
<th>Federal Funds</th>
<th>Trust Funds</th>
<th>Grand Total, Current Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>263,772,305</td>
<td>6,478,251</td>
<td>263,832,305</td>
</tr>
<tr>
<td>1998 advance</td>
<td>260,088,520</td>
<td>6,444,666</td>
<td>266,533,186</td>
</tr>
<tr>
<td>1999 advance</td>
<td>250,000</td>
<td>250,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Total, all lifetimes</td>
<td>263,772,305</td>
<td>6,478,251</td>
<td>263,832,305</td>
</tr>
</tbody>
</table>

*Grand total, current year.*

---

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 Administration on Aging in the Department of HHS.
6 Senate bill includes $10,000,000 for administration of the work opportunity tax credit program.
7 Two year availability.
8 Budget requests $5,000,000 to remain available through September 30, 1998.
9 Includes Federal and Trust funds.
10 All HHS accounts are current funded unless otherwise noted.
11 Senate bill includes $3,277,338,000 in legislative additions.
12 Administration proposes $3,277,338,000 in legislative additions.
13 In fiscal year 1997, $33,000,000 is delayed until October 1, 1997 in Senate bill.
14 $32,543,000 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 Staff 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—SEPT. 30, 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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:

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.

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 $5,573,382,000 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.
PUBLIC LAW 104–208—SEPT. 30, 1996  110 STAT. 3009–268

TITLE V—GENERAL PROVISIONS

PUBLIC LAW 104–208—SEPT. 30, 1996  110 STAT. 3009–270

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.

PUBLIC LAW 104–208—SEPT. 30, 1996  110 STAT. 3009–272

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.
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.

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.

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”.

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**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."


110 STAT. 3009-389  PUBLIC LAW 104—208—SEPT. 30, 1996

PUBLIC LAW 104—208—SEPT. 30, 1996  110 STAT. 3009–386

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.”

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 costs 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;


(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 noncompliance; 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) DETERMINATIONS.—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 the" before the period;

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 Inspecter 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"

(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."

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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.

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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:

Sec. 1. Short title of division; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents of division; severability.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions.
from interior stations.

Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preinspection at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Preclearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Title III—Inspection, Apprehension, Detention, Adjudication, and Removal of Inadmissible and Deportable Aliens

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.

Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).

Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).

Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).

Sec. 305. Detention and removal of aliens ordered removed (new section 241).

Sec. 306. Appeals from orders of removal (new section 242).

Sec. 307. Penalties relating to removal (revised section 243).

Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.

Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.

Sec. 322. Definition of conviction and term of imprisonment.

Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.

Sec. 324. Penalty for reentry of deported aliens.

Sec. 325. Change in filing requirement.

Sec. 326. Criminal alien identification system.

Sec. 327. Appropriations for criminal alien tracking center.

Sec. 328. Provisions relating to State criminal alien assistance program.

Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.

Sec. 330. Prisoner transfer treaties.

Sec. 331. Prisoner transfer treaties study.

Sec. 332. Annual report on criminal aliens.

Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.

Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.

Sec. 343. Certification requirements for foreign health-care workers.

Sec. 344. Removal of aliens falsely claiming United States citizenship.

Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.

Sec. 346. Inadmissibility of certain student visa abusers.—

Sec. 347. Removal of aliens who have unlawfully voted.

Sec. 348. Waivers for immigrants convicted of crimes.

Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.

Sec. 350. Offenses of domestic violence and stalking as ground for deportation.

Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.

Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.

Sec. 353. References to changes elsewhere in division.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.

Sec. 355. Exclusion of representatives of terrorist organizations.

Sec. 356. Standard for judicial review of terrorist organization designations.

Sec. 357. Removal of ancillary relief for voluntary departure.

Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.

Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.

Sec. 372. Delegation of immigration enforcement authority.

Sec. 373. Powers and duties of the Attorney General and the Commissioner.

Sec. 374. Judicial deportation.

Sec. 375. Limitation on adjustment of status.

Sec. 376. Treatment of certain fees.

Sec. 377. Limitation on legalization litigation.

Sec. 378. Rescission of lawful permanent resident status.

Sec. 379. Administrative review of orders.

Sec. 380. Civil penalties for failure to depart.

Sec. 381. Clarification of district court jurisdiction.

Sec. 382. Application of additional civil penalties to enforcement.
Sec. 383. Exclusion of certain aliens from family unity program.
Sec. 384. Penalties for disclosure of information.
Sec. 385. Authorization of additional funds for removal of aliens.
Sec. 386. Increase in INS detention facilities; report on detention space.
Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.
Sec. 402. Voluntary election to participate in a pilot program.
Sec. 403. Procedures for participants in pilot programs.
Sec. 404. Employment eligibility confirmation system.
Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.
Sec. 412. Paperwork and other changes in the employer sanctions program.
Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.
Sec. 414. Reports on earnings of aliens not authorized to work.
Sec. 415. Authorizing maintenance of certain information on aliens.
Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

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.
Sec. 502. Pilot programs on limiting issuance of driver's licenses to illegal aliens.
Sec. 503. Ineligibility of aliens not lawfully present for Social Security benefits.
Sec. 504. Procedures for requiring proof of citizenship for Federal public benefits.
Sec. 505. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 506. Study and report on alien student eligibility for postsecondary Federal student financial assistance.

Sec. 507. Verification of immigration status for purposes of Social Security and higher educational assistance.

Sec. 508. No verification requirement for nonprofit charitable organizations.

Sec. 509. GAO study of provision of means-tested public benefits to aliens who are not qualified aliens on behalf of eligible individuals.

Sec. 510. Transition for aliens currently receiving benefits under the Food Stamp program.

Subtitle B—Public Charge Exclusion

Sec. 531. Ground for exclusion.

Subtitle C—Affidavits of Support

Sec. 551. Requirements for sponsor's affidavit of support.

Sec. 552. Indigence and battered spouse and child exceptions to Federal attribution of income rule.

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.

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.

Sec. 562. Treatment of expenses subject to emergency medical services exception.

Sec. 563. Reimbursement of States and localities for emergency ambulance services.

Sec. 564. Pilot programs to require bonding.

Sec. 565. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.

Sec. 572. Prorating of financial assistance.

Sec. 573. Actions in cases of termination of financial assistance.

Sec. 574. Verification of immigration status and eligibility for financial assistance.

Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.

Sec. 576. Eligibility for public and assisted housing.

Sec. 577. Regulations.

Subtitle F—General Provisions

Sec. 591. Effective dates.

Sec. 592. Not applicable to foreign assistance.
Sec. 601. Persecution for resistance to coercive population control methods.
Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.
Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H-2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress regarding discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

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

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 ELECTIOm 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:
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.

A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

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.

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,

(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.

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.

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 NON-CONFIRMATION.—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)(j) 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 proce-
dures 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 oper-
ation of the machine-readable-document pilot program in a
State unless driver's licenses and similar identification docu-
ments 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 individ-
ual whose identity and employment eligibility must be con-
firmed 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 num-
ber 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.

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 (i), 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)(3).

"(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 PREMPTION.—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 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 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:

"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 COMPUL 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 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 non-profit 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

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 sub-
section (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 termi-
nation.

(e) SUNSET.—The pilot program under this section shall termi-
nate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIRE-
MENTS.—Section 213 (8 U.S.C. 1183) is amended by inserting “(sub-
ject to the affidavit of support requirement and attribution of spon-
sor’s income and resources under section 213A)” after “in the discre-
tion 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.
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 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.
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.