families better plan for children is in the interest of all those involved.

In addition, Federal law prohibits the United States from funding abortions abroad. The U.S. Agency for International Development has strictly abided by that law. Those who argue that international family planning programs fund abortions abroad are simply wrong.

Mr. President, by denying people access to the family planning programs worldwide by slashing their funding, there will be an estimated 4 million more unintended pregnancies every year, close to a million infant deaths, tens of thousands of deaths among women and—let me emphasize to my colleagues who oppose permitting women to choose abortions in the case of unwanted pregnancies—1.6 million more abortions.

These programs provide 17 million families worldwide the opportunity to responsibly plan their families and space their children. They offer a greater chance for safe childbirth and healthy children, and avoid adding to the population problem that hurts all of us and hurts the unborn generations even more severely.

In order to spend the population money the administration will have to send the required notifications to the appropriate congressional committees. When that process begins, I hope that those on the other side of the aisle who oppose family planning programs will remember that supporters of family planning programs, on both sides of the aisle, allowed this technical correction to be made and that they will not use the notification process to prevent the funds from flowing.

The Senate has voted time and time again in favor of international family planning programs. Soon we will begin consideration of the fiscal year 1997 budget. Make no mistake about it. Family planning will be an issue and the Senate will continue to fight for its position on this issue. The time is long overdue for the House majority to start acting responsibly on an issue that will affect generations to come.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the joint resolution be considered read for a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the joint resolution was considered, deemed read for a third time, and passed; as follows:

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) In Public Law 104–134, insert after the enacting clause:

''TITLE I—OMNIBUS APPROPRIATIONS''.

(b) The two penultimate undesignated paragraphs under the subheading ''ADMINISTRATIVE PROVISIONS, FOREST SERVICE'' under the heading ''TITLE II—RELATED AGENCIES, DEPARTMENT OF AGRICULTURE'' of the Department of the Interior and Related Agencies Appropriations Act, 1996, as contained in section 101(c) of Public Law 104–134, are repealed.

(c) Section 520 under the heading ''TITLE V—GENERAL PROVISIONS'' of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, as contained in section 101(e) of Public Law 104–134, is repealed.

(d) Strike out section 337 under the heading ''TITLE III—GENERAL PROVISIONS'' of the Department of the Interior and Related Agencies Appropriations Act, 1996, as contained in section 101(c) of Public Law 104–134, and insert in lieu thereof:

''SEC. 337. The Secretary of the Interior shall promptly convey to the Daughters of the American Colonists, without reimbursement, all right, title and interest in the plaque that in 1933 was placed on the Great Southern Hotel in Saint Louis, Missouri by the Daughters of the American Colonists to mark the site of Fort San Carlos.''

(e) Section 21104 of Public Law 104–134 is repealed.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Graham amendment No. 3760 at 2:15 today, and immediately following that vote there be 2 minutes of debate equally divided in the usual form to be followed by a vote on or in relation to the Graham amendment No. 3803 with the clarification that there be 2 minutes of debate equally divided on each of those amendments, and that the debate begin at 2:15.

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

Mr. SIMPSON. Mr. President, I send an amendment to the desk.

Mr. President, I will submit the amendment in a moment. As we prepare to do that, let me say that I will proceed to an amendment. Senator KENNEDY has certainly accelerated the process. I am very appreciative. He and I intend to deal with the hot button items, and certainly the one with regard to deeming and public assistance and welfare is one of those. Anything to do with verification is one of those.

So now I do not think this one will be exceedingly controversial because it will deal with the issue of the birth certificate, and the birth certificate is the most abused document. It is the breeder document of most falsification. I have tried to accommodate the interests of Senator DEWINE.

I may not have met that test. But I certainly have tried. I have tried to meet the recommendations of Senator LEAHY, and certainly we have met the test of the issue of cost. Because we have it now so provided that I think we have met those conditions.

AMENDMENTS NOS. 3853 AND 3854, EN BLOC

Mr. SIMPSON. Mr. President, I call up amendments at this time 3853 and 3854 and ask that they be considered en bloc.

The PRESIDING OFFICER. If there is no objection, the pending amendments are set aside, and without objection it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes amendments numbered 3853 and 3854 en bloc.

Mr. SIMPSON. Mr. President, I believe that those relate to verification. I am not prepared to bring those up at this time, and I ask unanimous consent that that request be withdrawn.

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

AMENDMENTS NOS. 3855 AND 3857 THROUGH 3862, EN BLOC

Mr. SIMPSON. I call up amendments 3855 and 3857 through 3862, en bloc.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes amendments numbered 3855 and 3857 through 3862, en bloc.

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

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

The text of the amendments follow:

AMENDMENT NO. 3855

(Purpose: To amend sec. 118 by phasing-in over 6 years the requirements for improved driver's licenses and State-issued I.D. documents)

In sec. 118(b), on page 42 delete lines 18 through 19 and insert the following:

''(5) EFFECTIVE DATES.—

''(A) Except as otherwise provided in subparagraphs (B) or (C), this subsection shall take effect on October 1, 2000.

''(B)(i) With respect to driver's licenses or identification documents issued by States that issue such licenses or documents for a period of validity of six years or less, Paragraphs (1) and (3) shall apply beginning on October 1, 2000, but only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law.

''(ii) With respect to driver's licenses or identification documents issued in States that issue such licenses or documents for a period of validity of more than six years, Paragraphs (1) and (3) shall apply—

''(I), during the period of October 1, 2000 through September 30, 2006, only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law, and

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

''(C) Paragraph (4) shall take effect on October 1, 2006.''

AMENDMENT NO. 3857

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

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate

system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services, in consultation with other agencies designated by the President, shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

AMENDMENT NO. 3858

(Purpose: To amend sec. 118 by providing that the birth certificate regulations will go into effect two years after a report to Congress)

In sec. 118(e), on page 41, strike lines 1 and 2, and insert the following:—

''(6) EFFECTIVE DATES.—

''(A) Except as otherwise provided in subparagraph (B) and in paragraph (4), this subsection shall take effect two years after the enactment of this Act.

''(B) Paragraph (1)(A) shall take effect two years after the submission of the report described in paragraph (4)(B).''

AMENDMENT NO. 3859

Section 118(b)(1) is amended to read as follows:

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document or license is issued by a State that requires, pursuant to a statute, regulation, or administrative policy which was, respectively, enacted, promulgated, or implemented, prior to the date of enactment of this Act, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States, but not that the number appear on the card.

AMENDMENT NO. 3860

(Purpose: To amend sec. 118 by revising the definition of birth certificate)

In sec. 118(a), on page 40, line 24, after ''birth'' insert:

''of—

''(A) a person born in the United States, or

''(B) a person born abroad who is a citizen or national of the United States at birth, whose birth is''.

AMENDMENT NO. 3861

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

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—(A) not later one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(B) Not later than one year after the date of enactment of this Act, the agency designated by the President in paragraph (1)(B) shall submit a report setting forth, and explaining, the regulations described in such paragraph.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary for the preparation of the report described in subparagraph (A).

(5) CERTIFICATE OF BIRTH.—As used in this section, the term ''birth certificate'' means a certificate of birth registered in the United States.

AMENDMENT NO. 3862

Amend section 118(a)(1) is amended to read as follows:

(a) BIRTH CERTIFICATE.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local authorized custodian of record and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Federal agency designated by the President after consultation with such other Federal agencies as the President shall designate and with State vital statistics offices, and shall—

(i) include but not be limited to—

(I) certification by the agency issuing the birth certificate, and

(II) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, for fraudulent purposes;

(ii) not require a single design to which the official birth certificate copies issued by each State must conform; and

(iii) accommodate the differences between the States in the manner and form in which birth records are stored and in how birth certificate copies are produced from such records.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

Mr. SIMPSON. Mr. President, these series of amendments deal with a certain issue. They are intended to improve section 118 of the bill which relates to the improvements in the birth certificate and driver's license. These were contained in a single amendment to this section of the bill, and they have been united en bloc.

These amendments in their en bloc form provide for a 6-year phase in of the driver's license improvements. It provides that the agency will develop the new minimum standards for birth certificate copies—the agency designated by the President and not necessarily the Department of Health and Human Services.

The second amendment, or the amendments, eliminate the reference to the phrase ''use by imposters.'' And the purpose here is to remove any implication that fingerprints, or other so-called biometric information will be required. That came up in the debate in committee. I have no desire to go to that intrusive level, and it is not there.

It directs the agency developing the new standards for birth certificate copies not to require a single design. That was part of the debate. Surely we cannot require a single design, and we do not.

All of the States would not have to conform to this, and it directs the agency to take into account differences between the States and how birth records are kept and copies are produced. And it directs the agency developing the birth certificate standards to first consult with other Federal agencies as well as with the States.

It requires the agency developing the minimum standards to submit a report to Congress on their proposed standards within 1 year of enactment, and then it also modifies the definition of ''birth certificate'' to clarify that it includes the certificate of a person born abroad who is a citizen at birth if the birth is registered in a State.

It also provides new minimum standards for birth certificate copies—copies—which will be in effect beginning 2 years after the report to Congress by the agency developing the standards. And it makes a technical amendment to part of the driver's license provision so that it will more accurately reflect the agreement between Senator KENNEDY and I during the Judiciary Committee markup.

That is the essence of the material, but let me add this. The amendment would phase in the bill's requirements for the improved driver's licenses and State issued ID documents over 6 years beginning October 1, 2000, the year suggested by the National Governors' Association.

Under my amendment, the improved format would be required only for new or renewed licenses or State issued ID documents with the exception of licenses or documents issued in one State where the validity period for licenses is twice as long—12 years—as that in States with the next longest period. This one State would have 6 years to implement the improvements. This is an accommodation that Senator KENNEDY is aware of. His State has some very interesting and sweeping legislation with regard to licenses.

Furthermore, the bill's provision that only the improved licenses and documents could be accepted for evidentiary purposes by Government agencies in this country would under the amendment I am now proposing not be effective until 6 years after the effective date of the legislation.

I wish to give Senator KENNEDY an appropriate time to respond before the hour of 12:30 when by previous order we will recess, but what we have tried to do is remind our colleagues once again that fraud resistant ID documents will not only make it possible for an effective system of verifying citizenship or work authorization but also greatly reduce illegal immigration.

The amendment is in response to the CBO estimate of the current requirement that these documents be implemented prior to October 1, 1997. The additional costs of replacing all licenses and ID documents by 1998, including those that would otherwise be valid for an additional number of years, would be eliminated. So instead of costing $80 to $200 million initially, plus $2 million a year thereafter, CBO estimates that the total cost of all the birth certificate and driver's license improvements would be $10 million to $20 million incurred over 6 years, and the CBO has written a letter to me confirming that fact. I ask unanimous consent it be inserted in the RECORD at this time.

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

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

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

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

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

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

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. SIMPSON. So with respect to birth certificates, the bill already requires, the bill we are debating, that as of October 1, 1997 no Federal agency—and no State agency that issues driver's licenses or ID documents—may accept for any official purpose a copy of a birth certificate unless it is issued by a State or local government rather than a hospital or nongovernmental entity, and it conforms to Federal standards after consultation with the State vital records officials. The standards would affect only the form of copies, not the original records kept in the State agencies.

The standards would provide for improvements that would make the copies more resistant to counterfeiting and tampering and duplicating for fraudulent purposes. An example is the use of safety paper, which is difficult to satisfactorily copy or alter.

There is no requirement in this bill that all States issue birth certificate copies in the same form, but in response to concerns that some have expressed the amendment I now propose explicitly to require that the implementing regs not mandate that all States use the single form for birth certificate copies and require the regs to accommodate differences among the States in how birth records are kept and how copies are produced.

These are the things that this provides. There is more. We will discuss it in further depth after we return from recess for our caucuses. But these are modifications suggested by the Governors and some of my colleagues, and the real issue is a very simple one. Birth certificates are the breeder document. You get the birth certificate—you can get it by reading the obituaries. Read the obituaries and write for the birth certificate—no proper certifications.

I yield to my colleague for any time he would wish on this or any other matter.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just a brief comment on this measure. I think that Senator SIMPSON has made several valuable changes in the bill on the driver's licenses and birth certificates. I strongly support his proposal in this area to alleviate the concerns that the provisions amounted to an unfunded mandate. He has addressed those issues.

In addition, Senator SIMPSON has made important changes in the provision on the birth certificates. The amendment instructs the HHS, when issuing the guidelines for birth certificates, to not require birth certificates to be one single form for every State, and the other measures he has outlined.

This is a difficult issue for many, but it is an absolutely essential one. We are not serious in trying to deal with illegals unless we get right back to the breeder document, which Senator SIMPSON has done, and also in terms of a verification program, which we will have an opportunity to debate, and also in terms of the Border Patrol. Those are the essential aspects.

That is where the target is. Jobs are the magnet. This helps provide assurances that illegals are not going to get the jobs and legals, legal Americans will be protected. This is an extremely important provision. It is a difficult one and we will have a chance to address some of the related matters later in the afternoon.

Just very briefly, Mr. President, on some of the matters that were talked about earlier, I know my good friend from New Mexico talked about the SSI issues and also about how legals have moved into this process and have been drawing down on the program.

This issue of deeming has worked effectively with the SSI, and Senator SIMPSON has addressed that issue as presented in the SSI because it will go on for some 10 years—10 years. The deeming is an effective program, and it will go on for a period of 10 years.

So the principal concerns that the Senator from New Mexico has as has been pointed out here will be addressed in the Simpson program. Many of us are looking at other measures where we think the deeming should not be applicable and that is to try and ensure that legal immigrants are going to be treated identically to illegal immigrants for what are basically programs that will have an impact on the public health.

My good friend from Wyoming says we ought to deem those, too. The principal fact is when you deem those programs, deeming is effective and that gets people out of the programs. We do not want children with communicable diseases out of the program. We want them to be immunized. We want them to have the emergency care so that they will not infect other children. There is a higher interest, I would say, in those limited areas. The House of Representatives has recognized it as we do.

And then in the second proposal that I have put forward we recognize the importance of protecting expectant mothers, children and the veterans. Out of the $2 billion, it is $125 million. Again I think for those who have served under the colors of the United States, they ought to have at least some additional consideration as well as children. But we will have an opportunity to address those later on in the afternoon.

I see my colleague rising. I ask unanimous consent to be able to proceed for another 15 minutes.

Mr. SIMPSON. I think that would be all right.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, there were two other items. We have tried to

move this process along. I had hoped that we would be able to go back and forth, we would have one from one side, one from the other, and be able to intersperse my own amendments in with others. But as often happens around here, our colleagues are committed to important hearings over the course of the morning, so I will just finalize the last two amendments that I have. And then we will have an opportunity to address those in the postlunch period. That will conclude the debate on that.

Mr. President, I ask the current amendment be temporarily set aside. I will send——

Mr. SIMPSON. Mr. President, may I just enter this unanimous-consent request, to correct the withdrawal moments ago?

AMENDMENTS NOS. 3853 AND 3854, EN BLOC

Mr. SIMPSON. Let me ask unanimous consent the pending amendment be set aside temporarily, and ask unanimous consent amendments 3853 and 3854 be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes en bloc amendments numbered 3853 and 3854.

The amendments are as follows:

AMENDMENT NO. 3853

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

(A)(i) Subject to clauses (ii) and (iv), the President, acting through the Attorney General, shall begin conducting several local or regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(iv) At a minimum, at least one project of the kind described in paragraph (2)(E), at least one project of the kind described in paragraph (2)(F), and at least one project of the kind described in paragraph (2)(G), shall be conducted.

Section 112(f) is amended to read as follows:

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—(A) If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(B) If the Attorney General makes the determination referred to in subparagraph (A), the Attorney General may require other, or all, employers in the geographical area covered by such project to participate in it during the remaining period of its operation.

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

——

AMENDMENT NO. 3854

(Purpose: To modify bill section 112 (relating to pilot projects on systems to verify eligibility for employment in the U.S. and to verify immigration status for purposes of eligibility for public assistance or certain other government benefits) to define ''regional project'' to mean a project conducted in an area which includes more than a single locality but which is smaller than an entire State)

Sec. 112(a) is amended on page 31, after line 18, by adding the following new subsection:

''(i) DEFINITION OF REGIONAL PROJECT.—For purposes of this section, the term ''regional project'' means a project conducted in a geographical area which includes more than a single locality but which is smaller than an entire State.''.

AMENDMENT NO. 3829

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

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3829.

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

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

The amendment is as follows:

On page 8, line 17, before the period insert the following: ''except that not more than 150 of the number of investigators authorized in this subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or otherwise, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application''.

Mr. KENNEDY. Mr. President, under my amendment, up to 150 of the 350 Department of Labor wage and hour investigators authorized in the bill will be assigned the task of ensuring that employers seeking immigrant help do so according to our laws.

This amendment simply takes the same enforcement authority that is available to the Labor Department in the temporary worker program and makes it available to the permanent worker program. It does not create anything new. Enforcement activities covered under my amendment include the investigations of cases where there is a reasonable cause to believe the employer has made a misrepresentation of a material fact on a labor certification application. These enforcement activities are vital to reduce the number of immigrant and nonimmigrant victims of illegal immigration practices.

There is no better example of the need for better DOL enforcement than in the recruitment area. For example, employers currently are required to recruit U.S. workers first, bringing in permanent immigrants, but the recruitment process result is the hire of a U.S. worker only 0.2 of the time. A recently released report of the Department of Labor's inspector general shows recruitment in the permanent employment program is a sham.

Another example, the IG reports that during one 6-month period, 28,000 U.S. applicants were referred on 10,000 job orders and only 5 were hired.

I have other amendments to address these problems. At the minimum, what we should do is increase our capacity to enforce our current law.

That is it basically. It is a pretty straightforward issue. We discussed this issue in general terms during the course of the amendment debate.

Mr. President, I ask it be in order to temporarily set aside the existing amendment.

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

AMENDMENT NO. 3816

(Purpose: To enable employers to determine work eligibility of prospective employees without fear of being sued)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3816.

The amendment is as follows:

On page 37 of the matter proposed to be inserted, beginning on line 12, strike all through line 19, and insert the following:

(a) IN GENERAL.—Paragraph (6) of section 274B(a) (8 U.S.C. 1324b(a)(6)) is amended to read as follows:

''(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—

''(A) IN GENERAL.—For purposes of paragraph (1), a person's or other entity's request, in order to satisfy the requirements of section 274A(b), for additional or different documents than are required under such section or refusal to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals. A person or

other entity may not request a specific document from among the documents permitted by section 274A(b)(1).

''(B) REVERIFICATION.—Upon expiration of an employee's employment authorization, a person or other entity shall reverify employment eligibility by requesting a document evidencing employment authorization in order to satisfy section 274A(b)(1). However, the person or entity may not request a specific document from among the documents permitted by such section.

''(C) ABILITY TO PRESENT PERMITTED DOCUMENT.—Nothing in this paragraph shall be construed to prohibit an individual from presenting any document or combination of documents permitted by section 274A(b)(1).''.

(b) LIMITATIONS ON COMPLAINTS.—Section 274B(d) (8 U.S.C. 1324b(d)) is amended by adding at the end the following new paragraph:

''(4) LIMITATIONS ON ABILITY OF OFFICE OF SPECIAL COUNSEL TO FILE COMPLAINTS IN DOCUMENT ABUSE CASES.—

''(A) IN GENERAL.—Subject to subsection (a)(6) (A) and (B), if an employer—

''(i) accepts, without specifying, documents that meet the requirements of establishing work authorization,

''(ii) maintains a copy of such documents in an official record, and

''(iii) such documents appear to be genuine, the Office of Special Counsel shall not bring an action alleging a violation of this section. The Special Counsel shall not authorize the filing of a complaint under this section if the Service has informed the person or entity that the documents tendered by an individual are not acceptable for purposes of satisfying the requirements of section 274A(b).

''(B) ACCEPTANCE OF DOCUMENT.—Except as provided in subsection (a)(6) (A) and (B), a person or entity may not be charged with a violation of subsection (a)(6)(A) as long as the employee has produced, and the person or entity has accepted, a document or documents from the accepted list of documents, and the document reasonably appears to be genuine on its face.''.

(c) GOOD FAITH DEFENSE.—Section 274A(a)(3) (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

''(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral. This section shall apply, and the person or entity shall not be liable under paragraph (1)(A), if in complying with the requirements of subsection (b), the person or entity requires the alien to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b), and the document or documents reasonably appear to be genuine on their face and to relate to the individual, unless the person or entity, at the time of hire, possesses knowledge that the individual is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment. The term ''knowledge'' as used in the preceding sentence, means actual knowledge by a person or entity that an individual is an unauthorized alien, or deliberate or reckless disregard of facts or circumstances which would lead a person or entity, through the exercise of reasonable care, to know about a certain condition.''.

Mr. KENNEDY. Mr. President, this proposal goes to the heart of the dilemma that employers feel they are facing in the hiring of employees, many of whom speak with a different tongue, maybe have a skin color that is different from others. Many employers feel they are caught between a rock and a hard place. If they are too vigilant about ensuring they do not hire illegal aliens, they get charged with discrimination. If they are not vigilant enough, they get socked with employer sanctions.

This amendment eliminates that dilemma by amending both the employer sanctions and the document abuse provisions. For the first time, there is now explicit language guaranteeing that if the employers follow a few simple rules, they cannot be held liable under either the employer sanctions provisions or the document abuse provisions.

Here are the simple rules: As long as an applicant produces a document from the accepted list of documents—that will be the reduced list, the six that will be as a result of this bill —and the document appears authentic, the employer cannot ask for additional documents to prove employment eligibility.

If the employer follows these simple rules, my amendment contains explicit language ensuring that the employer is off the hook for employer sanctions on discrimination. If the applicant provides one of the six documents, and it is authentic or looks to be authentic and that person is hired, then effectively this provision will be a good-faith response to any charge that there was any intentional kind of discrimination against that individual.

The document abuse provision now states if the employer follows these rules, the Justice Department ''shall not bring an action alleging a violation of this section.'' These are entirely new provisions. Everybody agrees there is a serious problem against foreign-looking and foreign-sounding American citizens and legal immigrants. Everybody agrees also, and studies have confirmed, that employer sanctions have been used to discriminate.

The most widely utilized procedure is when employers see or understand that a Puerto Rican is applying and they ask for the green card. They ask for the green card, the Puerto Rican does not have a green card because he or she is a U.S. citizen, and, therefore, they discriminate against those individuals.

What this would say is, if the individual provided any of the six, then that effectively ensures that the employer will not be subject to the charge of discrimination. It basically resolves, I think, in a very important way, the employer and the applicant's interest.

It makes no sense to enact a provision that everyone knows can lead to possible problems of discrimination. The problems are document fraud and the pressure created by the employers by the employer sanction provisions. We already addressed the document fraud problem elsewhere in the bill. We are reducing the number of applicable documents from 29 to 6, and we are making it harder for criminals to manufacture the phony document.

This amendment eliminates the pressure on employers created by employer sanctions provisions. It also provides protections for the applicants. I think it is a preferable way of dealing with this particular issue. We had discussion on this in the committee and we did not accept these provisions, but it does seem to me that they meet the challenge of protecting us against discrimination and, also, against the employer being subject to employer sanctions.

Those are the principal items. As I said, we have had a good opportunity. The members of the Judiciary Committee are familiar with these measures. We have been on the legislation for a few days. These measures are complex, they are difficult, but they are enormously important because they reach the issues of discrimination. In the last instance, they reach the whole question about the assurance that we are going to give adequate notice for Americans when there are job openings so they can be protected, their interests can be protected, and we can ensure that when there are openings for American workers and they are qualified, that they are going to be able to gain the employment and there is not going to be a circuitous way to effectively undermine the interests of workers.

What we have found is that, in so many instances, when there is a hiring of a foreign worker the salaries go down and other benefits go down for that worker, so the American worker, first of all, does not get the job. And, then, if the foreign worker gets paid less, which means that an American company on the one hand is competing with this company and the second company has an advantage because they are paying their foreign workers less, and therefore they have a competitive advantage, the American workers at the second company lose their jobs, too.

So we want to try, to the extent we can, to make sure the current law is being enforced. When we come back to the issues of legal immigration, we will have an opportunity to address some of those items, which I think are very, very high priority.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have just 5 minutes remaining. We will, of course, return to these issues. I appreciate the cooperation of my friend from Massachusetts.

The first amendment at the desk—I do not recall the number, but the one on enforcement of labor conditions—is similar to the one my colleague offered at a subcommittee markup.

It concerned me then because of the broad grant of power that it makes to the Secretary of Labor to bring employers before a tribunal, demand various kinds of information and assess substantial penalties, and I remain very concerned about the same problems in this amendment.

He has argued that it provides investigative authority to the Department

of Labor in H–1B nonimmigrant cases, indicating this simply provides similar investigative authority to the Department of Labor as in labor certification cases, but in this amendment, the DOL can initiate its own investigations. It is given authority under section 556 of title V which it does not have in H–1B cases. There is an array of penalties and remedies that is greater than that in 212. I certainly think it would not be appropriate, and I would speak against it.

Quickly, with regard to the amendment dealing with the ''intent standard,'' I oppose that amendment. I have heard many more horror stories from employers who, when trying in absolute good faith to avoid hiring illegal aliens, have for one reason or another required more documents than the law requires or the wrong documents or fail to honor documents that appear to be genuine.

Here is a common scenario. We often hear scenarios of the aggrieved. Here is one.

A worker initially submits an INS document showing time-limited work authorization. At a later verification, however, the same employee produces documents with no time limitation—for example, a Social Security card—to show work authorization and a driver's license to show identity, both of which the employer knows are widely available in counterfeit form. What is the employer supposed to do?

Under current law, if the employer asks for an INS work authorization, he or she can be fined, for a first offense, up to $2,000 per individual. Yet, if the employer continues to employ the individual, he or she will be taking the chance of unlawfully hiring an illegal alien. Remember that compliance with the law requires an employer to act in good faith. Would there be good faith under such suspicious circumstances?

Furthermore, in hiring the individual, the employer would be facing the possibility of investing considerable time and resources, including training, in an individual whom the INS might soon force the employer to fire. There is also the loss of the work opportunity for the legal U.S. worker, people we speak of here.

In another example, a college recruiter cannot ask a job applicant, ''Do you have work authorization for the next year?'' That is discrimination because it would discriminate against asylees or refugees with time-limited work authorization. A recruiter may only ask, ''Are you permitted to work full-time?''

Employers cannot even ask an employee what his or her immigration status is. An employer may only ask, ''Are you any of the following? But don't tell me which.''

I oppose any kind of employment discrimination, always have throughout the whole course of years. Employers who intentionally discriminate in hiring or discharging are breaking the law. Scurrilous. But I do not believe it fair to fine the employers who are trying in good faith to follow the law.

Under this amendment, law-abiding employers would continue to be threatened with penalties. The amendment says an employer may not ask for different documents, even when the employer has constructive knowledge that the applicant's documents are likely to be false; must reverify an employee if their time-limited work authorization expires, and must accept documents provided; and will be fined for employer sanctions or unfair discrimination unless he or she asks for any specific documents from the alien. This is the same as current law, and I think this is unacceptable.

We will review and discuss it further. I will have further comments. But I believe, under the previous order, that we will now proceed to regular order with the direction of the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 2:15 p.m. today.

Thereupon, at 12:44 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, on behalf of the leader, I ask unanimous consent that the previously scheduled vote now occur at 2:45 today under the earlier conditions, and time between now and then be equally divided.

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

Mrs. HUTCHISON. Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, it had been our intention to start voting at 2:15, but at least one of our colleagues—maybe more—is involved in heavy, heavy traffic and trying to reach the Capitol in time for the votes. We have agreed to set aside those votes. What we are trying to do now, to accommodate our colleagues who cannot reach the Capitol now, is take up a couple of more amendments and have those votes along with the other votes that we have already agreed to.

I think Senator ABRAHAM on our side has an amendment, and we will ask him to come to the floor and present that amendment. Maybe Senator SIMON on the other side will have an amendment.

REPEAL OF THE GAS TAX

Mr. DOLE. Mr. President, let me also indicate something that it is not a part of this bill. It is still our intention to work out some procedure where we can take up repeal of the 4.3-cent gas tax. That is a matter of about $4.8 billion per year. It is our intention to repeal it until the end of the year and work on a permanent repeal during the budget process.

We believe, with the skyrocketing prices of gasoline, jet fuel, and other fuels, that the most certain way to give consumers relief is to repeal the gas tax. That was part of the 1993 $265 billion tax increase President Clinton proposed, which did not receive a single Republican vote in the House or Senate. A permanent repeal of the gas tax is about $30 billion.

So what we hope to propose, and hopefully on a bipartisan basis, at the appropriate time, is to go ahead and repeal the gas tax for the remainder of this year and try to get this done before the Memorial Day recess and deal with permanent repeal during the budget process. Of course, we would have to find offsets and pay for the repeal. It seems to me that we should do that as quickly as we can before the summer driving season starts in earnest.

Mr. KENNEDY. Mr. President, I know the majority leader wants to get on with the measures. We have been in touch with Senator SIMON and others. I understand Senator SIMON is coming to the floor, and others. I will just mention that, just as the leader wants to get on to the issues in terms of the gas tax, many of us would still like to get on with the issues of the minimum wage increase. That, I think, is something we are all interested in. We are all interested in different matters, and that has been outstanding for some period of time.

As I have indicated earlier, I hope that after we finish all of these amendments, while it is open for amendment, we would at least have the opportunity to offer it under the underlying bill. I know that the majority leader has not looked kindly on that in the past. But I wanted to at least make sure that we all understood at least what we were going to attempt to do.

Mr. DOLE. Mr. President, let me indicate to the Senator from Massachusetts that we have discussed not only minimum wage, but maybe even coupling these two items, joining the two, repeal of the gas tax and maybe the minimum wage, some increase. We talked about a lot of different options and we have not reached a decision. I can assure the Senator that he will be one of the first to know once we have reached a resolution.

Mr. BREAUX addressed the Chair.