the focus of this administration largely disappearing from a high priority to a very low priority, showing very clearly that when you focus and when you direct resources on a problem of this nature, you can have a substantial impact. We were beginning to show the real results of the availability of these drugs on the streets, and, of course, if they are on the streets, then there is an opportunity for our young people to have access to them.

Perhaps 820,000 of the new crop of youthful marijuana smokers will eventually try cocaine. That is a statistic that has just come from a study done by the Senate Judiciary Committee, published by the chairman, ORRIN HATCH—a horrible statistic, in light of the fact that we are now being told by the criminologists of our country, ''Get braced, America, for the greatest juvenile crime wave in the history of our country.'' What is it driven by? In part, it is driven by drugs, or the desire to have access to them and, therefore, the willingness to commit crimes to have the resources to pay for them. These are horrible statistics that we must become aware of.

I am so pleased today that the Senator from Georgia has taken this special order to speak to this issue. I say, Mr. President, thank you for waking up. But shame on you for turning your back, in the last 3 years, on an initiative that was working well and removing drugs from our streets and was creating a better environment for our youth.

Better late than never? I hope so, because I think the American people want it, and I certainly hope this President will focus the resources of our Government, once again, toward aggressive interdiction and a program worthy of this country in getting drugs off of our streets and making the environment in which our children live a safer place. I yield the remainder of my time.

(Mr. CRAIG assumed the chair.)

Mr. COVERDELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. COVERDELL. Thank you, Mr. President. I thank the Senator from Idaho for his remarks on this terribly important issue. If we can just step back for a moment and try to put this situation into perspective, it began with the inauguration of President Clinton. The first sign from the White House was the suspension of the preemployment drug testing program at the White House of the United States. From that moment on, the message became clearer and clearer. We have heard all the statistics that have emanated since—a shutting down of the policy of interdiction, law enforcement, and education saying to America's youth that drugs are harmful.

The result of these changed policies are these: America's youth today no longer think drugs are dangerous. That statistic has plummeted. So it should come as no surprise to any of us that usage has skyrocketed. They no longer are afraid because of signals like no more drug testing or, ''Let us legalize drugs,'' or, ''Let us shut the drug czar's office down,'' or do not mention drugs at all in 3 years. So that pulpit is shut off, the resources are shut off, our youngsters no longer think it is a problem, and they start exploring drugs. The result is that we have gone from just under 2 million using them to almost 4 million. So that means that 2 million American families and 2 million teenagers' lives are stunted or put at risk as a result of these policies that have been changed.

Mr. President, in closing, the ripple effect of this is stunning. I was with President Zedillo of Mexico a couple of weeks ago, and he said that the drug lords' attack on his country is the single greatest threat of national security to that nation. I say, further, Mr. President, that drugs in the narco operations are the single greatest threat to the security of the democracies in our hemisphere.

Mr. President, in closing, I say that this is the first time a war has ever been declared on children age 8 to 12 years old. What a disgusting, evil force we stand against. This is a war we cannot afford to lose.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk continued calling 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.

MEASURE PLACED ON CALENDAR—S. 1708

Mr. KYL. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1708) to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts.

Mr. KYL. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar under rule XIV.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand the floor situation, we will now return for a continued discussion on the immigration bill, and then at 5 o'clock, the time has been designated for a vote on cloture relating to a matter on that immigration bill. Am I correct?

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. REID. If the Senator will yield, I want to speak on immigration matters. So it is a related matter.

Mr. KENNEDY. Mr. President, I will visit with the Senator in another hour and see where we are.

Mr. REID. Mr. President, I want this afternoon to talk about two amendments that I am hopeful will be allowed to be disposed of by a vote in this Chamber at some time during the discussion of this immigration bill.

As we all know, the parliamentary procedure is such that I do not think anyone knows at this time what the future of amendments like those that I intend to offer by 4 o'clock today will be. But I wanted to have the opportunity to talk about one or two matters in light of the unknowns that lie ahead.

Mr. President, first of all, I want to talk about a subject that, even though I have spoken about it many times on the Senate floor—I have spoken about it in other forums—it is still difficult to speak about because it is an issue about, no matter how many times you speak about the unfairness, the brutality of the procedure which is something that you never get used to.

In the fall of 1994 I introduced a sense-of-the-Senate resolution condemning the cruel practice of female genital mutilation, and at that time I applauded the Government of Egypt for taking quick action against two men who performed this illegal act on a 10-year-old girl. This act had been performed hundreds of thousands of times. But on this occasion television cameras hidden in nature were watching this brutal act by a man with his 10-year-old daughter. Dressed in the finest clothes, she had came for a celebration. The little girl was excited, and happy because the attention was focused on her. And then, Mr. President, she was held down, her legs spread apart, and she was brutally mutilated.

This little girl was screaming, ''Daddy, why did you do this to me?''

My being the father of a daughter, it brought tears to my eyes.

This resolution passed on September 27, 1994. At that time I committed myself to continue to talk about this issue and informing my colleagues, and others that would listen, of the dangers it poses to the physical and emotional health of young ladies, and how basically immoral it is.

I felt it was important, and believe it is important, to inform the American public of its prevalence in immigrant communities in the United States.

That next month, in October, I came to the floor to introduce legislation to make the practice of female genital mutilation against the law in the United States. I have tried on numerous occasions to do that. I have been unable to succeed.

The latest failure was when the conferees on the omnibus appropriations bill that we just passed—and which was signed into law by the President—was stripped from that bill for procedural reasons.

The chairman of the Judiciary Committee from the House—when I explained to him the procedure—said, ''You will have no objection from me.'' HENRY HYDE, the chairman of the House Judiciary Committee, recognizes brutality, and said he would not oppose it. But, of course, in the confines of the conference people look for all kinds of excuse and reasons to do things. And, no matter the times I spoke to people, they said, ''Well, we do not want to pass any criminal law in an appropriations bill.''

I do not think this is something that calls for formalities. I thought that we should have passed the law previously. I think it is wrong that we have waited so long. And, as we speak, this practice is being performed all over the world. And it is being performed in the United States.

I, Mr. President, think it is a shame that organizations like the United Nations are mute about this particular procedure. They say nothing.

In October 1994 I came to the floor to introduce legislation. The bill also directed the Secretary of Health and Human Services to identify and compile data on the immigrant communities in this country that continue this practice, and to develop recommendations for the education of medical school students so that they can treat women that have been mutilated by this ritual.

I am pleased to say that we have been successful in having the directives to the Secretary of Health and Human Services accepted in the omnibus appropriations bill which passed last week. We have made that progress. I think that is important. We know that out of Santa Clara County in California recently we heard of seven cases being reported there of this brutal act being performed on girls and young women.

I would like to thank those that made it possible to get that part of the bill passed.

But this language is only a small step in acknowledging this practice that takes place so often—this torture which has been performed on 100 million girls and young women in over 30 countries worldwide—over 100 million human beings.

Mr. President, again, as I said, I have spoken about this subject on a number of occasions. It does not become easier to speak about it in repetitive cases. But it is important to inform those who are within the sound of my voice what this barbaric procedure is.

Normally, if anything can be normal that is associated with this practice, it is performed on young girls between the ages of 4 and 10 years of age. But, if they happen to slip by some way, many teenagers and women in their twenties have had this performed on them. This procedure is often referred to as circumcision, but it has more in common with castration. Excision and infibulation are the most common practices.

Infibulation, Mr. President, is practiced in many countries. It entails the excision of all female genitalia with a razor, a piece of glass, or just a knife. The remaining tissue is stitched together leaving only a small opening for urine, and menstrual fluid. This practice has no medical justification for being performed on healthy young girls, and certainly not on women. And it is usually performed with crude, unsterile instruments without anesthesia. These young girls are many times tied down, or held down. And I have watched the one that I talked about initially where this young little girl was screaming as no one can scream. The aftereffects of this act include shock, infection, emotional trauma, hemorrhaging, debilitating scarring, infertility, and death.

If there were ever an example of sexism, this is it.

A young woman from Togo was recently called to our attention because this woman, a 20-year-old woman, was going to have this procedure. Fauziya Kasinga fled Togo and came to America in order to escape the torture of female genital mutilation. She is now seeking asylum based on the threat of this procedure being performed on her and she deserves it. She fled Togo, left behind people, and her family. She has been in the United States prisons for 2 years in order to escape this procedure. Women and children should not be forced to face this pain, potential death, and emotional scarring.

An amendment will be offered today to the pending immigration bill that would allow female genital mutilation to be the basis of asylum in this country, as well as to criminalize the act in the United States. We must join other countries in legally banning female genital mutilation. As immigrants from Africa and the Middle East travel to other nations, this practice travels with them. The United Kingdom, Sweden, and Switzerland have passed laws prohibiting this practice. France and Canada maintain that their laws will prevent this from happening. The United States is faced with the responsibility, I believe, of abolishing this specific practice within its borders as well as providing safe refuge for those in fear of having this torture inflicted upon them.

Mr. President, I think we should be very clear and precise in what we allow for asylum. I think we have been too lax in asylum cases. I do not think we have had the personnel to adequately handle these cases. People come and claim political asylum, and are lost in the vast bowels of this country.

Having said that, though, I believe there is no case clearer for demanding asylum than a woman or a girl saying I am here because if I stay in my country, they are going to rip out my genitalia.

This practice is brutal, systematic, and it is a cultural practice. It has been endured by millions of young girls and women and its prevalence is just now being revealed to the world.

Last month, the Pulitzer Prize was given to Stephanie Welsh, a Syracuse

University student who photographed the procedure that was being performed on a 16-year-old girl in Kenya. These pictures show the world how horrific and real this practice is. Many nations have made efforts to deter the practice with legislation. We should do the same.

Sudan has the longest record of efforts to combat the practice of FGM and has legislated against the procedure, but it has been for show only: 80 percent of Sudanese women continue to be infibulated, according to the 1992 Minority Rights Group report.

I commend Senator SIMPSON for his work on immigration generally and for supporting me on this very important issue.

On one other issue before I give the floor back to the managers, it was brought to my attention recently that a couple in Henderson, NV, a suburb of Las Vegas, had experienced cries for legislation.

Mr. President, I practiced law and did a lot of domestic relations work. I have been an attorney for hundreds of people who have been involved in divorce proceedings. I have been involved in many, many divorce cases involving child custody. They are heart-wrenching cases, where a mother and father fight over the custody of their children. I have had experiences where it is difficult to believe that parents could do to their children what they do in order to spite their former husband and wife, but they do it. I have had cases where custody has been awarded where I thought the judge was wrong, but I have witnessed how difficult it is for a husband, wife, father and mother to lose custody of their children. That is really a heart-wrenching situation.

But what has been one of the low points of my emotional stability has been when a father or mother steals the child and then you have this mother or father coming to you, saying: What am I going to do? Will I ever get to see my little girl again, or my little boy again?

It is a difficult divorce case in Nevada, and they run off to Tennessee or Maine, and it is very expensive and difficult to get that work out. But in the United States, with rare exception, judges from one jurisdiction recognize the decrees of another jurisdiction, so if we find where that child is in Tennessee we can bring the Nevada judgment and the court in Tennessee will recognize that.

What this amendment is about is when a parent takes a child to another country, which happens very often—and that is what happened to Barbara Spierer, the mother of Mikey Spierer. What happened is her husband, the father of the child, a Croatian, in the dead of the night, took this child to Croatia, his place of birth, the father's place of birth. It was a war-torn country. It was 1993.

The mother of this baby wakes up, recognizing that her child is in Croatia, a country that is at war. I will not go into all the details, but she was finally able, after tremendous expense and exhausting emotions, to get her child back.

I believe we have to look at why that was allowed to take place. Much of the debate on immigration legislation involves complex issues and arcane areas of the law. The amendment that will be offered this afternoon is a commonsense legislative solution to a simple but extremely troubling issue. The issue is an attempt by me to resolve international parental abductions. The amendment does not attempt to right a wrong, but it does attempt to prevent future wrongs from occurring. And without this amendment future wrongs will occur.

I have indicated the nightmare forced upon this family in Henderson, NV. Few would disagree that parental consent should be given before a passport is issued to a minor child. This problem that Barbara Spierer had would not have taken place if our laws did not permit such easy procurement of passports for minors, and in short what this amendment will require is that both parents will have to sign before you can get a visa granted to a child, or if not both parents the parent with the custody of the child would have to sign and allow the child to get the passport.

Current law is an invitation to engage in the grossest of misbehavior by a scurrilous parent and usually, not for any reason that relates to the child, they want to get back at the husband or the wife or the mother or the father.

I wish the situation of Barbara Spierer and her son Mikey were an isolated incident, but it is not. In 1994, the last year we have records, over 600 cases, over 600 cases of children abducted from the United States were reported. Thousands of parents are attempting, as we speak, to bring home their children who were taken from this country by a disgruntled mother or father.

While these cases are tracked by the State Department and by children advocates, it is believed that many, many of the cases go unreported. So if we have 600 reported cases, most experts believe hundreds and hundreds more occur every year.

This usually takes place where a parent has strong ties to a foreign country like the Spierer boy whose father was Croatian, but sometimes an American-born mother or father will take off for an unfamiliar nation or flee United States law.

I had a case where I represented the father, and he was not going to be awarded those children so he just took them to Mexico and just basically lived down there. I thought it was so unfair what he had done, but it took us a couple years to get him to come back, and, of course, by then the children had been from their mother for almost 2 years. It happens often.

Why does this happen so easily? Because under present law one parent can procure the child's passport without the other knowing. Left-behind parents are faced with wading through a maze of foreign laws and customs in their efforts to secure their child's return.

Imagine how difficult it is to find a missing child in the United States. Multiply that times 1,000 to find a missing child outside our borders. Finding the child is only the start. Once you find the child, you have to submit yourself to the foreign country's legal system, and most nations do not recognize custody orders of the United States. Even when criminal charges have been filed against the abducting parent in the United States, many nations will not honor a United States request for extradition. Some countries simply discriminate against women. The decision to fight for a child's return consumes enormous amounts of time and money. Many parents are simply without the financial wherewithal to engage in a protected international legal dispute, and that ends it.

For a variety of reasons, the Government is able to do very little to assist these parents, and it is becoming more difficult all the time as the State Department moneys are being squeezed and squeezed.

So I hope my amendment, which takes cost-effective steps toward preventing future abductions, would be adopted. It provides a series of checks prior to the time of the issuance of a minor child's passport. Both parents would be required to sign an application. If the child were under the age of 16 or if the divorce were already granted, the application would have to be signed by the parent of the child having primary custody. If such a law had been in place in 1993, Barbara Spierer's ex-husband would not have been able to abduct Mikey to Croatia. The passport would not have been issued, because a written permission had not been given. I believe this legislation is drafted in such a manner as to give the State Department the discretion to implement a reasonable and flexible rule.

This amendment is not just about parental rights and preventing these tragic international abductions. It is about protecting the rights of children. Nobody disagrees that the rights, freedoms and liberties provided in our country make it the best country in the world. No child should be forced to lose those rights. No American child, regardless of age, should be abducted to the middle of a war-torn part of the world or any other part of the world. American parents should not be forced to endure the living nightmare that Barbara Spierer was forced to go through.

If my amendment prevents only one family from having to endure this nightmare, it will be judged a success. I believe we have to pass this amendment and the one on the terrible procedures performed on women, and do it as expeditiously as possible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, while we are waiting for some other Members to come to the floor and discuss their proposed amendments, let me talk about an amendment which I had planned to offer but which I understand may not be considered germane—it is relevant but not germane, and therefore, presumably, I would not be able to offer it—but which is included in the House-passed bill and therefore will be a subject of the conference committee, and, therefore, I hope our Senate colleagues will be able to study and, hopefully, concur in it.

This is an amendment to restrict section 245(i) of the Immigration and Nationality Act. By way of explanation, prior to 1994, if an illegal alien residing in the United States became eligible for an immigrant visa through a family relationship or other means, then the alien could adjust to lawful, permanent resident status without any financial or other penalty.

In order to obtain the visa, the alien was required to depart from the United States, obtain a visa at the foreign consulate, and then, of course, return and acquire the legal status here. Section 245(i) of the Immigration and Nationality Act was added by section 505 of the fiscal year 1995 State appropriations measure. Under this new section, an illegal alien who becomes eligible for an immigrant visa may adjust to lawful permanent status without departing the United States, but only if the individual pays a penalty of five times the normal application fee. The penalty fee is approximately $750. Some have referred to this as, ''buying your way in.'' Those who are wealthy enough simply pay this fee, this five times the normal penalty fee, and thereby are able to convert an illegal status to legal status and never have to return home to obtain a visa to arrive here legally.

Under the proposed amendment, which I will not be able to offer but, as I said, which is included in the House-passed version of the bill and which I hope our Senate conferees will look kindly upon, under this amendment, the aliens present in the United States illegally will no longer be able to stay here and buy their way into permanent resident status. They would have to return to their home country, obtain a legal visa, and return just as they did prior to 1995.

The amendment would take effect on October 1, 1996. There are a couple of exceptions that are worth noting, because we do not want to penalize anyone who is already here and who would be acting under appropriate color of law.

First, all aliens currently eligible for lawful permanent resident status under section 245(i) of the act may, under our proposal, upon payment of the full penalty fee, apply for legal status until October 1, 1996.

After October 1, 1996, those aliens, and only those aliens in the so-called ''family fairness'' category, would be eligible to change their status under section 245(i). The people protected under that section are those under section 301 of the Immigration Act of 1990. They are exempt from this change.

Those in the family fairness category would be able to stay in the United States and would not be faced with this penalty fee. It includes those children and spouses of aliens granted asylum on May 5, 1988. In order to be eligible, the spouse or the child must have been present in the United States on that date. Those are the people who, in some way, were grandfathered in, and, as a result, they would not be required to go back and obtain a visa in order to obtain legal status here.

But, except for those two categories, people would no longer be able to buy their way into the United States. The amendment takes effect at the end of the fiscal year, in order to give INS and the State Department an opportunity to adjust their resources. After September 30, 1997, this whole section 245(i) would expire.

Just a word. The Immigration and Naturalization Service and the Department of State oppose the amendment, primarily on fiscal grounds because of their costs inherent in processing the visa applications. We are in the process of working out the possibility where a fee would be paid which would cover their expenses and alleviate that particular concern.

They also pose the argument that, regardless where an illegal alien applies for legal status, either in the United States or a consulate in their home country, the waiting period to achieve the visa is the same. The point I make, however, is that the illegal alien is already in the United States illegally and that is not something we should reward, at least for those who are able to pay for it, by simply having them pay a special fine.

I also think what the agencies fail to appreciate is that once an illegal alien applies for legal status in the United States, he may be considered to be permanently residing in the United States under color of law, the so-called PRUCOL status. The PRUCOL standard is frequently used as a transitional status for aliens who are becoming permanent residents of the United States. If an alien is considered under PRUCOL, then that alien is eligible for numerous Federal assistance programs, including AFDC, SSI, Medicaid, unemployment insurance, housing assistance and other unrestricted programs. So, in this manner, aliens who enter the United States illegally would be rewarded if they are allowed to reside in the United States while they are waiting for a decision on their application.

The amendment I have offered but will not reask for a vote on eliminates this reward and the accompanying drain on federally funded programs by requiring illegal aliens desiring to apply for permanent status to return to their home country.

Just to summarize it, again, if you were here illegally, you would need to go back home and get a visa to apply for permanent legal status. You would not be able to pay a five-times-the-usual-amount fee and thereby buy your way into the country, as they say.

Again, the House has adopted this. Hopefully, on the conference committee we will agree with the House proposal and we can make that change in our immigration law.

CRAIG-GORTON AMENDMENT REFORMING THE H–2A TEMPORARY AGRICULTURAL WORKERS PROGRAM

Mr. CRAIG. Mr. President, I have filed an amendment at the desk on behalf of myself and the Senator from Washington [Mr. GORTON].

Let me start by publicly thanking my good friend, AL SIMPSON. The senior Senator from Wyoming has been tireless in his efforts to maneuver this legislation through the 104th Congress. While, I am very appreciative of his efforts in general, I want to address an issue that is of utmost importance to this country's farmers and ranchers.

That issue is the impact of immigration reform on the supply of agricultural labor. There is very real concern among Idaho farmers and throughout the countryside that these reforms will reduce the availability of agricultural workers.

Farmers need access to an adequate supply of workers and want to have certainty that they are hiring a legal work force. In 1995, the total agricultural work force was about 2.5 million people. That equates to 6.7 percent of our labor force that is directly involved in production agriculture and food processing.

Hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one of every $8 of farm production expenses. For the labor-intensive fruit, vegetable and horticultural sector, labor accounts for 35 to 45 percent of production costs.

The competitiveness of U.S. agriculture, especially the fruit, vegetable and horticultural specialty sectors, depends on the continued availability of hired labor at a reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both United States and foreign commodity markets.

Wages of U.S. farm workers will not be forced up by eliminating alien labor, because growers' production costs are capped by world market commodity prices. Instead, a reduction in the work force available to agriculture will force U.S. producers to reduce production to the level that can be sustained by a smaller work force.

Over time, wages for these farm workers have actually risen faster than nonfarm worker wages. Between 1986–1994, there was a 34.6-percent increase in average hourly earnings for farm workers, while nonfarm workers only saw a 27.1-percent increase.

Even with this increase in on-farm wages, this country has historically been unable to provide a sufficient number of domestic workers to complete the difficult manual labor required in the production of many agricultural commodities. In Idaho, this is especially true for producers of fruit, sugar beets, onions, and other specialty crops.

The difficulty in obtaining sufficient domestic workers is primarily due to the fact that domestic workers prefer the security of full-time employment in year round positions. As a result the available domestic work force tends to prefer the long-term positions, leaving the seasonal jobs unfilled. In addition, many of the seasonal agricultural jobs are located in areas where it is necessary for workers to migrate into the area and live temporarily to do the work. Experience has shown that foreign workers are more likely to migrate than domestic workers. As a result of domestic short supply, farmers and ranchers have had to rely upon the assistance of foreign workers.

The only current mechanism available to admit foreign workers for agricultural employment is the H–2A Program. The H–2A Program is intended to serve as a safety valve for times when domestic labor is unavailable. Unfortunately, the H–2A Program isn't working.

Despite efforts to streamline the temporary worker program in 1986, it now functions so poorly that few in agriculture use it without risking an inadequate work force, burdensome regulations and potential litigation expense. In fact, usage of the program has actually decreased from 25,000 workers in 1986 to only 17,000 in 1995.

Our amendment will provide some much needed reforms to the H–2A Program. I urge my colleagues to consider the following parts of our amendment as a reasonable modification of the H–2A Program.

First, the amendment will reduce the advance filing deadline from 60 to 40 days before workers are needed. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

Second, in lieu of the present certification letter, the Department of Labor [DOL] would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria and lists the number of U.S. workers referred. The employer would then file a petition with INS for admission of aliens, including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision. The purpose is to restore the role of the Labor Department to that of giving advice to the Attorney General on labor availability, and return decisionmaking to the Attorney General.

Third, the Department of Labor will be required to provide the employer with a domestic recruitment report not later than 20 days before the date of need. The report either states sufficient domestic workers are not available or gives the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer. The Department of Labor now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers.

Fourth, the Immigration and Naturalization Service [INS] will provide expedited processing of employers' petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days. This will ensure timely admission decisions.

Fifth, INS will also provide expedited procedures for amending petitions to increase the number of workers admitted on 5 days before the date of need. This is to reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

Sixth, DOL will continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. This method is needed to allow the employer at a date certain to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

Seventh, our amendment will enumerate the specific obligations of employers in occupations in which H–2A workers are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

1. The employer offers a competitive wage for the position.

2. The employer will provide approved housing, or a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

3. The employer continues to provide current transportation reimbursement requirements.

4. A guarantee of employment is provided for at least three-quarters of the anticipated hours of work during the actual period of employment.

5. The employer will provide workers' compensation or equivalent coverage.

6. Employer must comply with all applicable Federal, State and local labor laws with respect to both U.S. and alien workers.

This combination of employment requirements will eliminate the discretion of Department of Labor to specify terms and conditions of employment on a case-by-case basis. In addition, the scope for litigation will be reduced since employers—and the courts—would know with particularity the required terms and conditions of employment.

Eighth, our amendment would provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Ninth, certainty would be given to employers who comply with the terms of an approved job order. If at a later date the Department of Labor requires changes, the employer would be required to comply with the law only prospectively. This very important provision removes the possibility of retroactive liability if an approved order is changed.

Again, I urge my colleagues to support this amendment and avoid actions that would jeopardize the labor supply for American agriculture.

Thank you, Mr. President. At this time, I ask unanimous consent that a summary of our amendment be printed in the RECORD.

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

SUMMARY OF THE CRAIG-GORTON AMENDMENT REFORMING THE H–2A TEMPORARY AGRICULTURAL WORKERS PROGRAM

The following proposed changes to the H–2A program would improve its timeliness and utility for agricultural employers in addressing agricultural labor shortages, while providing wages and benefits that equal or exceed the median level of compensation in non-H–2A occupations, and reducing the vulnerability of the program to being hamstrung and delayed by litigation.

1. Reduce the advance filing deadline from 60 to 40 days before workers are needed.

Rationale: In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

2. In lieu of the present certification letter, DOL would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria (or the specific deficiencies in the order) and the number of U.S. workers referred, per #3 below. The employer would file a petition with INS for admission of aliens (or transfer of aliens already in the United States), including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision.

Rationale: The purpose is to restore the role of the Labor Department to that of giving advice to the AG on labor availability,

and return the true gatekeeper role to the AG. Presently the certification letter is, de facto, the admission decision.

3. DOL provides employer with a domestic recruitment report not later than 20 days before the date of need stating either that sufficient domestic workers are not available, or giving the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer and who have agreed to be available at the time and place needed. DOL also provides a means for the employer to contact the referred worker to confirm availability close to the date of need. DOL would be empowered to issue a report that sufficient domestic workers are not available without waiting until 20 days before the date of need for workers if there are already unfilled orders for workers in the same or similar occupations in the same area of intended employment.

Rationale: DOL now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. These suppositions almost never prove correct, forcing the employer into costly and time wasting redeterminations on or close to the date of need and delaying the arrival of workers. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers. DOL also interprets the existing statutory language as precluding it from issuing each labor certification until 20 days before the date of need, even in situations where ongoing recruitment shows that sufficient workers are not available.

4. INS to provide expedited processing of employer's petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days.

Rationale: The assure timely admission decisions.

5. INS to provide an expedited procedures for amending petitions to increase the number of workers admitted (or transferred) on or after 5 days before the date of need, to replace referred workers whose continued availability can not be confirmed, who fail to report on the date of need, or who abandon employment or are terminated for cause, without first obtaining a redetermination of need from DOL.

Rationale: To reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

6. DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. Employers would be required to give preference to able, willing and qualified workers who agree to be available at the time and place needed who are referred to the employer until 5 days before the date workers are needed. After that time, employers would be required to give preference to U.S. workers who are immediately available in filling job opportunities that become available, but would not be required to bump alien workers already employed.

Rationale: A method is needed to allow the employer at a date-certain close to the date of need to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

7. Create a ''bounded definition'' of adverse effect by enumerating the specific obligations of employers in occupations in which H–2A aliens are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

7a. Offer at least the median rate of pay for the occupation in the area of intended employment or, if greater, an Adverse Effect Wage Rate (AEWR) of 110 percent of the Federal minimum wage, but not less than or $5.00 per hour.

7b. Provide approved housing or, if sufficient housing is available in the approximate area of employment, a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

NOTE: Provision should also be made to allow temporary housing that does not meet the full set of Federal standards for a transitional period in areas where sufficient housing that meets standards is not presently available, and for such temporary housing on a permanent basis in occupations in which the term of employment is very short (e.g. cherry harvesting, which lasts about 15–20 days) if sufficient housing that meets the full standards is not available. Federal law should pre-empt state and local laws and codes with respect to the provision of such temporary housing.

7c. Current transportation reimbursement requirements (i.e. employer reimburses transportation of workers who complete 50 percent of the work contract and provides or pays for return transportation for workers who complete the entire work contract).

7d. A guarantee of employment for at least three-quarters of the anticipated hours of work during the actual period of employment.

7e. Employer-provided Workers' Compensation or equivalent.

7f. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

Rationale: The objective is to eliminate the discretion of DOL to specify terms and conditions of employment on a case-by-case basis and reduce the scope for litigation of applications. Employers (and the courts) would know with particularity, up front, what the required terms and conditions of employment are. The definition also reduces the cost premium for participating in the program by relating the Adverse Effect Wage Rate to the minimum wage and limiting the applicability of the three-quarters guarantee to the actual period of employment.

8. Provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Rationale: To reduce litigation costs.

9. Provide that if an employer complies with the terms of an approved job order, and DOL or a court later orders a provision to be changed, the employer would be required to comply with the new provision only prospectively.

Rationale: To reduce the exposure of employers to litigation seeking to overturn DOL's approval of job orders, and to retroactive liability if an approved order is changed.

AMENDMENT NO. 3789

Mrs. MURRAY. Mr. President, I have an amendment at the desk that seeks to protect legal immigrant children from being denied access to foster care. Under the deeming provisions of this bill, children who would otherwise be eligible to be placed in foster care, due to abuse and neglect for example, could be denied this benefit. The Murray amendment protects these children from being forced to remain in an abusive situation because they are deemed ineligible to receive AFDC benefits, and therefore do not qualify for foster care assistance. This applies to any situation which would result in the child being placed in a foster care, transitional living program, or adoption assistance under current law.

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. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have found ourselves on Monday in the early afternoon anticipating a vote on cloture at approximately 5 o'clock. Generally, the motion for cloture is a way to terminate debate on a measure that is put before the body which is apparently being filibustered. That means a group generally does not want the measure to pass and, therefore, is using the rules of the Senate to frustrate, in this case, 60 Members of the Senate—more than a majority—so that they cannot work their will.

Under the time-honored process, in terms of the cloture motions, we have to have a 60-vote margin that says after a period of time, which is 30 hours, and after due notification, that the roll will be called and Senators will be make a judgment about whether there should be a termination of the debate. Then there is a reasonable period of time for amendments which have to be germane, and then there is the final outcome of an up-or-down vote on the matter before the Senate.

That was used in the early history of our country rarely but it has become more frequent in recent times. Certainly, there have been some, depending on how individuals look at the matter that is before the Senate, justifiable reasons for that procedure to be followed.

Today, we are in rather an extraordinary situation because there is no real desire to hold up the measure that is before the U.S. Senate. We are going to have a cloture vote at 5 o'clock, and then have a certain number of hours to debate. There has to be a germaneness issue for each of the amendments, and then there will be a certain amount of time to debate those measures. And depending on the outcome of the rollcall, they will either be attached to the measure or not attached to the measure, and they will have to follow some additional rules of the Senate. They will have to be germane.

The amendment of the Senator from Arizona, for example, that is related to the whole issue of immigration, which I find has some merit, is not going to be able to be considered on the floor of the U.S. Senate because it does not meet the strict requirements of germaneness.

But now we are back, Mr. President, in a situation where we have to ask ourselves, why are we here? Why are we here? I think there are some very important measures that ought to be debated and voted on. We will hear more about those from the Senator

from Florida, the Senator from Illinois, myself with regard to the fact, in many instances, under this legislation we are treating illegal immigrants better than legal immigrants. There will be some other amendments with regard to how we are going to treat expectant mothers of American citizens and how we are going to treat veterans, because you can be a permanent resident alien and serve in the Armed Forces. We have 20,000 of them, but under this bill, they will be shortchanged because of the hammer-like punitive provisions which have been included in the legislation.

So those we can debate. On those we should enter into a time agreement. I am certainly glad to enter into a time agreement so we can dispose of this measure. This legislation could have been disposed of in 2 days. We are in the fifth day now. We are going to conclude this phase of the debate on it at 5 o'clock, in the late afternoon on the fifth day. There is probably every probability it will go for 2 more days. That will be 7 days on a bill that should have lasted no longer than 2 days with relevant, germane amendments considered and those that I consider to be germane, perhaps not the Parliamentarian, but measures like Senator KYL's amendment should have been debated and discussed. It is worthwhile. We talked about those measures in the Judiciary Committee during that period of time. That is virtually foreclosed.

So we are voting this afternoon on a cloture motion to end debate on the immigration issue. Right? Wrong. Wrong. There is no filibuster on that. What there is a filibuster on is bringing up the minimum wage. That is what the filibuster is on. That is what the issue is. It is not about closing debate on illegal immigration, even though the measure that will be called up at that particular time and the proposal will be let us cut off the debate on the illegal immigration. No one is filibustering that.

What they are filibustering, by using the illegal immigration bill, is consideration of increasing the minimum wage for working families in this country. That is what the issue is. It is not illegal immigration. It is the issue about whether the Senate of the United States is going to be given an opportunity to vote on increasing the minimum wage 90 cents—45 cents a year over a period of the next 2 years—to give working families a livable wage so that they can move out of poverty.

Respect work. We hear a great deal about how important it is we are going to honor work. We are attempting to honor work by saying men and women in our country who work 40 hours a week 52 weeks out of the year ought to be able to have a livable wage. That has not been a partisan issue. We have had Republican Presidents who voted for it. George Bush voted for an increase in the minimum wage. Richard Nixon voted for an increase in the minimum wage. Dwight Eisenhower voted for an increase in the minimum wage. President Clinton will vote for it, but we are denied an opportunity to even vote on it. We are denied, even when we have demonstrated on other occasions that a majority of the Members, Republicans and Democrats alike, want it.

The American people are overwhelmingly for it. They cannot understand why the Congress of the United States cannot allocate 30 hours of its time. Here we are at 3:15 on a Monday afternoon. We could take 30 minutes on a side and debate this and vote at 5 o'clock on the minimum wage issue. It is not complicated. Everyone understands what this provides. It is 45 cents an hour for this year and 45 cents an hour for the next year. More important, it is 8 or 9 months of groceries for a working family that depends upon it. It is the utilities for 8 months for a family that is working at a minimum wage level. It is the premiums on a health care program for a family. That is what it is. That is what 45 cents an hour is. And it is the tuition for a son or daughter who wants to go to a fine State university for 1 year. That is what an increase in the minimum wage is.

Why are we not prepared to call the roll on that issue? Why are we not prepared to do it? We are not prepared to do it because we hear those on the other side say, ''Well, it's going to mean a loss of a number of jobs out there.'' The interesting fact is, of those individuals who are on the bottom rung of the economic ladder, 90 percent of them are for it. Why? Because they see a 20-percent increase in their wages and possibly a 5-percent reduction in the total number of hours they might have to work. It is a good deal for them. But our Republican friends will not let us have the opportunity to make a judgment and a decision on that.

That is why, Mr. President, many of us are frustrated. We know we are caught in the gymnastics of the parliamentary workings of the U.S. Senate. We know we are caught in that. We have a difficulty trying to explain to people back home, in my State or in other States, even though my State has raised the minimum wage now and has seen a reduction in unemployment—a reduction in unemployment.

It is difficult to say to the 7 million recipients of the minimum wage who are women, that we are not going to give the opportunity to debate that or to make a judgment on that. Of the 7 million who are women, 5 million of them are adult women, 2 million of them are the heads of households trying to make it on the minimum wage.

We cannot say to the 100,000 children who would be lifted out of poverty with an increase in the minimum wage, ''We cannot schedule it in the U.S. Senate. We have just been in a quorum call for 45 minutes, but we haven't got time to schedule that question about whether you get an increase in the minimum wage. We haven't got time. We haven't got time all this afternoon.''

Of course we have time this afternoon. We have time tonight to do it. We have time tomorrow to do it. It would not take very long because we understand the issue. It is difficult to tell those 100,000 children that would move out of poverty with an increase in the minimum wage or the 300,000 families that would move out of poverty, ''We haven't the time to schedule this, we haven't the time. We have to spend 7 or 8 days on the issues of illegal immigration in order to deny you the opportunity. We have to go to that extent to ensure you don't get a vote. Why? Because a majority of the Members of the U.S. Senate feel that you should get an increase.''

So we take advantage of the Senate rules, their use. I do think it is taking advantage of them. You are advancing interests of the companies and industries and corporations that refuse to pay the minimum wage. That is who you are advancing and helping. People just do not understand it. They see the 30-percent increase in the salaries of CEO's in this country last year. They see the Senate salary increasing by $30,000 over the period of the last 6 years—$30,000—and yet we have not had an increase in the minimum wage.

None of our people in here would deny themselves that kind of increase. Maybe we have some Members who are not accepting the full increase. We heard a great deal about that previously. Maybe they are not. I apologize to them if I am mistaken. But we have not seen much evidence of it, of anyone not willing to take those five increases that Congress has had. But we are not just going to say to hard-working Americans that work is that important. So we are denying it.

We are denying that to working people. We are denying it to children. We are denying it to women. It is a women's issue. It is a children's issue. It is a family issue. Yet look at what we have had to go through here in the U.S. Senate.

Let me just take a moment of time to tell you about what we had to go through here in the U.S. Senate in order to avoid—avoid—any kind of consideration. Effectively, the unique situation where, unless you had your amendment cleared, so to speak, by the majority and effectively the majority leader, you never had a chance to get recognized around here, even during the previous debate. That was an extraordinary situation where the U.S. Senate, allegedly—and it is—the most important, deliberative body for public policy issues and questions, there is no mistake about it, effectively it has been handcuffed, been handcuffed from considering measures that these Members felt were important to have debate and discussion on and to be disposed of, as we have for 200 years on the floor of the U.S. Senate.

But what did we find out last week? We found that we went through this incredible kind of a trapeze act. As a result of going through these parliamentary procedures, we have delayed the illegal immigration bill.

Last week we were dealing with the spectacle of a rarely used motion to recommit, but only to recommit to the committee of jurisdiction for an instant, a nanosecond, an instant, and then to report back to the floor. In other words, it was a sham motion to recommit.

This was to avoid some Member of the Senate rising and saying, ''Let's have 30 minutes on the increase in the minimum wage, divide the time up between those who are for it and those who are opposed to it, and let the Senate go.'' This is the procedure that was used effectively by the leadership.

On top of the motion to recommit, there had to be two separate amendments to fill what they call the ''amendment tree'' on one side of the bill. Then back on the bill itself, Senator DOLE had to maintain two amendments, a first-degree amendment and a second-degree amendment. Therefore, we were in the absurd position last week where Senator SIMPSON had to offer a Simpson second-degree amendment to the Simpson first-degree amendment to the Simpson motion to recommit to the underlying illegal immigration bill.

Look at what they had to go through from a parliamentary point of view. So you are not going to get a chance. These are the uses and abuses, I would say, of Senate rules to deny what is a clear majority position on an issue that has been understood, debated, discussed, and which over 80 percent of the American people support.

We also ended up with a Dole second-degree on illegal immigration, a Dole second-degree to the first degree, a Dole first-degree amendment to the illegal immigration bill. Then after each of these amendments had been adopted, we had to go through a half dozen unnecessary votes to adopt amendments to fill each of these slots.

Senator DOLE had to then undo each of the amendments that had been adopted. So we were then in the position of Senator SIMPSON moving to table the Simpson second-degree amendment. This is effectively the person who offered the amendment trying to table or effectively remove his second-degree amendment to the Simpson first-degree amendment to the Simpson motion to recommit the underlying bill. After that was tabled, Senator SIMPSON was in the position of offering the Simpson motion to table the Simpson first degree to the Simpson motion to recommit the underlying illegal immigration bill.

Then when that charade had been completed, we had to readopt all of the underlying first- and second-degree amendments, and then Senator DOLE had to go back and fill the tree again by adding five new amendments.

Then Senator DOLE has to get cloture, which some Democrats will support, some will oppose. Then, finally, there may be the chance, after the cloture vote, to offer amendments on the immigration bill. However, only germane amendments will be allowed after the cloture vote when the amendment is adopted sometime tomorrow perhaps.

Senator DOLE will then have to go through this whole process all over again on the underlying bill. We will then have a Dole motion to recommit, again a sham because it is only a motion to recommit for a nanosecond and then report back to the floor. We will have the Dole or Simpson first-degree amendment to the motion to the Dole motion to recommit. Then we will have the Simpson or Dole second-degree amendment to the Simpson or Dole first-degree amendment. This is truly an extraordinary parliamentary procedure. Its only purpose is to avoid a vote on the minimum wage. The result is to delay the passage of the illegal immigration bill.

This is a matter of great importance to many of those who have spoken eloquently and passionately about trying to deal with the problems of illegal immigration.

I have supported the essential aspects of the bill, the enhancements of our Border Patrol and putting in place the tamper-free cards that have been the subject of so much abuse. I worked with Senator SIMPSON on that issue. I know we will have a chance to revisit that because there will be those who will try to strike those provisions later on.

But all of Senator DOLE's parliamentary machinations on this bill, as I stated, are for the express purpose of denying Democrats their right to offer an amendment to increase the minimum wage.

So, Mr. President, we will be shut out on this particular vote prior to this afternoon. At 5 o'clock, we will be shut out from the opportunity of any debate. We are being denied an opportunity to say, ''All right, we will not offer that measure on this particular legislation, but at least give us a time in these next couple of weeks where we can get a clear vote up or down on a clean bill on the increase in the minimum wage.''

We are denied that opportunity. There cannot be an agreement on that, although 80 percent of the American people are for that. We are left in this situation where, when these other measures come up in the U.S. Senate, we have to, as we have for the better part of the previous year, tried to offer this measure on those measures so at least we have the chance of giving the Senate an opportunity to vote up or down and get some accountability, get some accountability in here about who is going to stand for those working families and who is against them.

I can understand why you would not want to be for that position against working families, even though Senator DOLE and Congressman GINGRICH supported the last increase that we had on the minimum wage.

I can understand why they do not want to face the music on this, but at some time in a democracy and some time in this body, and at some place here, this measure cries out for action. We are committed to try to get that action. That is why we, under the leadership of Senator DASCHLE, my friend and colleague, Senator KERRY, Senator WELLSTONE, and others, have stated that we will be forced into a situation where, at each and every legislative opportunity, we are going to offer this measure. We do not do it, in a sense, to try and obstruct the current legislative process. As we mentioned, we are at day 5 and counting on a measure, following Senate procedures. But we do not have all that amount of time to deal with the country's business, Mr. President.

We have important measures. We have the budget coming up. We still have important measures in the budget about determining where we are going on education. We have important measures on health care, and to try and get conferees, to go to conference, to get a decent health care bill, which passed 100 to 0. That is important. Senator KASSEBAUM and myself ought to be over there this afternoon trying to work out a good, clean measure that can go to the President's desk and be enacted, like the one we passed here by 100 to 0—Republicans and Democrats. We should get that passed and get it down to the President so he can sign it, and do something for 25 million Americans this afternoon.

Instead, we are over here on an amendment to an amendment to the motion to recommit to proceed, denying the opportunity to do that. That is not the way to do the Nation's business. We ought to be about health care, about increasing the minimum wage. We ought to be out here trying to give consideration to what we are going to do about pension reform, trying get stability and protection for pension funds for working families so they are not going to be plundered by the corporate raiders. We had a vote, 94–5, I think, to provide that protection. That legislation had not even gotten into the doors over there in conference, and it was dropped so quickly, exposing those pension funds for working families.

We ought to deal with those measures and provide additional opportunities for education, which is the backbone to everything this country is about, and demonstrate our priorities. We ought to be about those measures and trying to close down some of the tax loopholes that give preferences to moving jobs overseas, and bring good jobs back to the United States. Those are the things people are talking about. Instead, we had a pause even in the immigration bill to go on to the question of term limits. Then, once

again, they filled up that tree so it was not making anything retroactive, moving the procedures of the Senate, jamming the various procedural parts of Senate rules, so that we were going to be denied an opportunity to address those measures.

So, Mr. President, it is important that even though we will come back at 5 o'clock to address the questions of illegal immigration, let us understand what this filibuster is about. It is a filibuster against the increase in the minimum wage. That is what the issue is. That is what is wrong. That is what the Republican leadership insisted on in order to deprive working families that are out there working. Instead of respecting their work and giving them a livable wage so they can move out of poverty, we are running through these gymnastics here in the U.S. Senate, and we are going to continue in the next couple of days dealing with legislation that should have been long since addressed, finalized, and on its way to conference.

So that is the point we have to keep repeating. There are those who do not like us to keep repeating it. They wish we would not keep repeating it. Those are the facts, and that is what the American people ought to understand, because those families that are hard pressed out there today and hardly able to make ends meet, we are their best hope, we are their last hope. We are still being denied the opportunity to help them.

I look forward to the debate on a number of these issues, about whether this dislocates workers. We will have a good opportunity to review what happened. We spent a few moments of the Senate's time going back, historically, where we provided an increase in the minimum wage and what happened in terms of the work force.

One of the best illustrations is in my own State of Massachusetts, which saw an increase in the minimum wage in January opposed by our Republican Governor up in Massachusetts. Unemployment is still going down, and the debate will show that a number of other States out there are affected by it. We will have an opportunity to talk about the impact on jobs. We will talk about what effect, if any, it has on inflation. Hopefully, we will have a chance to work out some process for those Americans, because I find that every day that goes by that we deny this institution the opportunity to express itself up or down, people wonder what we are all about.

Why are we not addressing the real concerns of working families, which is income security, job security, pension security, education for their kids, and take an opportunity to do something about the incentives that exist in the Internal Revenue Code that drive good American jobs out? That is what they want. They want us to do something about our borders as well. But to take it up when we could have used several days and made progress on all those other issues, certainly we should be about those measures.

Mr. President, I want to go into, for just a moment this afternoon, the principal areas that are germane and that I think we will have to address. I know Senator GRAHAM identified some of these measures, and I think they are very important, and we are going to have an opportunity to vote on them. We have not yet had the opportunity. We were not able to get these measures that were even germane and where we wanted to get a serious vote on these measures previously because of the way that the floor action proceeded. Now under the measure, when we get eventually toward cloture, we will address them.

Let me just mention a few of these measures here this afternoon.

Mr. President, the first of these measures will be on looking at the overall legislation, what we are doing about the illegal immigration. First, if we are to make headway in the controlling of illegal immigration, we need to find new and better ways to help employers determine who is authorized to work in the United States and who is not. We must shut off the job magnet by denying jobs to illegal immigrants.

As the late Barbara Jordan reminded us, we are a country of laws, and for immigration policy to make sense, it is necessary to make distinctions between those who obey the law and those who violate it. Illegal immigration takes away the jobs and lowers the wages of working American families on the lowest rung of the economic ladder.

Make no mistake about it: That is happening today in many of our communities, our major cities, in a number of different geographical areas around the country today. The illegal immigrants that come in, unskilled and untrained, are exploited on the one hand and are used by unethical employers in so many different instances. This has the effect of driving wages down for real working Americans and also displacing the jobs for real Americans who want to work and provide for their families.

These are the working families in America that survive from paycheck to paycheck and can least afford to lose their jobs to illegal aliens. Senator SIMPSON and I agree on this issue. We urge our colleagues to support provisions in the bill to require pilot programs to improve verification of employment eligibility. These are contained in sections 111, 112 and 113, and require the President to conduct several pilot programs over the next 3 years. After that, the President must submit a plan to Congress for improving the current system based on the results of the pilot programs. This plan cannot go into effect until Congress approves it by a separate vote in the future.

The current confusing system of employment verification is not working. It is too easy for people to come in legally as tourists and students and stay on and work illegally after their visas expire. It is too easy for illegal immigrants who impersonate local or even American citizens by using counterfeit documents.

Far too often employers seek to avoid this confusion by turning away job applicants who look or sound foreign. This employment discrimination especially hurts American workers of Hispanic and Asian origin. But it harms many other Americans in the job market as well. Some in the Senate will seek to eliminate the provisions that Senator SIMPSON and I have placed in the bill to authorize the pilot programs to find new and better ways of verifying job status. Our ability to deal with illegal immigration should not be derailed by misinformed and misguided notions that this bill would result in Big Brother abuses, or a national ID card. Nothing could be further from the truth.

The pilot programs are the core reforms in this bill. Without them this bill will accomplish very little in controlling illegal immigration.

We have to deal with the job magnet. That is the key. Every study—the Hesburgh studies of over 10 years ago, the Barbara Jordan studies—every comprehensive review of the problems with illegal immigrants; you have to deal with the job magnet. You deal with the job magnet and you are going to have a dramatic impact on illegal immigrants coming to this country. And, if you do not, then you can put up the fence all the way across the southern border and fences around this country. You are still not going to be able to adequately deal with this issue.

I support the increase in the Nation's border patrols contained in the bill. I support stepped-up efforts to combat smugglers and modern-day slave traders who risk the lives of desperate illegal immigrants, and who place them in sweatshop conditions. I support increased penalties against those who use counterfeit documents to enable illegal immigrants to pose as legal workers and take away American jobs by fraud. But without the pilot programs our ability to stem the tide of illegal immigration would be hamstrung.

The Immigration and Naturalization Service has limited authority to conduct pilot programs under current law. Under the few pilots that can be conducted there will be no assurances that they would have significant impact on business. There would be no privacy protection. In fact, there would be no standards at all other than those the Immigration Service would impose on itself.

This debate seems to have forgotten that since 1986 employers are required to check the documents of everyone they hire to make sure they are eligible to work in the United States. That means everyone—whether they are citizens or not. Those who think we do not need change should look at the ineffectiveness of the current system.

Job applicants can produce any of the 289 different documents to prove their identification and eligibility to work in the United States. Most of these documents are easily counterfeited, such as Social Security, or school records. Even though this bill would reduce the number of documents from 29 to 6—6 that are the most secure—there is no assurance that this will be sufficient.

So the choice is clear. We will either keep the current system with its flaws and limit deterrence to illegal immigration, or require the President to find a new and better way of controlling illegal immigration and also avoid discrimination.

Second, we must retain a safety net for legal immigrant families. This bill is supposed to be about illegal immigration. Title I provides many needed reforms, employment verification, pilot projects, increased money for border patrols, all of which aim to control the flow of illegal immigrants into the country. But the welfare provisions in title II do just the opposite. They provide illegal immigrants with benefits that legal immigrants cannot get.

Let me repeat that. Under this legislation, title II provides illegal immigrants with benefits that legal immigrants cannot get, and they erode the safety net for legal immigrant families.

In the current law, as well as under this bill, illegal immigrants are ineligible for public assistance except where it is in the national interest to provide the assistance to everyone such as preventable communicable diseases. This bill says that illegal immigrants are ineligible for all public assistance programs except emergency Medicaid, school lunches, disaster relief, immunization, communicable disease treatment, and child nutrition. This is the way that it should be.

We want to make sure that, if the children are going to be here, they are going to at least get immunization so that they can effectively protect other children that might be exposed when these children have social contact with each other. That makes a good deal of sense. That is in the public health interest. I think we ought to be doing it with children, and I support the fact we will be doing it with these children in any event. But you have to get down to the hard line of dollars and cents of it, which is so often the final criteria here, what makes sense from a dollars and cents point of view. But this bill makes it much harder for legal immigrants to participate in these same programs. The same ones that illegal immigrants qualify for automatically, no questions asked, and this result is preposterous.

Legal immigrants play by the rules and come in under the law. They work, raise their families, pay taxes, and serve in the Armed Forces. They are here legally. Legal immigrants do not seek to cross the border, or overstay their visas. They come here the right way. They waited in line until a visa in the United States was available. And, by and large, they are here as the result of reunifying families—families.

Legal immigrants should not have to jump through a series of hoops which do not apply to illegal immigrants. This bill discriminates against those who play by the rules. Under the current law, legal immigrants have restricted access to the need-based programs—the AFDC, Social Security, SSI, and food stamps.

Their sponsor's income is deemed under these programs. Deeming means that the welfare offices consider both the sponsor's and the immigrant's income in determining whether the immigrant meets the income guidelines for the particular assistance for which the immigrant may apply. For example, if an immigrant sponsor earns $30,000 per year and the immigrant earns $10,000 per year, the immigrant is deemed to make $40,000 per year which pushes the immigrant above the income guidelines to qualify for particular assistance programs.

For legal immigrants, the deeming provisions in this bill affect not only the AFDC, SSI, and food stamps, but every other need-based program—everything from lead paint screening for immigrant children to migrant health centers, veterans' pensions, and nutrition programs for the elderly. The effect of these provisions is to bar legal immigrants from receiving virtually any means-tested Government assistance. This bar lasts at least 5 years. The practical effect of these deeming rules is almost the same as banning the benefit.

We have seen what happens in deeming. The deeming effectively causes crashing reductions in all of these programs for those that might have otherwise been eligible.

For future immigrants, deeming applies for the last 40 quarters of work. For immigrants who are already here, deeming applies until they have been here for 5 years. This means that every program must now set up a bureaucracy to carry out immigration checks on every citizen and noncitizen to see who is entitled to assistance. They have to find out if there is a sponsor.

Listen to this. I know that Senator GRAHAM will speak eloquently about this. But this means effectively that every city and town—whether in Texas, in Florida, or in Massachusetts—is going to have to find out who the sponsor is. If someone comes into a local hospital and needs emergency assistance, and they say that this person is legal, they are going to have to find out who that sponsor is and be able to get the resources from that sponsor. You and I know what is going to happen. Those hospitals are going to be left holding the bag. They are going to be the major inner city hospitals. They are going to be the Public Health Service clinics. They are going to be the health delivery systems that deliver the health services to the neediest and the poor in this country. And to expect that they are going to set up a whole system to find out who is deemed and who is not deemed, and then to expect that they are going to be able to collect the funds from those families on it is absolutely beyond thinking.

Not only are the local communities and the local hospitals going to do it, but the counties are going to have to do it and the States are going to have to do it. That is going to cost hundreds of millions of dollars. It will not be participated in by the Federal government. We are not sharing in that responsibility. We are not matching that 40 or 50 or 60 percent as we do for welfare problems. Oh, no. That is going to be the States and the local communities. They are the ones that are going to have to set up that process to be able to judge about deeming; not the Federal Government. The local communities and the schools are going to have to do it. The hospitals are going to have to do it. The counties and the States are going to have to do it. They will have to find out if there is a sponsor. They will have to get copies of the tax returns. They will have to determine the sponsors' income, and this is an immense burden.

For example, the National Conference of State Legislatures, which strongly opposes the welfare provisions, estimates that the States will have to hire at least 24,000 new staff just to implement four of the vast number of programs that this bill would cover—24,000. Those four programs are school lunch, child and adult care, social service block grants under SSI, and vocational rehabilitation.

Simply hiring the additional staff needed to run these programs will result in unfunded mandates to the States of $722 million. This is not the only cost for the poor programs. Imagine the cost of States hiring staff to run all of the means-tested programs.

We were asked earlier during the whole debate about where the Congressional Budget Office was. They said, ''We do not have the figures on it.'' You have them now. You have the figures now. Just in these four programs you are going to find it is going to be costly—hundreds and hundreds of millions of dollars.

This bill also upsets the basic values of our social service system after years of community assistance. Outreach clinics, day care centers, schools, and other institutions will now become the menacing presence because they will be seen as a branch of the INS to determine who is here illegally. This is going to have a chilling effect on those immigrants again that are legally here. They are going to be members of families. They are not going to want to go out and risk getting involved in terms of the INS and put their principal sponsors at any kind of disadvantage.

We are talking primarily about the public—in this instance public health kinds of issues that have a common interest with all of us in making sure

that their health care needs are going to be satisfactorily addressed.

Mr. President, there are many misconceptions about immigrants' use of public assistance. Here are just a few facts.

The Urban Institute says that legal immigrants contribute $25 to $30 billion more in taxes each year than they receive in services. That is almost $2,500 per immigrant, and this figure is confirmed by almost every other study. The majority of legal immigrants—over 93 percent—do not use welfare as it is conventionally defined; that is, AFDC, SSI, and food stamps. The poor immigrants are less likely to use welfare than poor native Americans. Only 16 percent of immigrants use welfare compared to 25 percent of native born Americans. Working age legal immigrants use welfare at about the same rate as citizens—about 5 percent. The only immigrant populations where welfare use is higher than by citizens is by elderly immigrants and refugees on SSI. We all understand why indigent refugees need help, so the only real issue is elderly immigrants on SSI. We ought to address those issues.

We have seen deeming go into effect and that has a positive impact. That ought to be the focus, that ought be the area where we are looking at various alternatives that are going to be responsive to protecting the interests of the taxpayers and are humanitarian, to make sure that people who are parents are going to be treated decently in our society.

Instead of addressing the specific problem of elderly immigrants, this bill broadly restricts the eligibility of all legal immigrants for any governmental help.

When it comes to public assistance, the consequences of this bill are threefold. First, it provides an inadequate safety net for legal immigrants. We ask legal immigrants to work and pay taxes just like American citizens. Immigrants must also serve in the military if they are called. We have more than 20,000 of them in the Armed Forces today, a number of them in Bosnia. In fact, we expect legal immigrants to put their lives on the line for the safety of our country, but the safety net we provide for them and their families in return is all but gone under this bill. We expect immigrants to make the ultimate sacrifice on the battlefield but under this bill America will not be there for them if they need medical care, school lunches for their children, or even their veterans' pensions.

Second, this bill passes the buck to the State and the local governments.

Mr. President, I have gone through that in some detail.

Third, this bill will be an administrative and bureaucratic nightmare for Federal, State, local and private service providers. They will be burdened with determining which immigrants have sponsors, what the sponsor's income is, what the immigrant's income is, and who is entitled to benefits. These providers will have to do this for every needs-based program from school lunches to Medicaid. That makes no sense.

Let me give you an example or two. On school lunches, teachers and school officials have their hands full as they work for the education of children but under this bill, when school starts next September, every school in America must document—listen to this—every school in America must document whether their pupils are American citizens or immigrants. Teachers must figure out whether the immigrant has a sponsor. The income of the sponsor must be determined before legal immigrant children can get school lunches, but illegal immigrant children do not have sponsors so they get the school lunches on the same basis as American citizen children.

Under medical care, suppose an immigrant child has a chronic medical condition. The parents are legal and working but have been unable to get insurance. Their sponsor's income is just high enough that it disqualifies the child for Medicaid under the bill so the child goes without care until her condition becomes an emergency. She runs up an expensive medical bill under the emergency Medicaid for a condition that could have been treated at a low cost earlier, and this result does not make any sense.

Child care. Like many American families, some immigrant families struggle to make ends meet. They rely on child care in order to stay on their jobs. These children receiving child care are American citizens. But by deeming child care programs as this bill does, it removes American citizen children from child care programs and jeopardizes the employment of their immigrant parents. That is true with regard to Head Start as well.

Finally, the United States must continue to provide the safe haven for refugees fleeing persecution, yet so-called expedited exclusion procedures in the legislation will cause us to turn away many true refugees. Under this procedure, persons arriving in the United States with false documents but who request political asylum would be turned away at our airports with little consideration of their claims, no access to counsel, and no right to an interpreter. It is often impossible for them to obtain valid passports or travel documents before they flee their homelands. Many times, even trying to get a passport from their governments, the very governments that are persecuting them, could bring them further harm. They have no choice but to obtain false documents to escape.

This reality has long been recognized under international law. In fact, the U.N. Refugee Convention, to which the United States is a party, says governments should not penalize refugees fleeing persecution who present fraudulent documents or have no documents. If it were not for the courageous efforts of Raoul Wallenberg providing false documents to Jews fleeing Nazi Germany during World War II, many thousands of fleeing refugees would have had no means of escape.

Mr. President, we spent time on this issue. We reviewed those organizations, church-based, human rights-based organizations. Most of them pointed out the trauma that is affecting individuals who have been persecuted, the distrust they have for governments even coming to the United States, their estimate that it takes anywhere from 19 to 22 months generally to get those individuals who have been persecuted, who have been tortured, who have been subject to the greatest kinds of abuses to be willing to try and follow a process of moving toward asylum here in this country.

The idea that this is going to be able to be decided at an airport makes no sense, particularly with the extraordinary progress that has been made on the issue of asylum over the period of the last 18 months—just an extraordinary reduction in the total number of cases and the percentage of cases because of the new initiatives that have been provided by the Justice Department and Doris Meissner.

Finally, there are provisions in here that can work toward discrimination against Americans whose skin is of different color and who speak with different accents and languages. We have seen too often in the past in the great immigration debates where we have enshrined discrimination. We had the national origins quota system that discriminated against persons being born in various regions of the country, the Asian-Pacific triangle provisions that said only 125 individuals from the Asian-Pacific region would come to the United States prior to the 1965 act. We eliminated some of those provisions. But we have always seen that if it is possible to discriminate and use these laws to discriminate against American citizens as well as others, that has been the case.

I am hopeful we can work some of those provisions out during the final hours of consideration.

In conclusion, I commend my colleague, Senator SIMPSON, for his continuing leadership on this issue. He has approached this difficult issue with extraordinary diligence and patience. As I have mentioned, during the markup, even though we have areas of strong difference, he has been willing to consider the views of each member of the committee, the differing viewpoints that have been advanced in committee. He has given ample time for the committee to work its will. We had good debate and discussions during the markup, and in the great tradition of the Senate legislative process. We have areas, as I mentioned, of difference but every Member of this body knows, as I certainly do, as the ranking minority member, that he has addressed this with a seriousness and a knowledge and a belief that the positions that he has proposed represent his best judgment at the time.

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.

Mrs. HUTCHISON. Mr. President, I yield up to 5 minutes to my colleague from Pennsylvania, Senator SPECTER.

The PRESIDING OFFICER. Is there objection? The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1715 and S. 1716 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise today to talk about an amendment that Senator KYL and I will introduce on the bill that is pending before us.

I appreciate the argument of the distinguished Senator from Massachusetts earlier on the minimum wage, and, in fact, I look forward to debating the minimum wage with the Senator from Massachusetts, because I have great concerns about the impact that this could have on our small business people of this country. But this is not the time to bring up the minimum wage issue.

We have been trying for years to make a better law on illegal immigration. This is of great concern to my State and all of the States that are absorbing so many illegal immigrants in our country, because our laws do not do enough to stop illegal immigration. The States that have the illegal immigrant problems are absorbing so much of the costs of these illegal immigrants that it is time for the Federal Government to step up to the line and take its responsibility for closing our borders to illegal immigrants. That is separate from the legal immigrants who have done so much to build our country, and I am very pleased we separated those two in the bill before us today, so that today we are talking about the problem of illegal immigration.

The way we treat illegal immigrants reminds me of the distracted mother who says, ''I said maybe, and that's final,'' because when someone does violate our illegal immigration laws, in fact, there is hardly any penalty. They can be deported on Monday, and on Tuesday apply for legal status. That is hardly a clear message from America about our illegal immigrant laws and status.

So, what we are trying to do with our amendment is to say very clearly, if you violate the laws of America, if you come into our country without taking the proper legal steps, or if you are in our country legally and overstay a visa by as much as a year, you will be barred from legal entry into our country for 10 years.

We have had laws that have penalized employers on the books for several years now. If we are going to say to employers we will penalize you if you hire an illegal immigrant, I think we should also try something else. We should make it a penalty for the person who is violating the law and coming into our country as well. Let us try a new approach. Let us make there be a penalty if you break this country's laws. If you are a citizen of our country and you break the laws, there is a penalty. If you are not a citizen of our country and you break our laws, there should be a penalty.

A 10-year ban on legal entry into our country is a penalty. It says to the illegal immigrant: Our laws are serious. We care about the legal status of aliens in our country. If they are legal, we welcome them. If they are illegal, they are breaking our laws. They may be taking jobs from our own people.

We need to control our borders. We must have control of our borders. That way, of course, we can make sure that we are using the assets of our taxpayers to help the people who are legal in our country.

This addresses a serious problem for border States. In 1994, the Immigration and Naturalization Service returned 1.1 million illegal aliens from the United States—1.1 million illegal aliens from the United States. Of those, 350,000 were from Texas. In California, in San Diego alone, 490,000 illegals were returned.

Many of those illegal aliens are caught within 45 days more than once. In fact, in San Diego, one in five apprehended in a 45-day period had been apprehended once before.

Mr. President, that just shows you that there is not a penalty that people recognize for coming into our country illegally. So now we want to change the accountability to the person who is breaking our laws. If a person comes into our country and consciously violates our laws, there must be a penalty for that.

The amendment that Senator KYL and I are offering will say there is an accountability. If you decide that you are going to break the laws of this country, there will be a penalty and you will have to acknowledge that. Mr. President, this is only fair. If we do not do something to say that the borders of our country are inviolate, we are going to continue to have problems, especially on the border States where we have infrastructure costs that are sapping our taxpayers of their strength.

This is a Federal issue, and the Federal Government must step up to the line. The amendment that we have before us today will add one more option for us to have to make sure that people know it is a serious violation of our laws to come into our country illegally. If we are going to penalize employers, we should penalize the person who is perpetrating the crime.

So, Mr. President, I hope that we can clear up the signal that we are sending. We welcome legal immigrants into our country; they have made a huge contribution to our country. But we do not welcome illegal immigrants into our country, and we must stop it. That is what this bill will do.

I want to commend Senator SIMPSON for the work he has done through the years on this issue and Senator KENNEDY, working with him, and Senator KYL, one of our new Members who is from a border State who uniquely understands, as I do, what this costs the taxpayers of a border State.

They are providing great leadership on this issue. We have a chance to do something that puts teeth into the laws of this country. I do not want us to get sidetracked on issues that are not relevant to the issue of illegal immigration. It is too important to the economy of our country and the taxpayers of our country and to the law-abiding citizens of our country.

I thank you, Mr. President, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. KENNEDY. Mr. President, I thought I would use a few moments to outline one of the amendments that I intend to offer once we, again, get to the substance of the illegal immigration bill. I will outline it, not knowing whether we will have a chance to offer it later this evening or tomorrow.

This amendment will be relevant to the Medicaid deeming to title II of the bill. My amendment exempts children, mothers, and veterans from the Medicaid restrictions in the bill as long as they are legal immigrants.

I am deeply concerned that for the first time in the history of the program, we will begin sponsor deeming for Medicaid for legal immigrants. I recognize that this is a high-cost program, some $2 billion, for helping legal immigrants over the next 7 years, but the public's health is at stake, not just the immigrants' health.

The restrictions on Medicaid place 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 of Medicaid, legal immigrants will be turned away from the program or avoided altogether. These legal immigrants are not going to go away and can get sick like everyone else, and many will need help. But restricting Medicaid means conditions will go untreated and diseases will spread.

If the Federal Government drops the ball on Medicaid, our communities and States and local governments will have

no choice but to provide this medical care and pick up the cost.

In addition to veterans, my amendment exempts children and prenatal and post partum 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. All of us are familiar with the various Carnegie studies that have been out in the last 3 years which reinforce that, if there was ever any question about it.

If children develop complications early in life, complications which could have been prevented with access to health care, society will pay the costs of a lifetime of treatment when that child becomes a citizen. Children are not abusing Medicaid. When immigrant children get sick, they infect American citizen children.

The bill we are discussing today effectively ensures that children in school would 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, the nurse will have to determine if the child is eligible for Medicaid. This bill turns school nurses into welfare officers. The end result is that millions of children will not receive needed treatment in 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 child until it has been determined that she is eligible for Medicaid. Meanwhile, the child's illness grows worse and the parents take her to a local emergency room, where it is discovered that the little girl has tuberculosis. That child has now exposed all of her classmates, American citizen classmates, to TB, all because the school nurse was not authorized to treat the child until her Medicaid eligibility was determined.

Or consider a mother who keeps her child out of a school-based program because she knows her child will not qualify for the program. This child develops an ear infection, and his teacher notices a change in his hearing ability. Normally, the teacher would send the little boy to the school nurse, but she cannot in this case because he is ineligible for Medicaid. The untreated infection causes the child to go deaf for the rest of his life.

In addition to the basic school-based health care programs, it also provides for the early detection of childhood diseases or problems such as hearing difficulties, even lice checks.

Prenatal and post partum services to legal immigrants must also be exempt from the Medicaid deeming requirements. Legal immigrant mothers who deliver in the United States are giving birth to children who are American citizens. These children deserve the same healthy start in life as any other American citizen.

In addition to providing prenatal care, it has been proven to prevent poor birth outcomes. Problem births, low-birth-weight babies, and other problems associated with the lack of prenatal care can increase the cost of delivery up to 70 times the normal cost. According to a Baylor University Hospital report in 1994, the cost for the delivery of babies where there has been prenatal care averages $1,000; those without prenatal care over $2,000. That is double the cost.

In California, the common cost of caring for a premature baby in a neonatal unit is $75,000 to $100,000. The lack of prenatal care can result in developmental disabilities, chronic problems for American citizen children. Many children in such circumstances end up costing the taxpayer $40,000 to $100,000 annually to cover medical and special education needs.

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 prenatal care, we will allow more American citizen children to come into this world with complications that could have been prevented.

This is not an expensive amendment. According to CBO, the cost of care for children and the prenatal care services is less than the cost for elderly persons, whose Medicaid eligibility would continue to be restricted under this amendment. Furthermore, the cost of providing a healthy childhood to both unborn American citizens and legal immigrant children is far less than the cost to society of treating health complications at delivery and throughout the lives of these children.

Finally, many legal immigrants serve in the Armed Forces. Many have fought and even evidenced their willingness to sacrifice their lives for the Nation. How would we reward this sacrifice under this bill? By making it harder for them and their families to receive benefits. We should hold these people as heroes. Instead, we will not ensure their families receive basic medical services upon their return to the States from duty. Most veterans benefits are means tested.

If the sponsor-deeming provisions in the bill are applied to the veterans benefits, some veterans will find themselves ineligible for VA benefits because their sponsor makes too much money, and they are too poor to purchase health insurance. My amendment allows these veterans to receive the health care they need under Medicaid.

Mr. President, the fact of the matter is, we should, in this particular proposal, support the care for expectant mothers because it is the right thing to do. We ought to be supporting the care for the children because it is the right thing to do. These children did not cause the problem with illegal immigration. It may be their father and their mother, their parents. Why did their parents come here? To get jobs. We ought to be able to deal with that aspect of the problem without taking it out on the children.

It seems to me it is that simple. I mean, why are we taking it out on the children? Why are we being bullies to children when we know what the real facts are? We have to deal with the issues of jobs and the magnet of jobs, deal with those issues.

This measure that is before us has programs to try to do that by enhancing the Border Patrol and by the other pilot programs and the other aspects which Senator SIMPSON outlined in terms of tamper-proof work cards. But the fact of the matter is, Mr. President, when we come on down on legal—legal—American children and put all kinds of blocks in their way in order to be able to obtain essential kinds of services that will protect their health and their fellow children's health, who are American citizens, it just makes no sense at all. It is hardhearted and cruel.

Mr. President, at the appropriate time I will offer that amendment. I hope the Senate will support it.

Mr. President, I will just take a few moments now, as we are coming down to 4:20, where we are reminded once again that the real filibuster is not on the issue of the illegal immigration bill—we are on day 5 and counting on that issue. There are many of us who would like to move toward being able to offer amendments. I have outlined one. Senator GRAHAM, others, Senator FEINGOLD, and Senator ABRAHAM have other amendments.

We will have an opportunity to do that in the very near future. But we are on day 5, with perhaps 2 more days on this bill, when actually the real reason that we are spending 5 to 7 days on it is so we will avoid the consideration of the increase in the minimum wage.

It is as plain as that. I outlined earlier during the course of the day the various gymnastics that we have gone through to try to get a vote on the minimum wage or at least to get a time certain to consider the minimum wage.

Mr. President, I will just take a few moments of the Senate's time now to mention and include in the RECORD some of the religious leaders' support for the minimum wage reflecting the broad religious community that recognizes this as a moral issue, out of respect for individuals and their willingness to work, and also for their necessity to provide for children and the essential aspects of life. They believe this is a moral issue, to make sure that working families are going to have sufficient resources to be able to provide for themselves with a sense of dignity as children of God.

So, Mr. President, we have discussed some of the economic issues earlier and also some of the other reasons for increasing the minimum wage. I find it so difficult to explain to people in my

State and around this country why we should not raise it for families that are working, playing by the rules, trying to provide for their families and escape poverty.

I find it, particularly when we have a majority of the Members of the Senate that support that measure, difficult to comprehend why we continue to go through these gymnastics here on the floor of the Senate to pretend that there is a filibuster on illegal immigration, when the real filibuster is on the minimum wage. That is what the real filibuster is. If we were able to get a vote on that, I do not know why there would not be an early disposal of the underlying measure. That was true last week. But nonetheless, Mr. President, let me just speak briefly to this issue.

Assuring that hard-pressed minimum wage workers get the 90-cent increase they deserve is not a mere tussle for political advantage or an abstract debate over economics. The right to earn a living wage and support a family lies at the heart of this Nation's commitment to building and maintaining a moral society.

At its core, the struggle for a higher minimum wage is a battle over morality—a struggle over family values.

There are some who would have us believe that there are two types of families in America—the responsible and the ripoff artists. One kind of family works hard and plays by the rules. The other kind runs wild and lives off the dole. But the facts are quite different. Almost all families work. Single mothers with small children are working. Fathers are working, often at two jobs or even three jobs. Most poor families work. Most immigrant families work. Most families on food stamps work. And millions of Americans working today at the minimum wage—a minimum wage that has reached its lowest buying power in 40 years—are working and living in poverty.

These Americans are our neighbors and friends. They sit at the kitchen table at night, figuring out how to pay this month's bills. They pray their kids do not get sick, because the doctor bills are getting more expensive each year. They are not on welfare, although some come perilously close. Some may even have depended on it for a time in a crisis, but now they wake up early in the morning, bundle their children off to day care or a relative, and spend their days tending for our parents in nursing homes, caring for our children in day care centers, sweeping floors and cleaning carpets in our offices, and making clothes that they often cannot afford themselves.

These families are doing what we have asked them to do. They are working. They are contributing to our society. They are not asking for a handout. They are asking for what any decent society should provide: A living wage that will adequately support a family.

A moral society cannot ask its citizens to work 40 hours a week and still relegate them to live in poverty. A moral society cannot ask its citizens to work 40 hours a week and then leave them to watch their children go hungry. A moral society cannot ask its citizens to work 40 hours a week and then deny them the ability to support a family without relying on the charity of others. Surely, that is not family values.

To those who claim to support family values but oppose this 90-cent increase in the minimum wage, I urge you to listen to a sampling of letters I have received from the religious leaders of our Nation who have spoken out in support of a higher minimum wage.

This letter comes from the Most Reverend William Skylstad, the Bishop of Spokane, chair of the domestic policy committee of the U.S. Catholic Conference:

DEAR SENATOR: The United States Catholic Conference, the public policy agency of the Catholic bishops, supports the efforts to raise the minimum wage. I urge you to support legislation that helps restore the minimum wage to a living wage that respects the dignity of workers and recognizes the economic realities facing low-income families.

Work has a special place in Catholic social thought it is more than just a job, it is a reflection of human dignity and way to contribute to the common good. Most importantly, it is the ordinary way people meet their material needs and community obligations. In Catholic teaching, the principle of a just wage—a living wage—is integral to our understanding of human work. Wages must be adequate for workers to provide for themselves and their families in dignity. Our bishops' Conference has supported the minimum wage since its inception.

Recently, the bishops pointed out in their statement, ''Putting Children and Families First,'' that ''decent jobs at decent wages—what used to be called a 'family wage'—are the most important economic assets for families.'' As pastors, the bishops see the tragic human and social consequences on individuals, their families, and society when workers cannot support dignified lives by their own labor. The minimum wage needs to be raised to help restore its purchasing power, not just for the goods and services one can buy but for the self-esteem and self-worth it affords.

People of goodwill can and will differ over specific economic arguments. The U.S. Catholic Conference believes, however, that the technical economic debate should not overshadow the pressing human concern and moral question of whether or not our society will move toward a minimum wage that reflects principles of human dignity and economic justice. We renew our support for an increase in the minimum wage.

Another letter comes from Kay Dowhower of the Evangelical Lutheran Church in America:

DEAR SENATOR: On behalf of the Evangelical Lutheran Church in America, I urge you to support legislation that raises the minimum wage.

The church is committed to adequate income and believes that vast disparities of income and wealth are both divisive of the human community and demeaning to its members. Unfortunately, the United States has the largest wage gap of any industrialized country. The fact that the minimum wage has dropped to its lowest level in 40 years only exacerbates the problem.

This church also believes that making it possible for people to move from welfare to work is important. Work is important because employment is a means by which people become contributing participants in society. However, moving welfare recipients into employment is hindered in a labor market increasingly dominated by low-wage, part-time or temporary jobs that cannot support a family. A single mother with two children who works full time at $4.25 per hour will find that her family remains nearly 30 percent below the federal poverty level.

We urge an immediate supportive vote on an increase in the minimum wage.

This is a letter from Dr. Thom White Wolf Fassett of the Methodist Church:

DEAR SENATOR: On behalf of the General Board of Church and Society, the social justice advocacy agency of the Methodist Church, I strongly urge you to support S.413. This legislation . . . will aide the minimum wage to $5.15 over two years. By increasing the minimum wage, Congress will send a message to the American people that it is addressing the growing wage gap between the rich and the poor as well as the increasing economic anxiety.

The Book of Resolutions of The United Methodist Church represents the social justice position of our approximately 9 million [member] denomination. Our policy clearly states, ''. . . we have the obligation of work with others to develop the moral foundation for public policies which will provide every family with minimum income needed to participate as responsible and productive members of society.'' Raising the minimum wage would help those at the bottom of our society meet their family needs.

It has been nearly seven years since the federal minimum wage has increased. The buying power of the minimum wage will soon reach it lowest level since 1955, when the minimum wage was 75 cents an hour. Nearly 60 percent of the workers who would benefit from an increase are women. Nearly two-thirds are adults struggling to support families, as opposed to the stereotype of a teenager flipping hamburgers.

Again, I urge you to vote for the passage of S. 413. It tells people working at the minimum wage that their work is important and appropriately rewarded.

Mr. DASCHLE. Will the Senator yield?

Mr. KENNEDY. I am happy to yield to the Senator.

Mr. DASCHLE. I commend the Senator from Massachusetts for bringing to the attention of the Senate the thousands of pieces of correspondence that have been coming into our offices over the last several weeks as a result of the leadership by the able Senator from Massachusetts. It is clear that this has resonated. The letters that the Senator from Massachusetts is reading are indicative, I think, of the correspondence that comes in on the e-mail, that comes in on fax machines, that comes in through the regular mail routes.

I think that the Senator does a real service to the Senate in sharing those with us. I know he has a number of others, and I do not want to preclude him from finishing what has been a very informative and helpful session, but I do believe, and I ask the Senator from Massachusetts whether he shares the view, as this issue becomes better understood and as it becomes clear to the American people just what this is all

about, there appears to be a momentum that has been brought to this debate that I did not witness before, given the increase in the number of letters and pieces of correspondence we have received.

Has it been the experience of the Senator from Massachusetts that the number of letters that have come in on this in recent days has actually increased?

Mr. KENNEDY. Very much so, Senator, not only in the volume but also in the support that is out there from virtually the unanimous Judeo-Christian community. As the Senator knows, the principal debate that we have around here on the increase in the minimum wage is what its impacts will be on the economy and what will be the impact in terms of jobs and job losses.

As the Senator is a strong supporter of the increase, he knows we have addressed those and will welcome the opportunity to address them in the debate. I find so moving the fact that here are the representatives of the great Judeo-Christian ethic—really, of most of the great religious groups in our country that are talking about this as a moral issue.

I think none of us, perhaps, want to be out here putting forward that we have the moral position on a particular issue, and we can all understand that all of us have differing views about it. We respect each other's differing views. What I found very, very powerful is the underlying, continuing, strong, strong, overwhelming support, overwhelming support of the religious groups across the spectrum, what might be considered some of the most conservative of the various religious groups—others, as well—that are uniformly, universally and strenuously urging, on the basis of the dignity of the individual, the dignity of the family, the dignity of work, the dignity of service in the human condition, that this is a moral issue of importance and virtually every one of the various churches, through their own means and mechanisms, have virtually gone on record in terms of the support for this measure.

I appreciate the Senator's comments. I ask the Senator a question myself. As we move now 20 minutes away from the cloture vote, would he not agree with me that the Senate is not in a filibuster about illegal immigration, but basically we are in a filibuster on the minimum wage. I tried to point out that we are in day No. 5 now on the questions of illegal immigration. Most of us have supported the increase in the Border Patrol, although there has been some difference on the various pilot programs being developed to try and deal with the issues of jobs and the job-pull issue and amending the various numbers of cards to make them tamperproof and other factors.

Would the Senator not agree with me, as he is the Democratic leader, I do not detect that there is a desire of any Member on our side to have a filibuster. We are prepared to address those issues in a timely way and move forward. That we are here this evening on a procedural vote to close down the debate is really about the unwillingness of the majority to permit a simple vote on the increase in the minimum wage, an issue which more than half of the Senate has indicated they wanted to address and that they did support.

Does the Senator, as a leader and as someone who knows the Senate well, find it a rather extraordinary circumstance where most Americans say, ''They are voting on a filibuster on illegal immigration; why are they doing that when that really has nothing to do with it at all''?

Mr. DASCHLE. I am pleased to be able to respond to the Senator from Massachusetts, that was really the reason I wanted to come out, to address that very point. Obviously, there are some of our Republican friends who would like to make this current debate out to be a choice between having a vote on minimum wage or having a debate on minimum wage and having an opportunity to vote on immigration. That is a false choice, as the Senator knows.

There is absolutely no desire on the part of our Democratic colleagues to hold up the vote on the very legitimate question of how we address more effectively illegal immigration in this country. That is the purpose of the bill. I have heard the Senator from Massachusetts say on several occasions we could complete work on that bill in a day and a half. There was not any need to extend out this debate. There was not any need to fill parliamentary trees in an elaborate fashion to deny the opportunity to raise these questions.

We were prepared to vote on minimum wage with a half hour of debate. We could have done it last week. That was not done. So it is a false choice.

The false choice is that we are being told it is either one or the other. Well, they can delay a vote on minimum wage, but they cannot deny it. Sooner or later, this Senate will have the opportunity, as we know we must, to vote on this moral issue of minimum wage, to vote on this very important, critical opportunity to provide people with a working wage, a realization that it is those economic pressures that drive families apart and give them the kind of extraordinarily difficult challenges that they have to face on a daily basis, because they do not have the economic wherewithal to pay their bills on rent, groceries, heat, and all of the things that every one of us face.

So this is a moral issue. The Senator is absolutely right to point this out so ably and eloquently as he has. So it is not a choice we are willing to accept. It is a false choice. We will vote on immigration. We will vote for cloture this afternoon on the amendment. We will ensure that we get to the key issues relating to how we resolve the differences we have with regard to illegal immigration. We will vote on that, and, ultimately, we will have our vote on one of the most important moral and family issues of the day—minimum wage.

So I only answer the distinguished Senator from Massachusetts that we recognize the importance of this bill. We recognize the importance of getting on with a debate about the amendments pending, and we will do that. And one day we will have our vote on minimum wage as well. If it is not today, it will be tomorrow, this week, or next week. But we will have our vote.

Mr. KENNEDY. I thank the leader for that reassurance, because it has been under his leadership that this issue has come forward, and his strength and resolution has to be a reassurance to working families. We will be in the situation now, Mr. President, as the leader knows, where we will have cloture and we will have the time to dispose of amendments that will be related. We have some important ones. Then what happens is we will have a vote on cloture sometime in the next day or day and a half. And then that does not even end the bill. Then the bill will be open to further amendment. So we will have an opportunity to offer the minimum wage. But I will bet that the majority leader, or the spokesman, would try effectively to fill up the tree again, and then they will put cloture on that, and we will have to deal with that particular issue.

All that time—would the Senator not agree with me—we could have disposed of this issue and moved forward with it, and still we are being effectively denied. Does the Senator not agree with me, as the minority leader, he at least would do the best he could to find time that would not interfere with other kinds of scheduled legislative matters, so that we could have a fair debate in representing our side, to ensure that there would be a fair, but limited, debate on this, so that at least we could move this issue, which has been supported by a majority of Republicans and Democrats alike, through the Senate and move that process forward so there could be focus and attention on the House? I note that the House failed to realize that, but not by all that number of votes, in recent time.

Mr. DASCHLE. I respond to the Senator that, yes, indeed, we would be prepared to enter into any short time agreement. We would not have to have amendments. We have had the opportunity to debate this issue, to talk about it. In 1990, when this issue came to the Senate floor, the overwhelming majority of Democrats and Republicans voted for an increase in the minimum wage, overwhelmingly. It was, ironically, the same amount of money we are talking about now.

Now, unfortunately, we have lost more purchasing power than at any time in the last 40 years. We are forced, again, to face the issue. How do we address it if we cannot put it on a calendar in a way that will accommodate a bill in normal parliamentary circumstances? We have no recourse but

to offer it as amendments. That is what we will do. We will keep doing it, whether it is on immigration or any one of a number of other bills.

Certainly, we would be prepared to enter into any time agreement that will accommodate the schedule of our Republican colleagues, as well as the legislation pending.

Mr. KENNEDY. I thank the Senator for those assurances. We have all heard them expressed at different forums, but stating it here on the floor of the U.S. Senate so all Americans and our colleagues can understand it is about as clear and fair a position on what he is prepared to do as it can be. The assurance that we are going to keep coming back to this issue is, I think, very reassuring for working families.

I just ask, finally, of the Senator—and I will make some brief comments, because I see my friend and colleague on the floor here. It has been interesting to me—I know the Senator has been following this issue—that we have not had, since 2 o'clock or so, or even before that during the morning—one Senator that has come out to the floor and said, ''No, we should not vote for cloture.'' There has not been one that said, ''No, do not go ahead on that.'' The silence is deafening on this matter.

We are back into this sort of sham process and procedure, which effectively denies working families the kind of increase that they need. I thank the Senator for his comments.

I just mentioned to the Senator that I will include in the RECORD an excellent statement from Jane Motz at the American Friends Service Committee, a letter from Timothy McElwee, and a letter from Michael Newmark.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEAR SENATOR: We are writing to urge you to vote in support of raising the minimum wage. . . . This is crucial to the livelihood of millions of people who, through changes in global economic processes over which they have no control, are finding it increasingly difficult to support their families.

The American Friends Service Committee is a Quaker organization committed to social justice, peace, and humanitarian service. Our experience has shown us the incredible hardships and suffering caused by poverty, as well as the disproportionate numbers of women, people of color, and children living in poverty. The decline in the real value of the minimum wage is a major factor in the ever-widening gap between the rich and poor in this country. The value of the current minimum wage is at its lowest in 40 years, and the United States now has the largest gap in wage levels of any industrialized country.

Raising the minimum wage to $5.15 per hour is a much-needed step toward addressing these inequities. It would provide relief for 4 million families trying to survive on the current minimum wage, as well as for 8 million more who work now for less than $5.15 per hour. . . . Such an increase can only help those who are struggling to feed their families. It is all the more crucial in light of current budget cuts that will reduce access to social services in times of need.

We urge you, therefore, to adopt an increase in the minimum wage to $5.15.

JANE MOTZ,
American Friends Service Committee.

DEAR SENATOR: The Church of the Brethren is very concerned about the growing gap between the rich and the poor in this country, the largest wage gap of any industrialized country. Sixty-nine percent of minimum wage workers are adults, not teenagers, and women comprise sixty percent of minimum wage workers. At a time when Congress seeks to limit the time during which a person may receive welfare, it is counterproductive and dangerous to force people into jobs that pay $4.25 an hour. A single mother of two children who earns this wage finds that her family is trapped nearly thirty percent below the federal poverty level. The minimum wage must be raised to ensure that families can support themselves with adequate food, shelter, clothing, and health care.

The Church of the Brethren 1988 General Board Resolution states that we must ''work for public policies at the federal, state, and local levels that would provide wages that enable persons to live in dignity and in freedom from want.''

Please vote in favor of raising the minimum wage and support those who work hard to sustain their families.

TIMOTHY A. MCELWEE,
Church of the Brethren.

DEAR SENATOR: On behalf of the National Jewish Community Relations Advisory Council, we urge you to support upcoming legislation to increase the minimum wage. The NJCRAC is the national coordinating and advisory body for the 13 national and 117 community agencies comprising the field of Jewish community relations. . . . Consistent with long-standing NJCRAC policies regarding poverty and welfare reform, we have supported legislative proposals which enable individuals to move from dependency to economic self-sufficiency, including an increase in the minimum wage.

Erosion in wages, especially for low-paying jobs, is a major factor underlying persistent poverty and a steadily widening income gap. Adjusted for inflation, the value of the minimum wage has fallen nearly 50 cents since 1991, and is now 27 percent lower than it was in 1979. As a result, the income of a worker in a full-time, year-round minimum wage job is not sufficient, at the present time, to sustain a family of three above the Federal poverty level.

For these reasons, the NJCRAC urges you to support legislative action to increase the minimum wage.

MICHAEL NEWMARK, *Chair,*
National Jewish Community
Relations Advisory Council.

Mr. KENNEDY. Mr. President, that has been the ongoing and enduring theme of each one of these measures, which are typical, and it is expressed so well in those simple words that all of the great religions have stated clearly—that they believe this increase in the minimum wage is a moral issue. The basic reason for it is that we must ''work for public policies at the Federal, State, and local levels that would provide wages that enable persons to live in dignity and in freedom from want.''

That says it all, Mr. President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I would like to take a minute or two because I have heard the arguments about minimum wage for 20 years now. As a matter of fact, when I was chairman of the Labor Committee, or ranking member to the distinguished former chairman, Senator KENNEDY, we got into a lot of battles over minimum wage.

I come at it maybe from a different perspective. I understand that Senator KENNEDY believes he is fighting hard for poor people. I commend him for the efforts he has made through the years to do that. I have a lot of respect for some of the things he has done. On the other hand, I feel that many things he has argued for have been detrimental to poor people.

I was raised in an environment where I knew what it was really like to be hungry, to not have quite enough food. We did not have indoor facilities in our home when I was raised in the early years. Gradually, my dad was able to, by fighting and scratching, get us indoor facilities. But I can remember that, as a high school kid, I had to work my way through high school. I did not have a chance. If I could not have earned money going to high school, I do not know that I could have finished. I had to work my way through college and law school. In college, I was a janitor. I earned 65 cents an hour. I was so grateful for that job, I cannot begin to tell you. I was grateful in high school to work in a gas station where I worked very hard. I was captain of the basketball team. I would go to basketball practice, and afterward I would go work in the gas station so that I could buy some of the shoes and clothes that I had to have to be able to just go to school. But I never had the clothes most of the kids in that school district had.

As a matter of fact, we lived in the poor end of the borough. There was a very wealthy end of the borough. So I really saw the contrast between those who were wealthy and those who were poor.

I have to tell you. Speaking for those who maybe do not have the skills and do not have the opportunities that others had, every time the minimum wage goes up those people are left in the cold. And there are hundreds of thousands of them that are left in the cold because people just simply will not pay the higher minimum wage. They will do without the people, or they will quit their businesses. That happens all over America. You cannot ignore it.

It would be far better for us to find other mechanisms than a phony mechanism that raises the floor so that those in the union movement can make higher demands at the top. This has been a fiction for years. If the minimum wage goes up 10 percent or 15 percent, then the unions come in and say, ''We deserve 10 or 15 percent.'' We wonder why we have these intermittent but very sustaining cycles of inflation.

It would be far better to do other things for the poor and for those who

are at that lower end of the ladder. As we all know, not many total supporters of their households are on minimum wage. For a lot of these kids that take these minimum-wage jobs, it is only a matter of time until with the incentives and with their own desires to get ahead that they can move on, having acquired some skills for jobs that pay more than the minimum wage. That is what really has happened.

I do not want to continue this debate because I know that the distinguished Senator from Massachusetts is very sincere, and I commend him for that. But all the sincerity in the world does not make it necessarily right.

I would like to put it in the RECORD, but at this particular point let me just make a few comments from the Wall Street Journal editorial today.

It said:

It is true that it's now possible to get a few economists, including a couple of Nobel laureates such as Robert Solow, to stand up in public and advocate a higher minimum wage. This is supposed to reflect a study or two that fetched up no job losses from higher minimums; our own suspicion is that it has much more to do with the intellectual bankruptcy of the Democratic Party such economists largely support. As the symposium on this page last week demonstrated, the general consensus of the profession remains firm.

James Buchanan, the 1986 laureate for his work on public choice, said it best: ''The inverse relationship between quantity demanded and price is the core proposition in economic science.'' To assert that raising the minimum wage would actually increase employment, he continued, ''becomes equivalent to a denial that there is even minimal scientific content in economics.'' Merton Miller, a 1990 laureate for work on capital markets, asks of the notion that a minimum wage boost is costless, ''Is all this too good to be true? Damn right. But it sure plays well in the opinion polls. I tremble for my profession.''

The fact of the matter is that the article goes on to point out that:

The minimum wage, however, points all of the incentives in the wrong direction. Yes, some Republicans have themselves defected for their own personal reasons, and it's conceivable that if the GPO resists, the increase will pass. But so what? It is more important that the Republicans start to assert principles, as they did when they dominated the Congress and the national discussion. That is, they need to get the ball and go back on the offensive.

What the public above all wants is for politicians to stand for something, to give voters a clear choice. Our own view is that voters are pretty smart, and can understand the doleful effect of minimum wages if someone starts to explain it to them. If Republicans do this, we predict, they will come back next year with plenty of votes not only to roll back any increase but end the minimum wage charade once and for all.

Those are harsh words, but I think they are true and accurate.

Frankly, I think we have to get back to the real bill at hand, and that is the illegal immigration bill and get over these side political shows and do what really ought to be done on immigration. And then let us face this problem on the minimum wage up and down with full-fledged debate. And, if that is what it takes, I think we should make the points that I think I personally can make as somebody who did not have much of a chance when I was younger, who had to work at the minimum wage, and who worked for peanuts to be able to go through but gradually was able to work out of it because of the chance I had to have a job to begin with.

Frankly, that is what we ought to be more concerned about—the chance to have jobs to begin with, because once these kids start working and learn the value of working and the importance of working and the benefits from working, it is not long until they do not earn whatever the minimum wage is. They make far beyond that.

Mr. President, I ask unanimous consent that the full Wall Street Journal article be printed in the RECORD.

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

[From the Wall Street Journal, Apr. 29, 1996]

REPEAL THE MINIMUM WAGE

The past two years confirm Bill Bennett's observation that politics is a ball control game; if you're not on offensive you're on defense. The House Republicans dominated Washington until they'd passed most of their Contract, but the Clinton Administration managed to grab the ball, and now dominates the game even with a crackpot idea like the minimum wage.

The Republicans many be learning. With their decision to block a House vote of the minimum wage increase, they have already staunched the talk of a GOP rout. They should now throw down the gauntlet to House Democrats and the few Republican turncoats: We are not going to schedule a vote now or ever. Two years ago, we won a big battle with the Inhofe resolution, revitalizing the discharge petition, in which Members can force release of legislation the leadership has stalled. If you democrats are serious about wanting vote, get up your discharge petition.

We Republicans are going to fight you every inch of the way because we believe the minimum wage hurts poor people, killing jobs on the first rung of the career ladder for the most vulnerable members of society. Since we believe this we are not going to compromise; no matter what other goodies may be attached, we will never vote for an increase. Especially, we will not buy the argument that since this increase is a modest one, it won't destroy *many* jobs. Indeed, when we take firmer control of the Congress next year, we are going to vote for a big change, repealing the minimum wage kit, kat and caboodle.

It is true that it's now possible to get a few economists, including a couple of Nobel laureates such as Robert Solow, to stand up in public and advocate a higher minimum wage. This is supposed to reflect a study or two that fetched up no job losses from higher minimums; our own suspicion is that it has much more to do with the intellectual bankruptcy of the Democratic Party such economists largely support. As the symposium on this page last week demonstrated, the general consensus of the profession remains firm.

James Buchanan, the 1986 laureate for his work on public choice, said it best: ''The inverse relationship between quantity demanded and price is the core proposition in economic science.'' To assert that raising the minimum wage would actually increase employment, he continued, ''becomes equivalent to a denial that there is even minimal scientific content in economics.'' Merton Miller, a 1990 laureate for work on capital markets, asks of the notion that a minimum wage boost is costless, ''Is all this too good to be true? Damn right. But it sure plays well in the opinion polls. I tremble for my profession.''

With intellectual firepower such as that on their side, why are Republicans so cowed by the minimum wage debate? Too much attention to the polls and the Beltway press corps, neither of them good barometers of the real mood of the country or especially eventual election returns, in which campaigns and debates typically change the first-blush poll numbers. And most especially, decades-long moral intimidation by Democrats waving bloody shirts about ''the poor.'' The minimum wage *hurts* the poor, and the more so the higher it's raised.

Now, that is not to say there aren't problems to be dealt with. Republicans are right to think about ways to put more money in the pockets of beginning workers, particularly by taxing them less heavily. Under the incentives now in place, employers are shifting more beginning workers to ''independent contractor'' status, where these workers bear both sides of the payroll tax. Then they are trying to help their lowest paid with daycare and other in-kind benefits not subject to the payroll tax. For older workers, Republicans should be repealing earnings limitations on Social Security recipients. It is indeed important to look to incentives for work, efficiency and production.

The minimum wage, however, points all of the incentives in the wrong direction. Yes, some Republicans have themselves defected for their own personal reasons, and it's conceivable that if the GOP resists, the increase will pass. But so what? It is more important that the Republicans start to assert principles, as they did when they dominated the Congress and the national discussion. That is, they need to get the ball and go back on the offensive.

What the public above all wants is for politicians to stand for something, to give voters a clear choice. Our own view is that voters are pretty smart, and can understand the doleful effect of minimum wages if someone starts to explain it to them. If Republicans do this, we predict, they will come back next year with plenty of votes not only to roll back any increase but end the minimum wage charade once and for all.

TEMPORARY AGRICULTURAL WORKERS

Mr. CRAIG. Mr. President, I have filed, and have been prepared to offer, an amendment on behalf of myself and Senator GORTON.

Mr. President, there is an old joke about the tombstone engraved with the words, ''I told you I was sick.''

There are many of us in this body who do not want to come down to the floor of the Senate in October and say: We told you so. We told you the H–2A temporary agricultural worker program was broken. And now there are crops rotting in the fields and supermarket bins are empty or produce prices are going through the roof.

There is no satisfaction in being able to say ''I told you so,'' when we have an opportunity to fix a problem before it becomes a crisis.

This is the first Congress in my memory that has made some real attempts to do just that—practice preventive legislating—most notably in our attempts to enact the first balanced budget in a generation.

We have an opportunity to prevent a crisis this year by reforming the H–2A temporary agricultural worker program in our immigration law.

The H–2A program was created because agriculture has a need, in many cases, for workers on a seasonal basis. This creates a unique combination of opportunities and problems for employer and employee.

Most growers are able to employ employees who are citizens or otherwise in this country legally.

And many growers earnestly believe they are doing exactly that. But, when a job applicant shows up with apparently valid documents showing the applicant is a citizen or is here legally, the employer has no choice but to accept those documents. This usually means he or she has no choice but to hire that applicant, for at least two reasons: First, to avoid costly and lengthy litigation or prosecution over an alleged civil rights violation. And, second, because there is no other qualified applicant for that job.

This Senate should and will, under the leadership of the chairman, Mr. SIMPSON, pass legislation that tightens up our borders and stems the tide of illegal immigration.

When that happens, many innocent employers are going to be surprised when their labor pool contracts or disappears.

When that happens, as early at this fall, American agriculture—that sector of the economy that puts the food on all our tables—will face a crisis.

Therefore, we are offering today a compromise amendment that would help prevent that crisis.

I note that our amendment is a compromise. The House considered and rejected a broader, new program. Our amendment merely reforms the current H–2A program. It would—

Streamline and simplify administrative procedures; expedite processing; and provide basic worker protections that both ensure that temporary immigrant workers do not displace American workers and protect those workers from exploitation.

I want to emphasize: The original H–2A program was needed, and these reforms are needed, because there simply are not enough American workers who are available to take these seasonal, temporary jobs. We propose to allow the legal employment of a legal, temporary immigrant, only when there is not an American worker available for that job.

Mr. SIMPSON. I appreciate and recognize the concerns of the Senator from Idaho [Mr. CRAIG] and our other colleagues in this area.

I commend my colleagues for coming here with a concrete, compromise proposal and respectfully suggest the most appropriate next step would be to fully consider this proposal in the Immigration Subcommittee.

The H–2A program was intended to fulfill all the purposes my friend mentions and I do want to work with my colleagues to make certain this program is workable and meets the needs it is intended to meet.

Mr. CRAIG. I thank the chairman for his willingness to look into and address this problem. I look forward to working on this issue with the chairman and our other colleagues in the coming weeks and months.

Senators WYDEN, KYL, LEAHY, and others, including this Senator, also have filed an amendment, which I understand will be included in the managers' amendment. That amendment:

Expresses the sense of the Congress that—

The potential impact revising our immigration laws will have on the availability of an adequate agricultural work force should be assessed; and any needs in this area should be met through a workable H–2A program; and provides for the GAO to promptly conduct a study and report back to Congress.

I commend that amendment to my colleagues' attention and strongly urge adoption. If that amendment is adopted, then I do not intend to pursue the Craig-Gorton amendment at this time, and will continue to work further with the chairman and the committee on this issue.

Mr. HATCH. Mr. President, I understand this has been cleared on both sides.

I ask unanimous consent that the pending motion and amendments thereto on amendment No. 3744 be temporarily set aside for the consideration of a manager's amendment that I understand has been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3866 TO AMENDMENT NO. 3743

(Purpose: To make manager's amendments to the bill)

Mr. HATCH. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. SIMPSON, proposes an amendment numbered 3866 to amendment numbered 3743.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. WYDEN. Mr. President, I would like to thank Senator SIMPSON and Senator KENNEDY for working with me and my cosponsors to craft a bipartisan amendment to commission a GAO study on the effectiveness of the H–2A Guest Worker Program.

It seems to me that the H–2A Program works for no one. From what I have heard from growers and from farmworker advocates on this program: First, it does not effectively match up American workers with employers who need labor; second, it is administratively unwieldy for growers, potentially leaving them at the date of harvest without sufficient labor; and third, there are cases where the labor protections under the program have been poorly enforced and some growers have driven out domestic laborers in favor of foreign labor through unfair employment practices.

It seems to me that this program can use a good, hard look on a number of fronts, and this is why I am proposing a GAO report so that an outside agency can take a balanced look at the effectiveness of this program.

I am concerned about this issue because agriculture is one of Oregon's largest industries. It generates more than $5 billion in direct economic output and another $3 to 5 billion in related industries.

According to the Oregon Department of Agriculture, roughly 53,000 jobs in Oregon are tied to the agricultural industry. Let me clarify: these are not seasonal or temporary jobs, these are good, permanent, American jobs. If we add on seasonal workers, we are talking about 76,000 to 98,000 jobs in Oregon.

When we are talking about this many jobs in my State of Oregon, I don't want to be flip or careless about any changes to any statute that might adversely affect these jobs or this industry. At the same time, I certainly don't want to see the creation of a new Bracero Program.

In my mind I set some simple goals for looking at the H–2A Program: First, we have to make sure that the U.S. agriculture industry is internationally competitive, and second, we have to make sure that American farmworkers are not displaced by foreign workers and that they have access to good jobs, where they can earn a fair day's wage for a fair day's work.

With these goals in mind, I think that we can design a reasonable system to meet labor shortages, if and when they occur.

It is an understatement to say that the issue of the H–2A Program for bringing in temporary guest workers is polarized. Labor unions and advocates for farmworkers feel that the H–2A Program is barely a notch above the old, abusive Bracero Program. Growers feel that far from giving them access to cheap labor, the H–2A Program is extraordinarily costly and almost totally unusable and that the Department of Labor is openly hostile to their interests.

Given the passions surrounding this issue, I think that it's important that we begin any process of redesigning this program by bringing in an independent, outside agency to take a look at H–2A to try to sift out what is actually happening, and what can be done to make this program an effective safety valve, if indeed, after immigration reform legislation passes, there ends up being a shortage of American workers who are able and willing to take temporary, agricultural jobs.

I and my cosponsors, along with Senator KENNEDY and Senator SIMPSON, have agreed that it is important for the GAO to look at four issues:

First, that able and willing American workers are efficiently matched up with employers seeking labor.

I have heard criticism of the H–2A Program from both the growers and from farmworker advocates. According to the testimony by John R. Hancock, a former Department of Labor employee, before the House Committee on Agriculture December 14, 1995,

Only about 10–15 percent of the job openings available with H–2A employers have been referred by the Employment Service in recent years, and the number of such workers who stay on the job to complete the total contract period has been minimal.

Similarly, a briefing book sent to me from the Farmworker's Justice Fund cited the Commission on Agricultural Workers' finding that ''the supply of workers is not yet coordinated well enough with the demand for workers.''

So, it seems that we all can agree that we seriously need to evaluate how we match up workers with employers who are experiencing labor shortages.

Second, if and when there is a shortage of American workers willing to do the necessary temporary, agricultural labor, there will be a straightforward program to address this shortage with temporary foreign workers.

I have been assured that across the country there are hundreds of thousands of migrant farmworkers, ready, willing and able to work. If there is no such shortage, then clearly there is no need for growers to use the H–2A Program.

However, growers in Oregon and across the country are afraid that if this legislation is effective in cracking down on false documents and cracking down on people who come across the border, then they will see their work force decline sharply.

Now as far as I can tell, no one can say for certain how many illegal immigrants there are in this country and how many are part of the migrant labor work force. But I know from visiting with folks in Oregon, that there is nothing that makes a farmer lose more sleep at night than worrying about his or her fruit, or berries, or vegetables, rotting in the field because there is no one there to pick it.

I know that many say that a farmer could get as much labor as he wanted if the wage was high enough. I want to make clear that I strongly support making sure that seasonal, agricultural workers get a good, living wage. I strongly support ensuring that they have good housing, and workers compensation, and safe working conditions.

But I do think we have to be realistic that if we want to keep a competitive agricultural industry, these temporary, seasonal jobs are never going to make a person a millionaire; these jobs are always going to involve tough, physical labor, and they most likely aren't going to be filled by out-of-work engineers.

So it seems to make sense to me that because we want our agricultural industry to be the most competitive in the world, that if and when there is a labor shortage of people who are willing and able to do temporary, seasonal work, there should be an effective way for the farmer to get help to harvest the crop.

I don't want to have to scramble while the food rots in the field to fix the H–2A Program. Let's straighten it out now. Hopefully, we'll never have to use it—but if we do, let's have something that is usable.

Third, if and when a farmer uses the H–2A Program, the program should not directly or indirectly be misused to displace U.S. agricultural workers, or to make U.S. workers worse off.

There are a lot of stories about misuse of the H–2A Program —I find these appalling. I do not think that the H–2A Program should be used as a conduit for cheap foreign labor, as a substitute for already available American workers.

It seems to me that everyone admits that there are some abusive employers. There are employers who have manipulated the piece rates to pay people lower wages. There are employers who, once they get into the H–2A Program, never again look for American labor. I think that this program needs careful scrutiny to ensure that workers are treated fairly—that they get a fair wage for a fair day's work, that they have places to live and reasonable benefits, and that we don't bring in foreign workers to the detriment of American workers here.

Many of the problems I hear about with the H–2A Program from farmworker advocates seem to stem from a lack of enforcement in the program. Perhaps this is something that we also need to look at—what mechanism can make sure that this program is enforceable.

Fourth, finally, I believe that it is important that we do not undermine the intent of this bill to ensure that we stop the flood of illegal immigrants coming across the border. We would ask GAO to look at the extent to which this program might cause an increase in illegal immigrants in this country.

I know that a number of concerns have been expressed about overstays among temporary workers. Obviously, our primary concern with this entire legislation is that we get some control over the illegal immigrants coming into this country, and it is important that we don't close the door in one place, only to open a backdoor elsewhere.

I know that the tensions over the guest worker issue run deep. I hope that with this GAO report we can start to take an objective, balanced look at what this guest worker program will mean both for farm workers and for employers, and how it can operate so it is fair to both.

Mr. LEAHY. Mr. President, I commend Senator RON WYDEN for offering an amendment to require the General Accounting Office [GAO] to review and report on the effectiveness of the H–2A Nonimmigrant Worker Program after passage of immigration reform legislation.

I have heard from many agriculture and labor groups about the importance of H–2A Nonimmigrant Worker Program. In my home State of Vermont, for example, apple growers depend on this program for some of their labor needs during the peak harvest season. Many of these farmers have concerns with the current operation and responsiveness of the H–2A program. Both farmers and laborers are concerned that passage of legislation to reform the Nation's immigration laws may further hamper the effectiveness of the H–2A Nonimmigrant Worker Program. I believe this amendment goes a long way in addressing their concerns.

I am proud to cosponsor this amendment because I believe it will result in the collection of public, nonpartisan information on the effectiveness of this essential program. It directs the GAO to review the existing H–2A Nonimmigrant Worker Program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers. And it requires the GAO to issue a timely report to the public on its findings. I am hopeful that the GAO study will provide a foundation for improving the program for the sake of agricultural employers and workers.

I also believe that this amendment crafts a careful balance between the needs of agricultural growers and the protection of domestic and foreign farm workers. The amendment calls on the GAO to review the H–2A Program to determine if it provides an adequate supply of qualified U.S. workers, timely approval for the applications for temporary foreign workers, protection against the displacement or diminishing of the terms and conditions of the employment of U.S. agricultural workers.

I am hopeful that this GAO report will help the H–2A admissions process meet the needs of agricultural employers while protecting the jobs, wages, and working conditions of domestic workers and the rights and dignity of those admitted to work on a temporary and seasonal basis.

I urge my colleagues to support the Wyden amendment.

INS AMENDMENT

Mr. HARKIN. Mr. President, much of the debate on this floor is focused on how to strengthen our immigration laws. But whatever we pass will not mean much if we do not make sure that our States have the tools and support they need to enforce those laws in the first place.

My amendment, which is cosponsored by Senator BYRD and Senator DASCHLE that would require the Attorney General to provide at least 10 full-time active duty agents of the Immigration and Naturalization Service in each

State. These can be either new agents or existing agents shifted from other States.

In America today, immigration is not simply a California issue or a New York issue or a Texas or Florida issue. I can tell you that it is a real issue—and a real challenge—in my own State.

But today there are three States—including Iowa—that have no permanent INS presence to combat illegal immigration or to assist legal immigrants. In fact, in Iowa every other Federal law enforcement agency is represented except the Immigration and Naturalization Service.

This is a commonsense amendment. Ten agents is a modest level compared to agents in other States. According to INS current staffing levels, Missouri has 92 agents, Minnesota has 281 agents and the State of Washington has 440. And Iowa, West Virginia, and South Dakota have zero. This just does not make any sense.

Clearly every State needs a minimum INS presence to meet basic needs. My amendment would ensure that need is met. It would affect 10 States and only require 61 agents which is less than 0.3 percent of the current 19,780 INS agents nationwide.

Let me speak briefly about the situation in my own State. Currently, Iowa shares an INS office located in Omaha, NE. In its February report, the Omaha INS office reported that they apprehend a total of 704 illegal aliens last year for the two State area. This number is up by 52 percent from 1994.

The irony here is that in 1995, the INS office in Omaha was operating at a 33 percent reduction in manpower from 1994 staff levels. Yet the number of illegal aliens apprehended increased by 52 percent that year.

This same report states that there are about 550 criminal aliens being detained or serving sentences in Iowa and Nebraska city-county jails. Many of these aliens were arrested for controlled substance violations and drug trafficking crimes.

A little law enforcement relief is on its way to Iowa. The Justice Department announced that it will establish an INS office in Cedar Rapids with four law enforcement agents. That is a good step. And it is four more agents then we had before. But we need additional INS enforcement to assist Iowa's law enforcement in the central and western parts of our State.

In fact, the Omaha district office assesed in their initial report to the Justice Department that at least 8 INS enforcement agents are needed simply to handle the issue of illegal immigration in Iowa.

Mr. President, in the immigration reform legislation before the Senate this week, the Attorney General will be mandated to increase the number of Border Patrol agents by 1,000 every year for the next 4 years. Yet for Iowa, the Justice Department can only spare 4 law enforcement agents and no agents to perform examinations or inspections functions.

By providing each State with its own INS office, the Justice Department will save taxpayer dollars by reducing not only travel time but also jail time per alien, since a permanent INS presence would substantially speedup deportation proceedings.

There is also a growing need to assist legal immigrants and to speed up document processing. The Omaha INS office reported that based on its first quarter totals for this year the examinations process for legal immigrants applying for citizenship or adjusting their status went up 45 percent from last year. Even though, once again, the manpower for the Omaha INS office is down by one-third.

I have recommended that permanent INS office in Des Moines be located in free office space that would be provided by the Des Moines International Airport. Placing the office in the Des Moines International Airport would benefit Iowa in three ways. First, it would cut costs and save taxpayers money. Second, it would generate economic benefits for Iowa because the airport could then process international arrivals and advance Iowa's goal of becoming increasingly more competitive in the global market. Third, the office would be able to process legal immigrants living in Iowa.

I urge my collegues to join in support of my amendment. It is common sense, it is modest, and it sends a clear message to our States that we are committee to enforcing our immigration laws and giving them the tools they need to do it.

Mr. DASCHLE. Mr. President, I fully support Senator HARKIN's amendment to require the INS to have full-time staff in every State. Currently, South Dakota is one of only 3 States that do not have a permanent INS presence. Although South Dakota does not have the problems with immigration faced by States like California, there has been a dramatic growth in immigration, both legal and illegal, into the State and particularly into Sioux Falls. As immigration increases, it has become necessary to step up enforcement of the immigration laws nationwide, including in South Dakota.

In addition, citizens and legal residents who need help from the INS need to have an office in South Dakota to serve them. Now, they must journey to either Minnesota or Colorado. That is a huge burden on the residents of South Dakota.

Senator HARKIN is to be commended for addressing these problems and ensuring that South Dakota will have help from the INS to prevent illegal immigration and to facilitate the needs of legal residents and citizens.

Mr. CONRAD. Mr. President, my amendment is the same amendment that was added last week by unanimous consent to S. 1028, the health insurance reform bill. Although I am hopeful the House of Representatives will agree to retain the amendment during its conference with the Senate, that is not a certainty. The program this amendment extends is very important to my State and several others with large rural populations. But time is running out and this extension must be signed into law into the next few months. So I am offering the amendment today to S. 1664.

This amendment would extend what has become known by some as the Conrad State 20 Program. In 1994, I added a provision to the visa extension bill that allows state health departments or their equivalents to participate in the process of obtaining J–1 visa waivers. This process allows a foreign medical graduate [FMG} who has secured employment in the United States to waive the J–1 visa program's 2-year residency requirement.

As a condition of the J–1 visa, FMGs must return to their home countries for at least 2 years after their visas expire before being eligible to return. However, if the home countries do not object, FMGs can follow a waiver process that allows them to remain and work here in a designated health professional shortage area or medically underserved area. Before my legislation became law, that process exclusively involved finding an ''interested Federal agency'' to recommend to the United States Information Agency [USIA] that waiving the 2-year requirement was in the public interest. The law now allows each State health department or its equivalent to make this recommendation to the USIA for up to 20 waivers per year.

This law was necessary for several reasons. Despite an abundance of physicians in some areas of the country, other areas, especially rural and inner city areas, have had an exceedingly hard time recruiting American doctors. Many health facilities have had no other choice but turn to FMGs to fill their primary care needs. Unfortunately, obtaining J–1 visa waiver for qualified FMGs through the Federal program is a long and bureaucratic process that not only requires the participation of the interested Federal agency but also requires approval from both the USIA and the Immigration and Naturalization Service.

Finding a Federal agency to cooperate is difficult enough, considering that the Department of Health and Human Services does not participate. States who are not members of the Appalachian Regional Commission, which is eligible to approve its own waivers, have had to enlist any agency that is willing to take on these additional duties. These agencies, such as the Department of Agriculture or the Department of Housing and Urban Development, often have little or no expertise in health care issues. Once an agency does agree to participate, the word spreads quickly and soon that agency can be flooded with thousands of waiver applications from across the country.

Because States can clearly determine their own health needs far better than

an agency in Washington, DC, my legislation now allows States to go directly to the USIA to request a waiver. It also is relieving some of the burden that participating Federal agencies have incurred in processing waiver applications.

The Conrad State 20 Program is still very new, and not every State has yet elected to use it. But the program is beginning to work exactly as I had hoped. At least 21 States have reported using it to obtain waivers. More States are expected to participate in the coming months. Unfortunately, the Conrad State 20 Program is scheduled to sunset on June 1, 1996, unless Congress approves an extension. The amendment I am offering would extend the program for 6 more years. This is not a permanent extension. The amendment would sunset the program on June 1, 2002.

My amendment also puts new restrictions and conditions on FMGs who use the Federal program. As a condition of using the Conrad State 20 Program to acquire a waiver. FMGs must contract to work for their original employer for at least 3 years. Otherwise, their waiver will be revoked and they will be subject to deportation. My amendment would apply the same 3-year contractual obligation for those who obtain a waiver through the Federal program.

We all know that State empowerment has been a major issue of the 104th Congress. The Conrad State 20 Program is one way of giving States more control over their health care needs. States that are using the program want to keep it operating for a few more years. They understand that this program does not take away jobs from American doctors, but instead is one more valuable tool to help serve the health care needs of rural and inner city citizens. The Senate passed my original legislation with strong bipartisan support. I am hopeful the Senate will agree that creating the Conrad State 20 Program was very worthwhile, and will agree to accept this modest, 6-year extension.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3866) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I want to thank the managers of the bill, the distinguished Senator from Wyoming [Senator SIMPSON] and the distinguished Senator from Massachusetts [Senator KENNEDY] for accepting a bloc of three amendments that I offered to the immigration reform bill and including them in the manager's amendment that was just accepted by voice vote.

I have been deeply concerned about provisions in the bill that could have the effect, perhaps unwittingly, of perpetuating violence against immigrant women and children. Two years ago, Congress made a commitment to fight the epidemic of violence against women—all women—when we passed the historic Violence Against Women Act. That commitment should not be forgotten as we debate immigration reform. There are provisions in this immigration bill before the Senate today that could trap many women in abusive relationships.

Mr. President, it would be unconscionable for our immigration laws to facilitate an abuser's control over his victim. It would be unconscionable for our immigration laws to abet criminal perpetrators of domestic violence. It would be unconscionable for our immigration laws to perpetuate violence against women and children.

Domestic abuse is one of the most serious issues our country faces—not only for the people who are in danger in their own homes, but for all of us—when that danger, that abusive behavior learned at home, spills out into our streets and schools. Domestic abuse knows no borders. Neither race, gender, geography, nor economic status shields someone from domestic violence.

Every 15 seconds a woman is beaten by a husband or boyfriend.

Over 4,000 women are killed every year by their abuser.

Every 6 minutes, a woman is forcibly raped.

Some 70 percent of men who batter women also batter their children.

A survey conducted in 1992 found that more than half of the battered women surveyed stayed with their batterer because they did not feel they could support themselves and their families.

The Violence Against Women Act was enacted to ensure that women in the United States, living under all different kinds of circumstances, have every chance to create safe lives for themselves and their children.

For a battered immigrant woman to be eligible for the protections of the Violence Against Women Act, she must show that she: First, is the spouse of a citizen or lawful permanent resident of the United States; second, is eligible for immigrant classification based on that relationship; third, is residing in the United States; fourth, has resided in the United States with the citizen or lawful permanent resident spouse; fifth, has been battered by, or subjected to extreme cruelty by that spouse; sixth, is a person of good moral character; seventh, entered into the marriage in good faith; and eighth, that her deportation would cause extreme hardship to her or her child.

Many undocumented women are undocumented because they have been victims of abuse, and in many cases their abusers have interfered with or deceived them about the immigration process.

These women, victims of domestic violence who are eligible for lawful permanent residency, but who have not yet attained residency due to the actions or inactions of their abusers, should not be penalized as undocumented immigrants. Their undocumented status is most often not willful, but results from the abusive relationship.

I want to explain this carefully. Many of these women come into the country legally, with the sponsorship of their spouse. Once they are here, the abusive partner will use her immigration status as a means of coercing her into submission—for example, ''If you don't do whatever I say, I will call the INS on you and withdraw my petition.'' Often these women will leave the country with their spouse and then the spouse will force them to re-enter illegally. The spouse will sometimes not file the proper paperwork to petition for status, all the while telling his battered wife that he is taking care of the situation, and that her fate in the United States rests in his hands.

For example, Dania's case, originating in New Jersey, was recently brought to my attention. Dania is 27 years old. She came to the United States from India. Her husband Mihi, a U.S. citizen, told her that he would file for her to get permanent residence in the United States. Soon after they were married, he did file a petition. The couple resided with Mihi's family, who were verbally abusive to Dania and Mihi himself battered her with his fists, leaving visible marks on her face and body. The police responded to complaints from neighbors about the violence on several occasions. Mihi told Dania that if she did not do whatever he said, he would withdraw the petition he filed and have her deported.

Dania left her husband once and fled to a shelter. Soon after, he convinced her to take a ''reconciliation trip'' with him to India. When they got to India, he destroyed all of her documents including her passport. She obtained a passport and returned to the United States to find that Mihi had withdrawn his petition sponsoring her for legal status.

Mr. President, to treat Dania and these other VAWA eligible women as undocumented is to punish them for being victims of a crime. Remember, domestic violence is a crime, whether or not the victim has a green card.

Under this bill, these undocumented immigrant women would be ineligible for any means tested government assistance programs.

The first amendment in this bloc, accepted by the managers of the bill, would allow women who are eligible to file independently for legal residence under the Violence Against Women Act, but have yet to do so, and thus are ineligible for assistance, to receive certain benefits including AFDC and Medicaid, provided that they file for legal, permanent residence within 45 days.

Let's say a battered immigrant woman flees her abusive household in the middle of the night and goes to a domestic violence shelter. Prior to

going to the shelter, she may not have even known that the Violence Against Women Act existed, and therefore, she has never self-petitioned for residency. The next morning, the first thing she needs to deal with is not her immigration status, but with the more pressing needs of finding a temporary source of food, diapers and medical care for her child.

This amendment makes her immediately available for some of the public benefits that lawful permanent residents are eligible for, and then she has 45 days to file her claim for lawful permanent residency. If she fails to file the claim or the claim is denied, the benefits would be terminated.

Women fleeing abusive relationships need the transitional assistance that is provided by government public benefits programs. This amendment would allow these women to be eligible for a narrow set of means-tested government assistance programs. This discrete group of programs has been selected because they would provide bare bones support: supplemental security income; aid to families with dependent children; social services block grants; Medicaid; food stamps; and housing assistance.

If women who have been battered do not have access to this assistance, they are thrust into the untenable position of acquiescing to abuse or facing deportation when they ask for help.

Mr. President, I want to tell another story, because I think the best way to understand about some of these problems—which seem unimaginable to so many of us—is to hear about real people who these amendments would help. Guadalupe is an undocumented woman living in Oregon, who was not a legal resident due to the inaction of her husband and sponsor, a battered woman who could have successfully fled her hideously abusive marriage if she had been able to get some kind of transitional assistance for herself and her children.

Guadalupe is from Mexico and is married to Jose. They have had two children together. Jose applied for, and received, his legal residency. Throughout the 11 years of their marriage, he promised on many occasions to file for legal residency on behalf of Guadalupe. He never did.

Guadalupe was made to stay in the house and have no contact with anyone. The only time she left the house was on weekly shopping trips to the grocery store. Soon, even the trips to the store were a thing of the past and Guadalupe and her children would go for days with nothing to eat.

Jose would belittle, humiliate, rape, and sodomize Guadalupe in front of the children, and he explained to his 3-year-old son that he would be expected to do this as well when he got older in order to ''keep his mother and sister in line.'' When Guadalupe would attempt to defend herself and her children, Jose would pull out his pistol and threaten to kill her.

During one particularly bad incident of abuse, a neighbor became aware of what was going on and gave Guadalupe a shelter number. She moved to the shelter. Since neither Guadalupe nor her children have INS documentation, they were ineligible for public assistance and Guadalupe could not work because she doesn't have a green card. They were totally economically dependent on Jose.

She moved back in with him out of economic necessity and the abuse continued to escalate. Jose earned $2,000 a month, and yet his children suffer from malnutrition since he doesn't give Guadalupe any money to buy food. Jose repeatedly threatens to have Guadalupe and the children deported.

If Guadalupe had been eligible to receive some assistance right away, it might have been possible for her to start a new, safe, and secure life for herself and her children. This amendment would give Guadalupe and other women in similar, desperate circumstances, a chance at breaking free from abusive relationships and starting a safer life.

The second amendment accepted by the managers would protect battered women, also in the circumstance of needing some assistance, from being deported for being a ''public charge,'' that is to say, for temporarily relying on public assistance to escape the violence.

In order to be granted suspension of deportation under the Violence Against Women Act, battered women must overcome two tests: First, she must prove that she is eligible for suspension of deportation under the Violence Against Women Act.

To do so she must prove:

That she has been battered or the subject of extreme cruelty in the United States by a U.S. citizen or lawful permanent resident spouse;

That she has a valid marriage;

That she is of good moral character; and

That her deportation would cause extreme hardship.

Second, once she has proven this, the judge could still exercise judicial discretion and deport her regardless of her VAWA eligibility because she relied on public benefits in an effort to escape her abuse.

Under this bill, any legal immigrant who receives any means-tested Federal or State assistance for an aggregate of 12 months during her first 5 years in the United States is deportable as a public charge. For these purposes, means-tested Federal or State assistance programs include things like, if she got a Pell grant, in order to further her education and make it possible to get a better job to provide for herself and her children. A battered woman could also be deported for being a ''public charge'' if she enrolled a child in Head Start or any similar means-tested program. This standard has the effect of punishing people who are availing themselves of programs that are there to help make them self-sufficient.

Realistically, battered women often need to rely on public assistance to escape their violent surroundings. My second amendment, like the House bill, would allow battered women to be eligible for the same discreet set of government assistance programs that require means testing, those that I listed in conjunction with my last amendment, for 4 years without being considered a public charge. A 4-year time period was selected because research has shown that half of women on public assistance are off of assistance within 4 years. This amendment would provide an exception to the provision in the Senate bill that would make such a woman deportable.

Keep in mind that the decision to leave an abusive relationship is not an easy one. When a woman leaves she knows that two things will happen immediately—she, and if she is a mother, her children, will become homeless and they will likey lose all of their economic resource. She will immediately enter poverty. For a mother, this would be an enormous step to take.

My amendment is necessary under many different circumstances. For example, some shelters, as a safety precaution, condition residence upon a battered woman not returning to her place of employment. Many battered women do no work outside the home because the abuser does not allow it. In other cases the abuser has forbidden the abused woman from getting educational or employment skills that would make her self-sufficient. These are some of the many reasons battered women may rely on transitional public assistance as they flee.

Giving battered women a longer time on assistance before they are considered a public charge, and therefore deportable, is another way of giving abused women and their children a better chance at improving their circumstances.

The third amendment accepted by the Managers relates to a practice known as deeming, whereby the income of an immigrant's sponsor is attributed to the immigrant for the purposes of determining the immigrant's eligibility for public assistance. For example, an immigrant woman is sponsored by her U.S. citizen husband who signs an affidavit that he will support her. He earns $30,000 a year. That woman is deemed to have access to $30,000 a year, even if he is not supporting her in reality.

Deeming amounts to essentially pretending that an abusive sponsor is supporting a victim of domestic abuse and it renders her ineligible for the transitional public assistance that she would need to become independent, and would imprison her and her children in a violent situation. She would be without a means of economic survival and hence forced to return to her abuser. Many times, we see affidavits of support used as a tool by the abuser to prevent the victim from leaving.

My third amendment, similar to the House bill language, would eliminate

the practice of ''deeming'' for victims of domestic abuse for the first 4 years, and beyond 4 years if there is an ongoing need for the benefits and that need has been caused by the domestic abuse.

These 4 years give the battered woman an opportunity to become self-sufficient. Often when a woman leaves an abusive relationship she is desperate and scared. She fears for her life because leaving can be the most dangerous time for her. She has probably lost all of her self-esteem and self-confidence because of the battering. The process of putting her life and the lives of her children back together can be slow.

As a community, we need to encourage women and children recovering from an abusive situation to become a strong, healthy, independent family. To set ''one size fits all'' provisions and arbitrary time limits for immigrant women is unfair, unreasonable and unconscionable. It shows no understanding of the trauma that a women go through.

Just think of Monica Seles, the tennis star who was stabbed while on the tennis court. It took her 2 years to return to tennis due to the post traumatic stress disorder caused by a single attack. Although this was indeed a terrible, terrible trauma, consider the effect of years of battering and abuse some women suffer in their own homes, and think what it must take to recover from that kind of abuse.

As we strive to reform our immigration policies in a thoughtful, and not punitive manner, we must be careful that proposed reforms don't eliminate protections that help women and children, particularly vulnerable women and children, escape dangerous, violent homes.

Mr. President, all of the amendments I have offered today relating to domestic violence have been offered for the purposes of keeping the landmark legislation, the Violence Against Women Act, the strong protection for abused women and their children that it was intended to be.

We have made a lot of progress in the past few years, but there is still a large gap in the public awareness and understanding of domestic violence. It takes community support and assistance for women and children to take the first step to become safe. My fellow Senators and I have a perfect opportunity to set an example to the community today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I believe now we should go to the regular order, and we are prepared to do that.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill 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, hereby move to bring to a close debate on the Dole (for Simpson) amendment No. 3743 to the bill S. 1664, the immigration bill:

Bob Dole, Alan Simpson, Dirk Kempthorne, Strom Thurmond, Dan Coats, James Inhofe, Jesse Helms, Richard Shelby, Trent Lott, Conrad Burns, Connie Mack, Hank Brown, Kay Bailey Hutchison, Paul Coverdell, Fred Thompson, and Rick Santorum.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 3743 to S. 1664, the Illegal Immigration Reform Act, shall be brought to a close? The yeas and nays are required.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Montana [Mr. BURNS], the Senator from New York [Mr. D'AMATO], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. SMITH], and the Senator from Tennessee [Mr. THOMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. BURNS] would vote ''yea.''

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] and the Senator from Connecticut [Mr. DODD] are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. MOYNIHAN] would vote ''aye.''

The yeas and nays resulted—yeas 91, nays 0, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—91

Abraham	DeWine	Inouye
Akaka	Dole	Johnston
Ashcroft	Domenici	Kassebaum
Baucus	Dorgan	Kempthorne
Bennett	Exon	Kennedy
Biden	Faircloth	Kerrey
Bingaman	Feingold	Kerry
Bond	Feinstein	Kohl
Boxer	Ford	Kyl
Bradley	Frist	Lautenberg
Breaux	Glenn	Leahy
Brown	Gorton	Levin
Bryan	Graham	Lieberman
Bumpers	Gramm	Lott
Byrd	Grams	Lugar
Campbell	Grassley	Mack
Chafee	Gregg	McCain
Coats	Harkin	McConnell
Cochran	Hatch	Mikulski
Cohen	Hatfield	Moseley-Braun
Conrad	Heflin	Murray
Coverdell	Helms	Nickles
Craig	Hollings	Nunn
Daschle	Hutchison	Pell
Pressler	Sarbanes	Thomas
Pryor	Shelby	Thurmond
Reid	Simon	Warner
Robb	Simpson	Wellstone
Rockefeller	Snowe	Wyden
Roth	Specter	
Santorum	Stevens	

NOT VOTING—9

Burns	Inhofe	Murkowski
D'Amato	Jeffords	Smith
Dodd	Moynihan	Thompson

The PRESIDING OFFICER. On this vote, the yeas are 91, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENT NO. 3744 AND MOTION TO RECOMMIT WITHDRAWN

Mr. SIMPSON. Mr. President, I withdraw the pending motion to recommit and amendment No. 3744.

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

The motion to recommit and the amendment (No. 3744) were withdrawn.

CLOTURE MOTION

Mr. SIMPSON. Mr. President, I send a cloture motion to the desk and ask for its immediate consideration.

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:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on calendar No. 361, S. 1664, the illegal immigration bill:

Bob Dole, Alan Simpson, Craig Thomas, Hank Brown, R. F. Bennett, Dirk Kempthorne, Judd Gregg, Bob Smith, Trent Lott, Jon Kyl, Rod Grams, Fred Thompson, John Ashcroft, Bill Frist, Orrin Hatch, Chuck Grassley.

Mr. KENNEDY. Mr. President, the floor manager and I have visited about what we might expect through the evening and into tomorrow. It is our best judgment that we will have an amendment dealing with the Cuban-Asian adjustment that Senator GRAHAM will speak to this evening, and then we will have the final debate as the first order of business tomorrow. Then Senator GRAHAM has indicated that he would follow up with a presentation on one of his amendments dealing with the welfare provisions on the underlying legislation with the opportunity to have, again, briefer debate on that measure tomorrow.

Then it is our hope that we will be able to, as I understand it, go from side to side in terms of the amendments themselves. We will obviously do the best we can to accommodate different Members and their time schedule. That has been certainly the agreement.

We want to express our appreciation to Senator SIMPSON for that measure. We will move through the course of the day. I have spoken to a number of our colleagues to urge the early consideration of their amendments in a timely way in the midmorning and later morning so we can make some real progress on this bill.