William John Hawkins IV, age 17; Parents: Bill and Kit Hawkins.
Soren Anders Heitmann, age 17; Parents: Steve Heitmann and Natasha Kern.
Stacy Elizabeth Humes-Schultz, age 15; Parents: Kathryn Humes and Duane Schulz.
Marissa Tamar Isaak, age 15; Parents: Rabbi Daniel and Carol Isaak.
Heather Brooke Johnson, age 17; Parents: Tony and K.C. Johnson.
Katherine Mace Kasameyer, age 15; Parents: Kace and Jan Kasameyer.
Christopher Michael Knutson, age 18; Parents: Michael and Carol Knutson.
Jeanne Marie Layman, age 18; Parents: Charles and Debbie Layman.
Daniel Hart Lerner, age 17; Parents: Cheryl Tonkin and Glenn Lerner.
Casey James McMahon, age 18; Parents: Patty O'Connor and and Jack McMahon.
Lindsay Katrine Nesbit, age 17; Parents: Lee and Deborah Nesbit.
Gerald William Palmrose, age 16; Parents: David and Sonu Palmrose.
Mary Ruth Pursifull, age 19; Parents: Rajiam and Meidana Pursifull.
Catherine Clare Rockwood, age 16; Parents: Theresa Rockwood and David Rockwood.
Daniel Boss Rubin, age 15; Parents: Susie Boss.
Elizabeth (Liz) Leslie Rutzick, age 16.
Mark Richard Samco, age 16; Parents: Rick and Martha Samco.
Kathryn Denelle Stevens, age 15; Parents: Steve and Janet Stevens.
Simon Brendan Thomas, age 17; Parents: Susan Rosenthal and Bill Thomas.
Miles Mark Von Bergen, age 18; Parents: Paul and Jan Von Bergen.
Lauren Elizabeth Wiener, age 17; Parents: Julie Grandfield and Jon Wiener.
Farleigh Aiken Wolfe, age 17; Parents: Stephen and Jill Wolfe.

Mr. HATFIELD. I must also recognize the program that generates the enthusiasm of the Constitution in these students, the We the People * * * The Citizen and the Constitution features an intensive curriculum, which provides students with a fundamental understanding of the Constitution and the Bill of Rights and the principles and values they embody. The program is designed to promote an understanding of the rights and responsibilities of citizens of our constitutional democracy, and gathered around this particular focus have been more than 22 million students in this country who have participated in the program, at all levels, during the last 9 years—22 million. Developed and administered by the Los Angeles-based Center for Civic Education, the program is funded by the U.S. Department of Education.

In discussing the We the People Program, I want to pay special tribute to my good friend, Senator CLAIBORNE PELL of Rhode Island. Senator PELL's commitment to education is unparalleled in this institution. He is the father of the We the People Program, and he has been actively involved in its activities since its inception. Senator PELL has been a mentor to me and to all of us over the years on the issue of education, as well as other issues. The Senate is going to miss his intellect and pragmatic approach to governing. I want to also thank a gifted member of Senator PELL's staff, David Evans, for all of his hard work in conjunction with the We the People Program and his many years of faithful service.

Mr. President, Lincoln High School has built a dynasty in the We the People Program. This is a dynasty of success, but, most importantly, a dynasty of knowledge—knowledge that will enable them to understand our country's origins and foundations and knowledge that will help them to be better citizens.

Mr. President, I shout from the housetops, congratulations, Lincoln High School. You have made many people, myself included, very, very proud.

Mr. President, I ask unanimous consent to have a list of all the winners of the 1996 competition—the national winner at the top, Lincoln High School; second place, Amador Valley High School, Pleasanton, CA; third place, East High School, Denver, CO; and the following honorable mentions, regional awards, and unit awards—printed in the RECORD.

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

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION—LIST OF 1996 WINNERS

National winner: Lincoln High School, Portland, OR. Second place: Amador Valley High School, Pleasanton, CA. Third place: East High School, Denver, CO.

Honorable mention: Other Top Ten Finalists Team—Alphabetically by State)—Chamblee High School, Chamblee, GA; Maine South High School, Park Ridge, IL; Lawrence Central High School, Indianapolis, IN; St. Dominic Regional High School, Lewiston, ME; East Brunswick High School, East Brunswick, NJ; Half Hollow Hills High School, Dix Hills, NY; and McAllen Memorial High School, McAllen, TX.

Winners of Regional Awards: Best Non-Finalist Team from each Region—Western States: Boulder City High School, Boulder City, NV; Mountain/Plain States: Lincoln Southeast High School, Lincoln, NE; Central States: East Kentwood High School, Kentwood, MI; Southeastern States: Hillsboro Comprehensive High School, Nashville, TN; and Northeastern States: Hampton High School, Allison Park, PA.

Winners of Unit Awards: Best Non-Finalist Team for Expertise in each Unit of Competition—Unit 1 (*Foundations of Democracy*): Johnston High School, Johnston, IA; Unit 2 (*Creation of the Constitution*): Moriarty High School, Moriarty, NM; Unit 3 (*Constitution Shapes Institutions*): Hutchinson High School, Hutchinson, MN; Unit 4 (*Extension of Bill of Rights*): Heritage Christian High School, Milwaukee, WI; Unit 5 (*Protection of Rights*): Shades Valley Resource Learning Center, Birmingham, AL; and Unit 6 (*Role of Citizen*): Joplin High School, Joplin, MO.

Mr. PELL. Mr. President, I merely wanted to rise to express my gratitude to the Senator from Oregon [Mr. HATFIELD] for his kind words. Having worked with him for thirty years, I have great admiration and respect for the gentleman from Oregon. I have come to know and revere him as a man of courage, conscience, and conviction. It is an honor to be a recipient of the We The People award, it makes it doubly an honor to share it with my friend and colleague.

I yield the floor.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, let me go forward with the debate on the Kennedy proposals, so that we might press forward toward the dual votes within the shortest possible period of time. I will simply go to the root of the matter.

Mr. President, with regard to the Kennedy amendment, the American people believe strongly in the principle that immigrants to this country should be self-sufficient. We continue to emphasize this principle, as I said several times today. It has been part of U.S. immigration law since the beginning, and the beginning in this instance is 1882.

There is a continuing controversy on whether immigrants as a whole or illegal aliens as a whole pay more in taxes than they receive in welfare, noncash plus cash support. Or whether that is the case with public education and other Government services, there are experts, if you will, on both sides who say that they are a tremendous drain, and others say they are no drain at all. I have been, frankly, disenchanted by both sides in some respects, especially on the side that says bring everybody in you possibly can because it enriches our country regardless of the fact that some may not have any skills, some may not have any jobs, and without jobs there is poverty, and with poverty the environment suffers in so many ways. But that is another aspect of the debate.

I believe that, at least with respect to immigrant households—this is an important distinction; that means a household consisting of immigrant parents, plus their U.S. citizen children who are in this country because of the immigration of their parents—there is a considerable body of evidence that there is a net cost to taxpayers in that situation. George J. Borjas testified convincingly on this issue at a recent Judiciary Committee hearing.

Mr. President, an even more relevant question, however, may be whether any particular immigrant is a burden rather than immigrants as a whole. I respectfully remind my colleagues that an immigrant may be admitted to the United States only if the immigrant provides adequate assurance to the consular office, the consular officer, and the immigration inspector that he or she is ''not likely at any time to become a public charge.''

Similar provisions have been part of our law since the 19th century, and part of the law of some of the Thirteen Colonies even before independence. In effect, immigrants make a promise to the American people that they will not became a financial burden, period.

Mr. President, I believe there is a compelling Federal interest in enacting new rules on alien welfare eligibility and on the financial liability of

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

S. 1664 provides that if an alien within 5 years of entry does became a public charge, which the bill defines as someone receiving an aggregate of 12 months of welfare, he or she is deportable. It is even more important in this era that there be such a law since the welfare state has changed both the pattern of immigration and immigration—both the pattern of immigration and immigration—that existed earlier in our history because, before the great network of social systems, if an immigrant cannot succeed in the United States he or she often returned ''to the old country.'' This happens less often today because of the welfare safety net. Many back through the chain of history in my family returned ''to the old country'' because they could not make it here. That is not happening today because of the support systems within the United States.

The changes proposed by the bill clarify when the use of welfare will lead a person to deportability. These changes are likely to lead to less use of welfare by recent immigrants, or more deportation of immigrants who do become a burden upon the taxpayer. One of the ways immigrants are permitted to show that they are not likely to become a public charge is providing an ''affidavit of support'' by a sponsor, who is often the U.S. relative petitioning for their entry under an immigrant classification for family reunification.

You heard that debate when we spoke briefly of numbers and legal immigration. We talked of that. That is what those classifications, or preferences, for family reunification are.

Under current law, sponsors agree to provide support only for 3 years. That is current law. Furthermore, the agreement is not legally enforceable, because it has been ripped to shreds by various court decisions down through the years.

The bill's sponsor provisions are based on the view that the sponsor's promise to provide support, if the sponsored immigrant is in financial need, should be legally enforceable and should be in effect until the sponsor's alien (a) has worked for a reasonable period in this country paying taxes and making a positive economic contribution or (b) becomes a citizen, whichever occurs first.

That is the provision. The bill provides that the maximum period for the sponsor's liability is 40 ''Social Security quarters''—about 10 years—the period it takes any other citizen to qualify for benefits under Social Security retirement and certain Medicare programs.

The bill also provides that deeming of the sponsor's income and assets to the sponsored alien should be required in nearly all welfare programs—all—and for as long as the sponsor is legally liable for support, or for 5 years, a period in which an alien can be deported as a public charge, whichever is longer.

Remember, we are talking about means-tested programs. We are talking about all programs. Yet, amendments make distinctions, and those things have been addressed as we debated. But it is simply not unreasonable of the taxpayers of this country to expect recently arrived immigrants to depend on their sponsors for at least the first 5 years regardless of the specific terms in the affidavit of support signed by their sponsors.

It was only, I say to my colleagues, on the basis of the assurance of the immigrant and the sponsor that the immigrant would not at any time become a public charge that the immigrant was even allowed to come to our country, to come into the United States of America. It should be made clear to immigrants that the taxpayers of this country expect them to be able to make it in this country on their own.

I have heard that continually threaded through the debate—that they come here, they want to make it on their own. We are a great country for that; the most generous on the Earth. They do that, and they do it with the help of their sponsors.

Again, remember, if the sponsor is deceased, or bankrupt, or unable to provide any of the assistance or support, then, of course, the taxpayers step in in a very generous way to do that.

Mr. President, that concludes my remarks with regard to the amendments, unless Senator KENNEDY or others wish to address the issue anew.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Mr. KENNEDY. Thank you very much, Mr. President.

Mr. President, I hope that at some time in the not-too-distant future we might be able to address the two amendments, 3820 and 3823, which I have offered. These amendments are quite different in one respect, but they are also similar in another respect in terms of reflecting what I consider to be the higher priorities of the American people, particularly as focused on children, expectant mothers, and also all veterans.

Let me describe very briefly, Mr. President, our first amendment that we will offer. That is what we call the ''deeming party'' amendments. These amendments ensure that legal immigrants are eligible for the same programs on the same terms as illegal immigrants. My amendment says that legal immigrants cannot be subject to the sponsor deeming public charge provisions in this bill for programs which illegals get automatically and for other programs such as Head Start and public health, with a minor exception for prenatal care. This is the same amendment which was passed in the House of Representatives immigration bill.

Effectively, Mr. President, this amendment tracks what was accepted in the House of Representatives. Why did the House of Representatives accept it? Because they understand, as we understand, that when you put in effect deeming that cuts down on the utilization of the program. That is why we have supported and I support the deeming in the SSI. That is the particular program where there has been the greatest utilization. You have the AFDC and food stamp programs. But the principal reason for deeming is to reduce the utilization of that program, and it is effective.

The House of Representatives has said, look, there are certain public health programs, for example, that we ought to permit the illegals to be able to use. Why? Because if they use those particular programs, this will mean that it is healthier for Americans. They do it not because they want to benefit the illegal children but because they want to protect American children.

What do I mean by that? I am talking about immunization programs. I am talking about emergency health programs—emergency Medicaid, where a child goes into the school, then ends up having a heavy cough, perhaps is denied any kind of attention in the school health clinic because he is illegal, although he should get it, and eventually goes down as an emergency student, stays in the classroom and goes down to the local county hospital and is admitted for TB, and in the meantime, while that child has not had any kind of attention, has exposed all the other American children to the possibility of tuberculosis.

That is true with regard to immunization programs. That is basically the type of issue we are trying to look at. It also includes the school lunch program, saying that if the children are going to be educated, we do not want to ask the teachers to try and separate out the illegal children in school lunch programs. That would be very complicated. It would turn our schoolteachers into really agents of INS. It would have the teachers going around and reviewing documents for each and every child to try and identify and then take those children out, separate them out.

It seems to me that we ought to understand the broader policy issue. The real problem in dealing with illegal immigration, as the Hesburgh commission found out 15 years ago and as the Jordan commission has restated, the jobs are the magnet that brings foreigners into our country illegally. Jobs is the magnet.

The real problem is, how are we going to deal with that? Senator SIMPSON has, to his credit, worked out an orderly kind of process by which we are going to reduce the number of breeder

documents and we are going back to the root causes for those breeder documents, and then we are going to test various kinds of programs in terms of what can be most effective in verifying that it is Americans who are getting jobs and not the illegals.

We are going to have votes on those particular measures. But I am going to stand with the Senator from Wyoming on those measures because they are a key element if we are serious about dealing with illegal immigration. Then there are provisions dealing with the border and Border Patrol and enhanced procedures. All of those, we believe, can be effective in terms of dealing with the job magnet that draws people here.

Our problem is not with the children. Our problem is not with the expectant mothers, the expectant mothers who are going to have children born here and will be Americans. In the current bill, we have said that the mother has to be here for 3 years, so we are not encouraging expectant mothers to come over here and take advantage of the program.

This particular amendment that I have offered says we will make the Senate bill consistent with what has been passed in the House of Representatives on those key elements that primarily affect children, expectant mothers, and are listed and are structured in order to protect community health and public health issues.

That is basically what we are attempting to do with this. This amendment is effectively the identical amendment in the House of Representatives. We want to make sure that we are going to say to legal immigrants—these are people, 76 percent of whom are relatives of American families. All have played by the rules. All of them have waited their turn to get in and be rejoined with their families, all who have been qualified and may have fallen on some hard and difficult times, and what we are going to say is in this very limited area which the Congress has made a decision and determination, we are making these policy determinations not to benefit the child but to benefit Americans.

Do we understand that? These proposals have been accepted in the House of Representatives, and I am urging that they be accepted here because they protect Americans. They should not follow the same deeming requirements as in other aspects of the bill. That is effectively what this proposal does and what it would achieve. I think it is warranted. I think it is justified. We have debated it in our Judiciary Committee, and I hope it will be accepted.

Mr. PELL. Mr. President, I rise today to speak on behalf of the Kennedy amendment to S. 1664. I support the Kennedy amendment because it would protect the multitudes of students who are eligible for Federal student aid under title IV of the Higher Education Act.

Under current law, only legal immigrants are eligible to receive Federal financial aid to attend college. However, provisions in the bill that stands before us today would require that for Federal programs where eligibility is based on financial need, the income and resources of the sponsor of a legal immigrant would be deemed to be the income of the immigrant. Simply put, the resources of an immigrant student would be artificially inflated, therefore, most legal immigrants would not qualify for Pell grants or student loans.

I have always sought to expand educational opportunities for the students of this country. To my mind, any person with the desire and talent should be afforded the opportunity for at least 2 and possible 4 years of education beyond high school. The students that have legally immigrated to this country should not be excluded from the vast opportunities that a higher education can provide them.

Half of the college students in this country rely on Federal grants or loans to help pay for college. Student aid more than pays for itself over time. A college graduate earns almost twice what a high school graduate earns—and pays taxes accordingly. Denying a postsecondary education to economically disadvantaged legal immigrants is profoundly unfair and economically shortsighted. Legal immigrants pay taxes and can serve in the military. Legal immigrants also contribute significantly to the national economy. For these reasons I encourage my colleagues to join me in support of the Kennedy amendment, therefore, eliminating the deeming requirements as they apply to Federal student aid programs.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Kennedy amendments 3820 and 3823 en bloc at the hour of 4:50 this evening, to be followed immediately by a vote on or in relation to the Kennedy amendment 3822.

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

Mr. SIMON. Reserving the right to object, will the Senator make it 4:53, so I can get 3 minutes in here?

Mr. SIMPSON. We have people apparently going to the White House. I will yield my time to the Senator. Take the 2. I was going to conclude. You may take that, and I will come at my friend with vigor at some later forum.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I will try to be more brief than the 3 minutes. I think so much of this makes sense. People who are here legally should get the same services as those who are here illegally.

What I particularly want to point out is the higher education provision really would devastate many campuses and the future of many young people. People who came here legally, whose children are going to American colleges and universities taking advantage of our programs in terms of loans and other programs, we ought to be encouraging that higher education rather than discouraging it. The Kennedy amendments, it seems to me, move in the right direction.

Finally, to protect pregnant women and children, I think that is kind of basic. So I strongly support the Kennedy amendments.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I have about 30 seconds. Let me just say we have already exempted school lunch and WIC in the managers' amendment which we passed yesterday.

This amendment combines several distinct exemptions to the ''deeming'' requirements in the bill. Everyone should understand what ''deeming'' does. Deeming requires sponsors to keep their promises.

Since 1882, our law has stated that no one may immigrate to this country if they are ''likely at any time to become a public charge.'' Many individuals—about half of those admitted in 1994—were only permitted to enter after someone else promised to support that newcomer. The sponsor guarantees that the sponsored immigrant will not require any public assistance.

Senator KENNEDY's amendment provides a number of exceptions to this ''deeming'' rule for:

First, emergency Medicaid; second, foster care; third, Headstart; and fourth, Pell grants and other federally funded assistance for higher education.

On the general issue of exemptions from deeming, I would stress that deeming only prevents a sponsored individual from accessing welfare if the sponsor has sufficient resources to disqualify the applicant. When a sponsor is not able to provide assistance, then the Government will provide it.

I am not certain that there should be any exemptions from deeming. Why should we permit individuals to access our generous social services, when they have sponsors who have promised to provide for them and presumably have the wherewithal to provide the needed assistance?

Furthermore, I have concerns about exempting Headstart and Pell grants from the deeming requirements. These programs are not open to every American. Even though we spend more than $3 billion on Headstart, the program only serves about 30 percent of poor children ages 3–4. I am not certain that we should continue to permit newcomers access without regard to the incomes of the sponsors that promised to support them.

The Government has limited money for Pell grants as well. At a time that college tuition costs are rising, it does not make sense to provide scarce resources to sponsored individuals—who

have sponsors that promised to provide support—when many citizens are having difficulty affording the high costs of college. We have already provided exemptions for those students who are in school—they will have no deeming applied to their financial aid. Are we going to educate those who come from around the world—promising never to use public assistance as a condition of coming here—before we provide enough funds to educate all the people who are here right now and who are having trouble with college expenses right now? It seems most puzzling.

I thank the Chair.

VOTE ON AMENDMENT NOS. 3820 AND 3823, EN BLOC

The PRESIDING OFFICER. The question is on agreeing to amendments Nos. 3820 and 3823, en bloc. The yeas and nays are ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—46

Akaka	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Pell
Breaux	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnston	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Snowe
Dorgan	Kohl	Specter
Exon	Lautenberg	Wellstone
Feingold	Leahy	Wyden
Feinstein	Mack	
Ford	Mikulski	

NAYS—53

Abraham	Domenici	Lott
Ashcroft	Faircloth	Lugar
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Bryan	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thurmond
DeWine	Levin	Warner
Dole	Lieberman	

NOT VOTING—1

Thompson

So the amendments (Nos. 3820 and 3823), en bloc, were rejected.

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

Mr. GRAHAM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3822

The PRESIDING OFFICER (Mr. ABRAHAM). The question is now on agreeing to amendment 3822.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are quite prepared to go to a vote on this. We addressed the Senate and had a short debate and discussion earlier today. Effectively, what this is doing is you have deeming for all of the Medicaid programs. What we are doing is carving out three narrow areas: children, expectant mothers, and veterans. There is $2 billion for all of the Medicaid programs. This is $125 million in terms of cost.

For the same reasons we have outlined here, we think that the expectant mothers ought to get the treatment because they are going to have a child that will probably be an American citizen. We think veterans—you have 24,000 veterans that will be under a means-tested program. The reality is those veterans, particularly with regard to prescription drugs, ought to be attended to. Obviously, the emergency kinds of assistance under Medicaid they should be eligible for.

A very narrow carveout. It costs $125 million over the next 5 years as compared to $2 billion. That is effectively what the carveout is.

Mr. SIMPSON. Mr. President, if Senator KENNEDY had an opportunity to address that issue, obviously, I should have the same opportunity. I think all would concur. So I want to have approximately 1½ minutes, whatever that was.

First, let me say the veterans are well taken care of in this country. That one just will not even float. We spend $40 billion for veterans. They have their own health care system. This is another hook. I yield to Senator SANTORUM.

Mr. SANTORUM. Thank you, I say to the Senator.

I just remind Senators that 87 Members of this Chamber voted for a welfare reform bill that passed the U.S. Senate that said all legal-sponsored immigrants receive no deeming. We eliminate deeming. Under the welfare bill we passed there is no deeming. If you are a legal immigrant in this country, sponsored, you are not eligible for welfare benefits until you become a citizen. And 87 Members of the Senate voted for that.

This is a much weaker version. What this keeps in place is a deeming provision that says that you are not eligible for benefits unless your sponsor cannot pay for it. We had no provision like that. There was no fallback. You just were not eligible, period.

Under the Simpson bill we are considering, at least there is a fallback that says if your sponsor can no longer help you, then we will.

So this is a weaker provision under the existing Simpson language than what 87 Members of the Senate voted for previously. So understand that you are falling back already, and those who were support this amendment would be falling back even further from the changes 87 Members voted for.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Tennessee [Mr. THOMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—47

Akaka	Glenn	Lieberman
Biden	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Bradley	Hatfield	Moynihan
Breaux	Heflin	Murray
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Specter
Feingold	Lautenberg	Wellstone
Feinstein	Leahy	Wyden
Ford	Levin	

NAYS—52

Abraham	Exon	McCain
Ashcroft	Faircloth	McConnell
Baucus	Frist	Murkowski
Bennett	Gorton	Nickles
Bingaman	Gramm	Nunn
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thurmond
DeWine	Lott	Warner
Dole	Lugar	
Domenici	Mack	

NOT VOTING—1

Thompson

So the amendment (No. 3822) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. CHAFEE. I wonder, Mr. President, if I might have a brief intervention here.

Mr. SIMPSON. That will be on the Senator's hour.

CHANGE OF VOTE

Mr. CHAFEE. Mr. President, on vote 94, the Kennedy amendments Nos. 3820 and 3823 en bloc, I voted ''nay,'' and I would ask unanimous consent that I might be recorded as ''yea.'' That will not affect the outcome of the vote.

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

Mr. CHAFEE. I thank the Chair.

(The foregoing tally has been changed to reflect the above order.)

CRIMINAL ALIEN TRACKING CENTER

Mr. LEAHY. Mr. President, yesterday, the Senate approved an amendment that Senator HUTCHISON and I offered to bolster one of the strongest tools local and State law enforcement agencies have to identify and deport criminal aliens in our country. The Criminal Alien Tracking Center—also known as the Law Enforcement Support Center [LESC]—is the only online national data base available to local law enforcement agencies to identify criminal illegal aliens. I am proud that this facility is located in South Burlington, VT.

Our amendment will increase the authorization for the LESC in recognition of the need to bring additional States online as well as expand the scope of the work being done at the tracking center. President Clinton recently signed the Terrorism Prevention Act into law. The bill identified how important the Tracking Center has become and proposed that the Center become the repository for an alien tracking system.

Even before these additional responsibilities, the LESC staff in Vermont had demonstrated that the Center is a valuable asset and essential to our national immigration policy. The Center provides local, State, and Federal law enforcement agencies with 24-hour access to data on criminal aliens. By identifying these aliens, LESC allows law enforcement agencies to expedite deportation proceedings against them.

The Center was authorized in the 1994 crime bill. The first year of operations has been impressive as the 24-hour team identified over 10,000 criminal aliens. After starting up with a link to law enforcement agencies in one county in Arizona, the LESC expanded its coverage to the entire State. In 1996, the LESC is expected to be online with California, Florida, Illinois, Iowa, Massachusetts, New Jersey, Texas, and Washington.

The Tracking Center has become the hub at INS for seamless coordination between Federal, State, and local authorities. I would suggest to Commissioner Meissner, that the facility become the national repository for all INS fingerprint records relating to criminal aliens. Information from the fingerprints would be most accessible if the Center stored this information in an AFIS/IDENT data base with a link to FBI data bases.

As a former State's attorney, I also know that even the best tracking system does not work unless there is an adequate system to ensure that criminal files are promptly sent to investigators. That is why it would also make sense to have the LESC serve as the repository for INS A-files related to aggravated felons and aliens listed in the NCIC deported felon file. Locating these files at the Tracking Center will improve their accessibility to INS agents and U.S. attorney offices throughout the United States.

Mr. President, Congress must continue the empowerment of local law enforcement agencies in their efforts to identify criminal illegal immigrants. I am pleased that the Senate approved our amendment, No. 3788, that will increase the authorization for the Tracking Center—a resource every State should have in the fight against criminal aliens. I thank, in particular, the managers of the bill, Senator SIMPSON and Senator KENNEDY, for including these provisions in the manager's amendment.

Mr. KYL. Mr. President, I rise to comment on a provision that is included in the managers' amendment to S. 1664, the immigration reform bill. I am pleased to introduce this amendment, which will require verification of citizenship and/or immigration status for those applying for housing assistance. The applicant will have 30 days to provide proper documentation, or assistance will not be provided; applicants who have failed to provide documentation in that time will be taken off the waiting list. For those who already receive housing assistance, a verification of immigration status may be required at the annual recertification. Annual recertification for housing assistance is already required to determine income levels, and I would urge housing authorities to make good use of this option. If a housing authority requests verification, a household will have a 3-month period to obtain proper documentation or assistance will be terminated. Once the 3-month appeal is exhausted, a hearing may be granted in the fourth month. It is important to note that political refugees and asylum seekers are exempt from my proposal. The amendment I offer today passed the House immigration reform bill unanimously as part of the managers' amendment.

In 1980, Congress passed the Housing and Community Development Act, which included a section prohibiting illegal aliens from receiving Federal housing assistance. In 1995, 15 years after the bill passed, HUD issued regulations to implement the 1980 changes. Its regulations, however, will do little to prohibit illegal aliens from continuing to receive taxpayer-supported housing.

Under current regulations, illegal aliens can be placed on a waiting list and then granted housing assistance without having to provide documentation proving that they are eligible to receive the assistance. If a household is not eligible to continue receiving assistance currently it may appeal the decision in 3-month increments for up to 3 years. That is 3 years of taxpayer assistance for someone who may not be eligible to receive the funds.

In my home State of Arizona, officials of the Maricopa Housing Authority (which is primarily Phoenix) told me that, by their estimates, fully 40 percent of the people receiving housing assistance in Maricopa County are illegal. In Maricopa County, there are 1,334 Section 8 units and 917 public housing units available. The waiting list for units has 6,556 on it. If 40 percent of the current occupants are illegal, that means 900 housing units should be made available to those citizens or legal immigrants waiting their turn.

The problem in Arizona is dramatic; nationwide it is even more dramatic. In his report entitled ''The Net National Costs of Immigration,'' Dr. Donald Huddle of Rice University estimates that the cost of public housing provided to illegal immigrants in 1994 was roughly $500 million.

Even President Clinton acknowledged that there is a problem. When proposing guidelines for public housing this year, he said most public housing residents have jobs and try to be good parents, and, that it is unfair to let lawbreakers ruin neighborhoods, especially since there are waiting lists to get into public housing. ''Public housing has never been a right,'' he said, but rather ''it has always been a privilege. The only people who deserve to live in public housing are those who live responsibly there and those who honor the rule of law.''

The public housing authorities, of course, are the entities that will have to implement any new policy we enact. I contacted the housing authorities of Tempe, Yuma, Tucson, and Maricopa County. Not one of the housing authorities disagreed with my proposal. They all said that once an applicant or resident checks on an affidavit that he/she is a legal citizen, they are not allowed to pursue the issue. The housing authorities currently only ask for verification of immigration status if the applicant checks that he/she is an immigrant.

This amendment will curb the amount of housing assistance—paid for by taxpayers—going to illegal immigrants. It will return housing opportunities to the people who are here legally. I thank my colleagues for supporting this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. SIMPSON. Mr. President, what is the status of things at the moment? I know that is unfair.

The PRESIDING OFFICER. We have several amendments pending in the second degree. Which amendment would the Senator want to consider?

AMENDMENTS NOS. 3855, 3857, 3858, 3859, 3860, 3861, 3862

Mr. SIMPSON. The amendments have been consolidated en bloc; 3855, 3857, 3858, 3859, 3860, 3861, 3862 all relating to the birth certificate issue and driver's license portion—has my amendment on birth certificates and driver's licenses.

Is that the regular order?

The PRESIDING OFFICER. It is the pending business.

Mr. SIMPSON. Let me just briefly and in 1 minute tell you what we have done. In this amendment, we provide that the new counterfeit and tamper-resistant driver's license in the bill, whatever they are, whatever State, will be phased in over 6 years, and the new standards will apply only to new, renewed or replacement licenses—not something issued 10 or 20 years before.

After this change, the bill will no longer be an unfunded mandate. CBO has an estimate after total State and local cost of driver's license and birth certificate improvements, finding it to be $10 to $20 million spread over 6 years. New minimum standards on birth certificates go into effect only after the Congress has had 2 years to review them, and cannot require all States to use a single form.

I talked to the manager of the bill and will now urge the adoption of the en bloc amendment by voice vote.

Mr. President, the amendment would phase in the bill's requirements for improved driver's licenses and State-issued I.D. documents over 6 years, beginning October 1, 2000—the year suggested by the National Governors' Association.

Under my amendment, the improved format would be required only for new or renewed licenses or State-issued I.D. documents, with the exception of licenses or documents issued in one State where the validity period for licenses is twice as long—12 years—as that in the State with the next longest period. This one State would have 6 years to implement the improvements.

Furthermore, the bill's provision that only the improved licenses and documents could be accepted for evidentiary purposes by government agencies in this country would—under the amendment I am now proposing—not be effective until 6 years after the effective date of this section, October 1, 2000. By this time 49 of the 50 States will have the new licenses and I.D. documents without any requirement for early replacement. In one State, some individuals wanting their license to be accepted by governments for evidentiary purposes would have to renew earlier than would be required without enactment of the bill, but would still have more time—6 years—than every other State except one, which would also have 6 years.

Thus, the amendment would mean that 6 years after the general effective date for this subsection of the bill—October 1, 2000—the improved licenses would have completely replaced the old ones and would be required for evidentiary purposes in all government offices.

Mr. President, I want to remind my colleagues that fraud-resistant I.D. documents will not only make possible an effective system for verifying citizenship or work-authorized immigration status—and thus greatly reduced illegal immigration. The improved documents will also make possible an effective system for verifying immigration status for purposes of welfare and other government benefits—resulting in major saving to the taxpayers. Additional benefits to law-abiding Americans would come from reduced use of fraudulent I.D. in the commission of various kinds of financial crimes, voting fraud, even terrorism.

My amendment is a response to the Congressional Budget Office's estimate of the cost of the bill's current requirement that improvements in driver's licenses and I.D. documents be implemented October 1, 1997.

If the amendment is adopted, the additional cost of replacing all licenses and I.D. documents by 1998, including those that would otherwise be valid for an additional number of years would be eliminated. Instead of costing $80 to $200 million initially, plus $2 million per year thereafter, CBO estimates that the total cost of all the birth certificate and driver's license improvements would be $10 to $20 million, incurred over 6 years.

CBO has written a letter confirming that fact.

Mr. President, with respect to birth certificates, the bill now requires that, as of October 1, 1997, no Federal agency—and no State agency that issues driver's licenses or I.D. documents—may accept for any official purpose a copy of a birth certificate unless (a) it is issued by a State or local government, rather than a hospital or other nongovernment entity, and (b) it conforms to Federal standards after consultation with State vital records officials. The standards will affect only the form of copies, not the original records kept in the State agencies.

The new standards will provide for improvements that would make the copies more resistant to counterfeiting, tampering, and fraudulent copying. One important example: the use of ''safety paper,'' which is difficult to satisfactorily photocopy or alter.

There is no requirement in the bill that all States issue birth certificate copies in the same form. But in response to concerns that some have expressed, the amendment I am now proposing explicitly requires that the implementing regs not mandate that all States use a single form for birth certificate copies, and requires that the regs accommodate differences between the States in how birth records are kept and how certified copies are produced from such birth records.

The bill provides that the regulations are to be developed after consultation with State vital records officials. Therefore, the differences between the States in how birth records are kept and how copies are produced will be fully known and accommodated by the agency developing the regulations.

Mr. President, my amendment also requires a report to Congress on the proposed regulations within 12 months of enactment. In addition, the amendment provides that the regulations will not go into effect until 2 years after the report. This will give Congress plenty of time to consider the report and take action, if necessary, to prevent implementation of the regulations.

The amendment also provides for a number of other changes suggested by HHS in a written comment sent in March, during the Judiciary Committee markup process:

First, the implementing regs will not necessarily be issued by HHS, but by an agency designated by the President—and the agency developing the regs must consult not only with State vital records offices, but with other Federal agencies designated by the President.

Second, in the description of the standards to be established in the regs, the reference to ''use by imposters'' will be deleted and replaced by the phrase ''photocopying, or otherwise duplicating, for fraudulent purposes.'' This change makes clear that there is no longer any requirement in the bill for a fingerprint or other ''biometric information.''

Third, funding is authorized for the required HHS report on ways to reduce fraudulent use of the birth certificates.

Fourth, the definition of ''birth certificate'' is modified to cover not only persons born in the United States, but also persons born abroad who are U.S. citizens at birth—because of citizenship of their parents—and whose birth is registered in the United States.

Fifth and finally, the effective date for the provisions relating to the new grant program for matching birth and death records and the requirement that the fact of death—if known—be noted on birth certificate copies of deceased persons will be 2 years after enactment rather than October 1, 1997.

These modifications represent most of the changes suggested by HHS.

Mr. President, back to the subject of driver's licenses: There is a technical correction that needs to be made to the grandfathering provision in the driver's license section of the bill. This grandfathering provision is one that my colleague, Senator TED KENNEDY, and I agreed to at the Judiciary Committee markup.

The agreement was that States would be exempted from the bill's requirement that State driver's licenses and I.D. documents contain a Social Security number, if—at the time of the bill's enactment—the State requires that applicants submit a Social Security number with their application and that a State agency verify the number with the Social Security Administration—but does not require that the number actually appear on the license or document.

This agreement is not reflected in S. 1664 in its present form. The amendment I am proposing will correct that.

Mr. SIMON. Mr. President, these amendments are acceptable on our side. We support them.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments en bloc (Nos. 3855, 3857, 3858, 3859, 3860, 3861, and 3862) were agreed to.

Mr. SIMPSON. Mr. President, just to review the matter at this time, the clock is running on the 30 hours. There are many amendments filed and few people to come to present them. That is usual procedure. We do not want to inconvenience people.

There are several amendments. Senator KENNEDY, I believe, does the desk reflect that there are two amendments of Senator KENNEDY that are pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. Two total?

The PRESIDING OFFICER. That is correct.

Mr. SIMPSON. Then there are two of Senator SIMON, one of Senator SHELBY. Are those at the desk or have they been presented?

The PRESIDING OFFICER. There are several Simon amendments at the desk.

Mr. SIMPSON. We can proceed with the Simon amendments, discuss those, debate those, and see if we can process those this evening.

I would like to get a time agreement if at all possible. We are trying to give our colleagues some indication as to the requirements of their preparation here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3829

Mr. KENNEDY. Mr. President, in the course of the morning earlier today we offered amendments with regard to labor enforcement and also on the issues of discrimination. We had a brief interchange on that. We have been ready to move toward a decision on this measure. I know that the Senator from Wyoming has reservations about it, but let me just mention briefly again what the substance of this amendment is all about.

As I noted in my earlier remarks, this amendment provides the Department of Labor authority to do in the permanent workers immigrant program what it can already do on the temporary worker visa program. We effectively have two programs. On the temporary workers, even though it is called temporaries, it is up to 6 years, and there were about 65,000 last year. Under the permanent program it is 140,000, of which about 85,000 to 90,000 of those places are used. Within those 85,000, about 10,000 or 15,000 are individuals that are defined in the regulations of what we call the best and the brightest. Those are professors at universities that have a distinguished career. They are business managers that move from country to country in many of the international fields—top researchers and top scientists at the top of their fields—and regulations have been established for those individuals to be able to come in.

But the other segment of those—probably 30,000 to 40,000, it varies from year to year—there is a process and a procedure to ensure that there will be an invitation for American workers, if they are qualified, to fill those jobs before the farm workers are brought into this country.

What we have seen in recent times is that process is basically a subterfuge. There were over 10,000 applicants last year, workers that were qualified for those jobs. Only five of them were able to get the jobs. The issue has been outlined in detail both in the press and in the IG report.

So, clearly, what is happening is American workers' interests are not being attended to. As we are looking at general enforcement areas and mechanisms—and we did review the other general enforcement mechanisms in the bill which are related to enforcement procedures that apply to illegal aliens but also have a reference to legal aliens—what this amendment does is not very revolutionary. It makes provisions for the enforcement of existing laws. What use is a law if it cannot be enforced?

The Department of Labor inspector general's report, widely reported and commented upon, provides all of the additional information necessary, that our laws are not being followed and the American worker is the victim. Businesses have said that the enforcement of existing laws should be the focus of our efforts.

That is what we want to do. We are providing the Department of Labor sufficient numbers of investigative personnel. Out of the numbers that have been included in this bill, we are designating a number of those that will be used for this purpose. It does not make sense to hire additional people and then tie one hand behind their backs. If we are serious about enforcing the law to benefit American and foreign workers, the amendment I am proposing is a good place to start.

So, Mr. President, effectively that is what this amendment does. All it does is enforce existing law. All we are doing is allocating personnel to do for the permanent workers what we do for the temporary workers: to make sure that the provisions of the law are going to be respected. They are not today. It is not just my stating that they are not and reviewing the facts that they are not. I rely on the IG's report of the Department of Labor that spells this out in chapter and verse. It has been made public within the period of the last 3 weeks. I will not take the time of the Senate, unless there are Members that want to, and review their various findings, but the bottom conclusion is that this law is not being adhered to because it is not being enforced.

This measure is a very modest program, but it is an important program. The bottom line is that it will have an impact in giving greater assurance to qualified American workers that when these vacancies become available and the American workers are qualified for those vacancies, they will be considered, and considered favorably, for those particular employment opportunities. That is not the case now. What we have seen from the IG's report is that in many instances these workers are brought in, they are paid less than they are guaranteed, or provided, and they do not qualify for the other kinds of benefits. The wages go down. Other workers are brought in in a similar way.

So the bottom line is that there is a whole series of professional, skilled workers that are working for perhaps two-thirds or a half of what the American counterpart is earning, and the American counterpart is working in an American plant. So Americans are disadvantaged in two ways: No. 1, they are denied the opportunity to get the job in the first place; and, second, their brother workers who are working in a similar plant and earning a fair income, are further disadvantaged by the fact that these wages go down, and the companies are at a competitive advantage in one sense and disadvantaged in the other as a result of this program.

The program is on the books. It is not being enforced. The IG, as I said, has outlined in detail the kinds of circumstances which I have outlined, and we are allocating a certain number of those authorized personnel to be available to enforce the law.

Mr. President, we have not increased any of the penalties for violations. They will be consistent across the board between those that violate the law under the temporaries as well as those that violate the law under the permanent. There are questions about that. We can work that out and refer to the sentencing commission so there is uniformity on similar bills that might apply in other agencies.

This is an important program to help protect American workers that are qualified, so that they are not effectively being discriminated against in terms of their job applications as a result of the desire to bring in foreign workers and then to pay them less.

Mr. President, that effectively is what the amendment is about. I will be glad to either respond to questions or to move forward with the amendment.

Mr. SIMPSON. Mr. President, the concern here of some of us is the conducting of an investigation on the initiative of the Secretary of Labor or on the basis of a complaint. I wonder if I might inquire of my friend from Massachusetts, if we were to strike the word ''or otherwise''—on line 6, where it says the Secretary of Labor to conduct an investigation pursuant to a complaint ''or otherwise''—I wonder, if we were to

remove that, my objection would be less. Then you would still have to have reasonable cause to believe the employer has made a misrepresentation of a material fact on a labor certification.

I share the Senator's view and the view of the Secretary of Labor that certainly there have been abuses, and there have been, but I think that alone rather lends an uncomfortable aspect to it as to what ''otherwise'' would mean there.

Mr. KENNEDY. May I respond briefly?

I welcome the opportunity to try to find other words that might be acceptable, ''or otherwise.'' What we are attempting to address, if we strike ''or otherwise,'' the only way that there would be any kind of triggering of this measure would be on the action of a complaint by the individuals affected. Quite frankly, that is not going to happen because the minute that happens, this person is on his way—he or she—is on his way out of the country.

What we are trying to do is to permit at least a degree of flexibility as we have in the ''temporary'' where there is reason to believe. I would be glad if it is ''or otherwise.'' I was looking if it is based on receipt of information where there is reasonable cause to believe.

This is what I am concerned about. If we just strike ''otherwise,'' we would be limiting it just to the complaint, who would be the workers themselves, and there would be such pressure on that worker, effectively that individual would not bring forth the complaint because the person would be thereby probably subject to the loss of their privilege in this country.

It is generally the understanding that there are no protections for that individual, and therefore it would be unrealistic to think that would be the case.

I would be glad to try to address what the Senator mentions as being sort of a fishing expedition, to try to find words that might define it in a way that would not only be relevant to the particular complainant but also on the basis of well-founded information. It is best in this sort of circumstance, perhaps, on this measure to suggest a short—well, I will not suggest a quorum but perhaps we might set this one aside and see if we cannot come up with some words.

Mr. SIMPSON. Mr. President, I think that is an excellent suggestion. Then we could go to the amendments of Senator SIMON, because I think we can resolve this. Under the Immigration and Nationality Act it says, ''Complaints may be filed by any aggrieved person or organization, including the bargaining representatives.'' I have no problem with that. Maybe we can do that. Then, if Senator SIMON would proceed with his two amendments, we will have those available for voting later.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, may I inquire of the Senator from Wyoming—and I am sorry; I was off the floor for a short time—are we moving toward any kind of time agreement to stack the votes tomorrow morning or something like that?

Mr. SIMPSON. I would share with my friend, Mr. President, that apparently we are going to go forward. There is a window—we should have tried to express that—a window between now and 8 o'clock, but after 8 o'clock the leader would prefer to proceed with rollcall votes on whatever amendments are pending, and the more we can have pending the more we will get on with our work. I hope people will come here to do the work.

AMENDMENT NO. 3809

Mr. SIMON. Mr. President, I should like to call up 3809. It has already been offered but it was set aside.

The PRESIDING OFFICER. The amendment is now pending.

Mr. SIMON. What this does is to change the basis for deportation from the Senate language to the House language. The Senate language, frankly, is so wide open in terms of deporting people. For example, someone who is a legal immigrant, who receives higher education assistance, or, Mr. President, someone in the State of Minnesota who would not be aware of it and got job training assistance under this amendment, unless it is changed, that person could be deported for getting job training assistance—someone who is here legally, going to become a citizen. I just do not think that makes sense. If they have a child who gets Head Start, that can be a basis.

So what we ought to do is do as the House did. Frankly, that is still pretty sweeping. AFDC, SSI—and the SSI program is the one that is abused. I think all of us who have been working in this area know this is the area of great abuse. Overall, those who come into our country who are not yet citizens use our welfare programs less than native-born Americans percentagewise. But limited to AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance. This is the language on the House side.

I think it makes just an awful lot more sense. If someone, for example, gets low-income energy assistance in the State of Minnesota, that would be a basis for deportation the way the bill reads right now. I do not think you want that. I do not think most Members of the Senate want that.

So that is what my amendment does. I think it makes the legislation a little more sensible, and I hope that my colleague, who is, I see, scribbling very vigorously over there, is scribbling the word ''OK'' and that he would consider accepting this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I was not scribbling the word ''OK'' on this document, this tattered amendment here.

I oppose the amendment. I feel this amendment will create a very large loophole in our Nation's traditional policy that newcomers must be self-supporting. Under the bill, of course, an immigrant is deportable as a public charge if he or she uses more than 12 months of public assistance within 5 years after entry.

All of the means-tested programs, means-tested welfare programs—SSI, public housing, Pell grants—count toward this 12-month total for deportation. An exception is provided only for those programs that are also available to illegal aliens —emergency medical services, disaster relief, school lunch, WIC, and immunization.

Under the House bill, only certain programs make the immigrant subject to public charge deportation, and those programs are SSI, AFDC, Medicaid, food stamps, State cash assistance, and public housing.

The Senator's amendment would limit the public charge programs to the same welfare programs as the House bill but all others would not be included—and that would be Pell grants, Head Start, legal services, noncash—in determining whether an alien should become a public charge.

I remain quite unconvinced why any newcomer should be able to freely access the majority of Federal noncash welfare programs within the first 5 years after entry, given that all aliens must promise not to become a public charge at any time after entry. It seems most inappropriate to exclude most noncash welfare from counting against the newcomer.

I oppose it. Our Nation's laws since the earliest days have required new immigrants to support themselves. The first time was in 1645. Massachusetts refused to admit prospective immigrants who had no means of support other than public assistance. That was in 1645 in the State of our Democratic leader of this legislation.

In 1882, we prohibited the admission of any person unable to take care of himself or herself. We know those things. I keep repeating them. Likely to become a public charge, section 212 of the immigration law always saying that those who become dependent on public assistance may be deported. So not only would the immigrant not only promise to be self-sufficient before receipt of an immigrant visa, but he or she should remain self-sufficient for any appropriate period after arrival. We set that period.

Where all this came about is in a 1948 decision by an administrative judge within the Justice Department. Various administrative judges made it virtually impossible to deport newcomers who became a public charge. Under the current interpretation of the law, the Government has to show, one, the alien received the benefits; two, the agency requested reimbursement from the alien; and, three, the alien failed or refused to repay the agency.

The decision has rendered this section of the law virtually unenforced and unenforceable, and, as Senator DOMENICI said, we have deported 13 people

in the past, I think, year as being a public charge. This is despite the fact that research shows more than 20 percent of immigrant households are on welfare—households, not individuals. So the committee bill restored the public charge deportation. The bill already includes provisions to respond to concerns of some on the other side of the aisle. We have not destroyed the safety net. A generous safety net is provided for immigrants who must use more than 12 months of public assistance within the first 5 years of entry before becoming deportable as a public charge.

This new provision for public charge deportation is entirely prospective. It is not applicable to anyone who has already emigrated to the United States. Only those who come in the future will be affected.

And the Simon amendment permits future immigrants to receive any amount of assistance from Federal, State and local governments, as long as the newcomer avoids six major welfare programs. Newcomers would be able to access almost all noncash welfare programs for the entire time they are in the United States, without ever being deportable as a public charge. That is contrary to the stated national policy that no one may immigrate if he or she is likely to use any needs-based public assistance.

I know my friend from Illinois so well, after 25 years, nearly, of friendship. And know in each occasion that he speaks it is in the finest of intent and compassion and caring. This is one of those. But a deal is a deal. If you come here as a sponsored immigrant and somebody says we are not going to let this person become a public charge, that is it. You make a person do what I know the Senator from Illinois would like to do: If you have the bucks, you keep your promise. And the promise is they not become a public charge. And, if the sponsor cannot meet the debts and goes broke, cannot cut it anymore, then we pick up the slack as taxpayers. But why on Earth would we take up the slack on any kind of issue when they said: This person, I promise by affidavit of support, will not become a public charge? I would resist the amendment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Illinois.

Mr. SIMON. Mr. President, the Senator from Wyoming is correct. It was not ''OK,'' he was scribbling there.

We do not do anything about the deeming requirements here. What we are simply saying—and I would add the administration supports this amendment—what we are simply saying is that there are going to be programs that people may be taking advantage of, that are available, with no knowledge it could be a basis of deportation. Let me give an example. In rural Illinois—my guess is in rural Minnesota, rural Massachusetts and Wyoming too—there are transportation programs available for the elderly and the disabled. Under this amendment, if someone takes advantage of those programs for 1 year, that is a basis for deportation. That is crazy. You know, if you have a child in Head Start you can be deported. Maybe a spouse abuses someone and they go to legal aid. If they get legal aid they can be kicked out of the country, for getting legal aid.

I just think we have to be reasonable. I think the House language takes care of the big program. I know my friend from Wyoming agrees on this, the big program of abuse overwhelmingly is SSI. In addition to SSI, it has AFDC, food stamps, Medicaid, housing, and State cash assistance.

I think this amendment makes sense. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. May I inquire of the Senator, ask a question?

Mr. SIMON. I will be pleased to yield.

Mr. KENNEDY. Mr. President, we had some debate and discussion about education earlier in our amendments. Is the Senator saying if you have a legal immigrant and that legal immigrant is going to take advantage of a Pell or a Stafford loan, and that person goes to the sponsor and they find out that they are still eligible for that loan, so they are playing by the rules—they waited their turn, 76 percent of those are members of American families, so they have been deemed and they go in—and then they take that Stafford loan, for example, for a year, that that subjects that person to deportation?

Mr. SIMON. The Senator from Massachusetts is absolutely correct. These people are preparing themselves to be productive citizens and all of a sudden, because they are preparing themselves, they can be deported. If they are under a JTPA program they can be deported.

Mr. KENNEDY. This is even after we have had a good deal of discussion, I think for the benefit of most Members here—they felt: OK, they should be deemed, in terms of the sponsors. And even if they play this by the rules, they waited their turn to get in here, they are rejoining their families, they get accepted into the universities and college in the Senator's State, they run through the process of checking their sponsors to deem their income to theirs and they are still qualified for a Stafford loan, they take that loan to improve themselves and they take that for 1 year, then it is your understanding that under the Simpson proposal that that individual is subject to deportation?

Mr. SIMON. That is correct. And it just makes no sense whatsoever. The sponsors may very well have had a medically devastating problem that just wiped them out. So the person who is here legally is eligible for these programs and we ought to be assisting them.

Here, let me just remind everyone again, legal immigrants take advantage of these programs, with the exception of SSI, less, as a percentage of the people, than native-born Americans. So I would hope we would use some common sense here and accept this amendment.

Mr. SIMPSON. Mr. President, I feel like somehow I have spoken on this, I think, probably 10 times today, and I am using up my precious time. Let us, if we can all understand this—maybe I do not understand, which would not be the first time, but I think I do.

We are not talking about the poor and the wretched and the ragged here, and people being taken advantage of. We are talking about people who are here under the auspices of a sponsor, a sponsor who signed up and said: I promise that this person will not become a public charge. That is who we are talking about.

If a person is as ragged as I have heard in the last 15 minutes, cannot do this, cannot do that, stumbling around—those people are taken care of under the present law. We are talking about a person who is here under the good faith and auspices of a sponsoring person. We are not talking about anything that is not means tested. Anything that is not means tested somebody is going to get. We are talking about, when you line up for whatever it is—Stafford or Pell, whatever it is, that is means tested and you line up and say, ''Here I am. I need this program.'' And they are going to ask you, ''You are an immigrant and you have a sponsor. What assets does your sponsor have?'' And then they are going to say, ''Those assets are deemed to be your assets for the purpose of receiving this means-tested grant.'' And all we are saying is the sponsor is going to be responsible before the taxpayer is responsible. There is no mystery to this. This is not some strange thing where we are pulling the rug out from under people.

They say why do we do this with legal and not illegal? Illegal immigrants receive the benefits that I have discussed: WIC, emergency medical assistance, immunization. And why? Because they are here and we want to take care of them so they do not become sick and so on. We know that.

Then the argument is why do legal persons not get the same benefits that the illegal get? The reason is simple beyond belief. It is because a sponsor, who had enough assets and resources to take care of them, promised to do so. And should. And there is no reason on God's Earth, why the taxpayer should have to pick it up, unless the sponsor cannot cut the mustard anymore, has died, is bankrupt. And we have in the bill: Under those conditions the taxpayers will pick up the slack.

Mr. KENNEDY. Mr. President, could I ask the Senator from Wyoming: You can be eligible for Stafford loans up to $60,000 if you have three kids in school.

Now, you mean to tell me that if that person, say that individual who is the

legal immigrant, has $10,000 or $15,000 and the sponsor has $30,000, you are still eligible under the Stafford loan program for a Stafford loan and to repay it.

The way I read this, it talks about ''for purposes of subparagraph, the term 'public charge' includes any alien who receives benefits under any program described in paragraph D for an aggregate period of more than 12 months.''

Then it describes the program. In line 18 it says, ''* * * any other program of assistance funded in whole or in part by the Federal Government.''

Stafford loans are. That individual may have a higher rate of repayment, be able to get a smaller loan but still would get some kind of public help and assistance, because education loans are not considered to be welfare. The idea is individuals will pay that back. So they can conform with the provisions of the assets of both of them and still, as the Senator points out, receive that and under this be subject to the deportation, the way I read it. I think the Senator from Illinois has a balanced program here, and I hope that it will be accepted.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I do not want to postpone this much longer. Let us just say Christopher Reeve was a sponsor, and he went through this devastating accident. Let us say the people he sponsored live in Oklahoma in a rural community and they take advantage of transportation for the elderly and the disabled. Under this proposal, without my amendment, they can be deported.

I do not think that is what the American people want. I do not think that is what the U.S. Senate wants. I really do not believe even my good friend, ALAN SIMPSON, wants that, upon greater reflection. I hope we will conform the language to the way it is in the House and say on the six programs—AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance—if they take advantage of these programs for a year, then they can be deported. That is even harsher, frankly, than I would like, because I think there will be some circumstances that are unusual.

To just say sweepingly for any kind of Federal program you can be deported, like the Stafford Loan Program, I think is a real mistake. I hope the Senate will accept my amendment.

Mr. SIMPSON. Mr. President, I am going to leave it at that. I am using precious time, but I will just say that all these things do not take place, all these horrible things, little old ladies, veterans, people. Nothing here takes place if there is a sponsor who stepped up to the plate and said, ''I'm going to take care of this person, I vow that, I promise that.''

So anything means tested we are simply saying the assets of the sponsor become the assets of the immigrant. If you wish to allow newcomers to come here spending more than 20 percent of their time on public assistance during the first 5 years after entry, that seems quite strange to me when people are hurting in the United States. That is where we are.

I thank the Chair.

Mr. KENNEDY. Mr. President, can we just review where we are? We have all received a lot of questions about the order. It was my understanding that we had the labor enforcement amendment and the intentional discrimination amendment. I think we are very close to working out language of the labor enforcement provisions. I hope that we will be able to do that.

We have the intentional discrimination amendment, which I hope we can in a very brief exchange dispose of, in terms of the time factor. So we might be able to do that.

The Simon amendment on public charge, do we feel we are finished with that debate? That is another item. I do not know what the other Simon amendment is, whether that is going to be brought up. Or is that in line?

Mr. SIMON. Whatever. We can bring it up tonight. It should be debated very briefly.

Mr. SIMPSON. Mr. President, if we could perhaps deal with the intent standard language, which we had discussed earlier, I maybe have another 5 minutes or so on that. And then Senator FEINSTEIN.

Mr. KENNEDY. Then we can do Senator FEINSTEIN's amendment and see if it is possible—I do not know what the length of it is—maybe it is possible to add that on as well. Maybe it will not be.

Mrs. FEINSTEIN. Very short.

Mr. KENNEDY. That will be what we will try, so Members will have an idea of what we are going to do, if that is agreeable. I will just talk very briefly.

Mr. SIMPSON. Mr. President, can we say then, at least for the purposes of those of us here debating, that we close, informally close, the debate with regard to the Simon amendment, and maybe in a few minutes close debate with regard to the intent standard and maybe perhaps be in a position to have four or five votes which should satisfy all concerned?

Mr. KENNEDY. That would be fine.

Mr. SIMPSON. Would that not be a joy?

Mr. KENNEDY. Would that not be, and then we look forward to tomorrow.

Mr. President, I will just take a brief time with regard to the amendment on discrimination and, hopefully, we will be able to get it worked out.

Let me just ask then, before we do that, on the labor provisions, on line 6, if we strike ''or otherwise'' and put in there ''based on receipt of credible material information,'' does that respond to the principal concerns? I thought that might have been worked out with your staff.

Mr. SIMPSON. I am not aware of that, Mr. President, but I will certainly inquire.

AMENDMENT NO. 3816

Mr. KENNEDY. Let me then, Mr. President, just address the issues that I addressed earlier in the course of the debate, and I will do it briefly.

The dilemma is how are we going to assure adequate protection to employers who employ either foreign sounding, foreign looking individuals and ensure that they are not going to be subject to the economic sanctions and, on the other hand, how are we going to try and establish a procedure which will not lend whatever procedure is established to be utilized in ways that will open up discrimination against those individuals which, of course, in so many instances would be Americans.

I reviewed very quickly some of the more egregious situations where those citizens who came from Puerto Rico were asked to put out a green card. Since they are American citizens, they do not have green cards and were subject to forms of discrimination.

In any event, there may be differences as to the extent of discrimination that exists out there. There are many who believe it is a serious problem. There are others who do not believe so. But I do think we have an opportunity to address both the elements of discrimination which exist in varying degrees out there and also to provide a mechanism by which the employer is adequately protected and establishes a good-faith defense by accepting any one of the six cards that have been identified in this legislation that are credible.

That is effectively what we are attempting to do, Mr. President, to say that if employers have suspicions about an applicant, they already have a host of remedies. If the documents look phony, the employer can refuse to accept them and can refuse to hire the person.

If the employee has authorization documents that expire, the employer can ask for reverification of eligibility when the documents expire. Indeed, my amendment contains a provision that requires the employers to reverify eligibility.

If the documents look genuine, but the employer still has concerns, the employer can share these concerns with the applicant. For example, the employer can let the applicant know that it intends to verify the applicant's eligibility and will fire the person if it turns out the person is illegal. However, the employer cannot demand that the applicant produce additional or specific documents once the applicant has produced an authentic-looking document.

That is the fundamental issue. Otherwise, if we were to allow the employer to demand anything he wanted, it would end up with situations as I mentioned where employers demand green cards from Puerto Ricans. Under our current law these Puerto Rican victims have a remedy. Under section 117 they are out of luck. If we let employers determine what documents they will accept, which is effectively what section

117 does, everyone knows what will happen. Employers will develop suspicions about all foreign-looking and foreign-sounding people, and the discrimination that is already documented will worsen.

Keep in mind who these victims are. They are often hard-working American citizens. They are legal immigrants who are trying to become self-sufficient but are being left out because they look foreign or speak with an accent.

Mr. President, I believe that this proposal is a modest program. I think it meets the central challenges of assuring that the idea that jobs will be preserved for Americans or legal immigrants is real. It will reduce, I think in a very important way, the possibilities and reality of discrimination in the workplace.

Mr. President, I hope that the Senate will adopt the amendment.

Mr. SIMPSON. Mr. President, may I interject here with a unanimous-consent request that we lock in the two amendments? I think this may have been circulated. I will wait so that we might do that.

Mr. President, let me go forward briefly and conclude my remarks about the amendment. I spoke on that this morning. I want to readopt the language that I spoke this morning and would be appropriate here, and conclude with this.

Let me stress for my colleagues that this section of the bill does not permit employers to refuse documents because of an unreasonable concern about their validity. Administrative law judges have already found such a practice constitutes intentional discrimination. The bill is not intended to overrule any of those cases of intentional discrimination.

Employers should be able to ask an employee for additional documents only when they have reason to suspect that the new employee is an illegal alien. We are not interested in burdening employers. In fact, this bill is an extraordinary assistance to employers. No longer 29 documents to look at, but 6.

Employers around the country have been supportive of this measure. But I must also state that some of the numerous examples which are given in support of the amendment simply do not apply, especially the one about the Puerto Rican woman. Let us go to that.

One example cited by opponents of the provision in the committee bill is that a New York watch wholesaler refused to hire a Puerto Rican woman because she did not have a green card. The administrative law judge ruled that that action constituted a knowing and intentional discrimination. Think of that. Simply because the person refused to hire a Puerto Rican woman because she did not have a green card, that was knowing and intentional discrimination.

Most importantly, the employer in that case was punished under section 274B(a)(1) of the Immigration Nationality Act, a provision which is unchanged by my bill, not changed, not section 274B(a)(6), which the committee bill amends. In fact, this case was decided before the Congress enacted the section 274B(a)(6) in late 1990 and decided that merely asking for different documents constituted discrimination—merely asking.

This section of the committee bill provides protection only for employers who do not intend to discriminate. That is what the Senator is trying to reach. An employer who has constructive knowledge that an alien is unauthorized to work is permitted to ask for other documents. That is all we are saying. The employer knows something is wrong with those documents. He knows that, or he or she knows that, an alien is unauthorized to work, and they are permitted under this legislation to ask for other documents.

There is one other incorrect argument on behalf of this amendment. According to the propaganda sheet I have from certain in the Clinton administration, the lawyers of the Clinton administration, the bill would permit a Texas nursing home to fire an African American because he could not produce his birth certificate. That is wrong. That is false. The decision in that case held that when employers refused to accept certain documents because of an unreasonable concern about their validity, as opposed to a specific, justified concern, that action constitutes intentional discrimination.

We are talking about the employer. The signals are up. The employer knows something is not right. We are saying, he asks for another document. That is not discrimination. If they are in there to discriminate, the signals are not up. They are doing their hideous racism. That is not what we are talking about.

I believe we have to provide some protection from heavy penalties for employers who are attempting in good faith to follow the law. This amendment provides no relief, and in fact is no more than a detailed description of current law, the current law which squeezes the American businessman between the rock of employer sanctions and the hard place of intentional discrimination for even deigning to question an employee's documents.

So I urge my colleagues to oppose the amendment. The employers should be able to ask employees, when they have knowledge that a new hire is not legally authorized to work, for additional documentation and inquire of that without the huge fines which the administration insists on levying against employers who have never ever before—ever before—intentionally discriminated at all.

Mr. KENNEDY. Mr. President, I will take just a very few moments.

Mr. President, I will include in the RECORD the Leadership Conference on Civil Rights, their support for our amendment. Let me just mention a paragraph in here.

Some employer groups, including the National Federation of Independent Businesses and the nation's agricultural employers, argue that [my amendment] the KENNEDY amendment would put employers ''between a rock and a hard place'' when it comes to verifying documents that the employer ''knows constructively'' are not valid. The KENNEDY amendment addresses this concern by allowing employers to check the validity of such documents when they have a question about them. An intent standard goes much too far in response to the concerns of some employers. In fact, it immunizes employers against all but the most egregious discrimination claims. There is no need to gut the civil rights protections under IRCA in order to address a concern which can be resolved through more reasonable means.

The Leadership Conference strongly urges you to support the Kennedy amendment to strike the intent standard. . . .

Mr. President, I ask unanimous consent that that letter dated April 29, 1996, from the Leadership Conference on Civil Rights be printed in the RECORD.

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

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, April 29, 1996.

DEAR SENATOR: On behalf of the Leadership Conference on Civil Rights, we are writing to urge you to support an amendment to the immigration bill, S. 1664 that would preserve the civil rights protections of the nation's immigration laws.

Congress added civil rights protections to the Immigration Reform and Control Act of 1986 (IRCA) because of concerns that requiring employers to verify the employment eligibility of their workers would lead to discrimination against persons who were perceived as ''foreigners.'' Indeed, the law did result in widespread discrimination, as documented by a U.S. General Accounting Office (GAO) study in 1990 along with more than a dozen separate studies conducted nationwide. S. 1664 adds an ''intent standard'' to these civil rights provisions, which would make it impossible for most Americans suffering discrimination under the law to pursue a discrimination claim. Senator Kennedy will be offering an amendment to strike this intent standard and replace it with language addressing the legitimate concerns raised by employers. The Leadership Conference on Civil Rights strongly urges you to support this amendment and preserve the nation's tradition of equal justice under the law.

The GAO report and other studies indicate that most of the widespread discrimination resulting from IRCA stems from employer confusion. For example, some employers insist on seeing green cards from any person who appears ''foreign'', despite the fact that many such individuals are native-born U.S. citizens. When such an employer insists on seeing a green card, these Americans lose jobs. This was the case when Rosita Martinez, a Puerto Rican American, took her employer to court after he insisted that the law obliged him to see her green card before hiring her. Had the intent standard been the law at the time, Ms. Martinez would have lost that job without any remedy under the law.

Some employer groups, including the National Federation of Independent Business and the nation's agricultural employers, argue that the Kennedy amendment would put employers ''between a rock and a hard place'' when it comes to verifying documents that the employer ''knows constructively''

are not valid. The Kennedy amendment addresses this concern by allowing employers to check the validity of such documents when they have a question about them. An intent standard goes much too far in response to the concerns of some employers. In fact, it immunizes employers against all but the most egregious discrimination claims. There is no need to gut the civil rights protections under IRCA in order to address a concern which can be resolved through more reasonable means.

The Leadership Conference strongly urges you to support the Kennedy amendment to strike the intent standard and replace it with language which addresses employers' concerns without wiping out civil rights protections for Americans.

Sincerely,

RICHARD WOMACK,
Acting Executive Director.
DOROTHY I. HEIGHT,
Chairperson.

Mr. KENNEDY. Mr. President, I will just wind this up with the story of Representative GUTIERREZ. This was on April 18.

A Capitol Police security aide refused to accept the congressional identification of Representative Luis V. Gutierrez as he tried to enter the Capitol and told him and his daughter to ''go back to the country you came from,'' the representative said yesterday.

Gutierrez . . . said that he was walking into the main visitor's entrance to the Capitol on March 29 with his 16-year-old daughter and 17-year-old niece when he was approached by the security aide.

The aide [I will leave that out; it is printed in the story] has been suspended with pay pending an internal investigation, said Sgt. Dan Nichols, Capitol Police spokesman.

The Congressman said that he and the girls were carrying Puerto Rican flags during a Puerto Rican appreciation day ceremony and were putting them through an X-ray scanner when Hollingsworth began ''screaming'' at him for allowing the flags to slightly unfurl, he said.

''She said she didn't want to see the flags, and I told her I would take care of them,'' Gutierrez said. ''Then she said, 'Who do you think you are?' When I told her I was Congressman Gutierrez, she said, 'I don't think so.'''

Gutierrez said that when he presented his congressional identification card, Hollingsworth ''said that my identification must have been a fake. Then she said, 'Why don't you all go back to the country where you came from.' She was rabidly angry.''

Gutierrez said the confrontation went on for about a minute until a Capitol Police sergeant noticed what was happening and, recognizing the Congressman, and ushered Hollingsworth away.

''From the very first time she was talking to me, she was yelling,'' Gutierrez said. ''She thought we were foreigners from another country, and she was very resentful of that. Twice she told us to go back to our country.''

That has happened to a Congressman of the United States in the last few weeks here in the Nation's Capitol. What kind of chance is a worker going to have, out in the boondocks, American worker, trying to get through, when you run against that kind of an attitude?

Mr. President, this is a real problem. It is happening here in the Nation's Capitol, and it is happening around the country.

The provisions which are included in the current law need to be changed. We have outlined a fair, reasonable way of protecting the applicant, the worker, and also the employer. It is a better way to go than the current law. I hope the amendment is accepted.

I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, let me lock in this unanimous-consent request so our colleagues will know better about the disposition of their evening activities.

I ask unanimous consent that a vote occur on or in relation to amendment No. 3816 offered by Senator KENNEDY at the hour of 8 p.m. this evening and immediately following that vote, the Senate proceed to a vote on or in relation to the following amendments in the following order, with 2 minutes of debate equally divided prior to each vote after the first vote: amendment No. 3809, amendment No. 3829—it may be resolved, but I would like to lock those in.

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

Mr. SIMPSON. Finally, Mr. President, that is a powerful, poignant story of discrimination and a disgusting activity, but that is not what we are talking about. We are talking about an employer who has in front of him someone that he has an idea, and he has seen the documents, he knows something is wrong. He has been doing this for years, ever since 1986, and the signal goes up, and he says, ''I want to ask you for another document,'' and suddenly he has violated the law and is subject to tremendous fines. That is not right.

That is the purpose of the bill. It is not about such an egregious and foul procedure as we have just heard described.

Mr. KENNEDY. Mr. President, I want to pay my respects to the Senator from California today. She was here early like other of our colleagues, at her post early today on the Judiciary Committee, and came over here just at the lunch hour and has been inquiring, I think every half hour, about when she can be recognized. We wanted to try to move the business forward. I want to commend her for her perseverance and look forward to her amendment.

AMENDMENT NO. 3777 TO AMENDMENT NO. 3743

(Purpose: To provide for the construction of physical barriers, deployment of technology, and improvements to roads in the border area near San Diego, CA)

Mrs. FEINSTEIN. I thank the Senator from Massachusetts. I send an amendment to the desk and ask for its immediate consideration.

Mr. KENNEDY. Mr. President, I ask that the pending amendment be temporarily laid aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mrs. BOXER, proposes an amendment numbered 3777.

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

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

The amendment is as follows:

Beginning on page 10, strike line 18 and all that follows through line 13 on page 11 and insert the following:

SEC. 108. CONSTRUCTION OF PHYSICAL BARRIERS, DEPLOYMENT OF TECHNOLOGY, AND IMPROVEMENTS TO ROADS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

There are authorized to be appropriated funds not to exceed $12,000,000 for the construction, expansion, improvement, or deployment of physical barriers (including multiple fencing and bollard style concrete columns as appropriate), all-weather roads, low light television systems, lighting, sensors, and other technologies along the international land border between the United States and Mexico south of San Diego, California for the purpose of detecting and deterring unlawful entry across the border. Amounts appropriated under this section are authorized to remain available until expended.

Mrs. FEINSTEIN. Mr. President, this amendment concerns the proposal to build a triple-fence barrier on the Southwest border. Specifically, the amendment I am offering would strike section 108 and replace it with a provision allowing $12 million for the construction and expansion of physical barriers along the border with Mexico, which, in addition to fencing, includes all-weather roads, low-light television systems, lighting sensors, and other technology.

I think we all know that the border represents the front line of deterrence for illegal entry into the country and that the current situation is inadequate. There is a 14-mile stretch of border that separates San Diego and Mexico, and it is patched with some single fencing that is in constant need of repair, has areas with no barriers at all, and roads that wash out and become impassable at the first sign of rain.

The House-passed bill mandates the construction of three parallel fences along the existing 14 miles of reinforced steel fence on the United States-Mexico border in San Diego County. I voted for the triple-fence amendment in the Judiciary Committee because I believed we needed to remedy that situation. After the vote, though, I had a chance to meet with representatives from the Border Patrol and the INS.

I ask unanimous consent to have printed in the RECORD a letter from the National Border Patrol signed by its president, stating:

A three-tier fence would also create a crime zone within the boundaries of the United States where illegal immigrants would be easy prey for robbers, rapists, and

other criminals. The accomplices of these criminals could easily prevent law enforcement officers from responding to these crimes by blocking access roads with nails, broken glass, other debris, [et cetera]. . . .

The Border Patrol Council strongly recommends this bill be amended by replacing the requirement with a safer and more effective alternative.

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

NATIONAL BORDER PATROL COUNCIL,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Campo, CA, April 15, 1996.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The National Border Patrol Council, representing nearly 5,000 Border Patrol employees, is deeply concerned by the provision in S. 1664 (formerly S. 269, the ''Immigration in the National Interest Act of 1995'') that would require the construction of fourteen miles of three-tier fencing in San Diego, California. Such fencing would needlessly endanger the lives of Border Patrol Agents by trapping them between layers of fences and leaving them with no expeditious means of escape from the gunfire, barrages of rocks and other physical assaults that routinely occur along the U.S.-Mexico border.

A three-tier fence would also create a crime zone within the boundaries of the United States where illegal immigrants would be easy prey for robbers, rapists, and other criminals. The accomplices of these criminals could easily prevent law enforcement officers from responding to these crimes by blocking access roads with nails, broken glass, other debris, barrages of rocks and/or gunfire.

Rather than facilitating the accomplishment of the Border Patrol's mission, a three-tier fence would decrease the effectiveness of its operations, and would make an already dangerous job even more so.

The National Border Patrol Council strongly recommends that S. 1664 be amended by replacing the requirement to construct a three-tier fence with a safer and more effective alternative. Those who deal with the problem of illegal immigration on a daily basis should be allowed to decide which technologies, including physical barriers, all-weather roads, low-light television systems, lighting, sensors, and other means, are more appropriate and effective for a given area.

Your support of this amendment would be greatly appreciated.

Sincerely,

T.J. BONNER,
President.

Mrs. FEINSTEIN. Mr. President, I also ask unanimous consent to have printed in the RECORD a letter dated April 16 from the Department of Justice, Office of Legislative Affairs, to the majority leader on this subject.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 16, 1996.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: I write to express the Administration's strong opposition to the proposed requirement for triple-tier fencing contained in S. 269, the ''Immigration in the National Interest Act of 1995.'' This provision requires the construction of second and third fences, in addition to the existing 10-foot steel fence, along the 14 miles of U.S.-Mexico border in the San Diego Border Patrol Sector. The bill also requires roads to be built between the fences. Instead, we support an amendment, to be offered by Senators Feinstein and Boxer, to replace the requirement for triple fencing along portions of the Southwest border with an authorization of funds for the construction and improvement of physical barriers, lighting, sensors, and other technologies to detect and deter unlawful entry.

The requirement now in the bill, if enacted, would endanger the physical safety of Border Patrol agents. U.S. Border Patrol agent Joe Dassaro, Public Information Coordinator for Local 1613, U.S. Border Patrol Council, recently stated, ''There is no support from U.S. Border Patrol agents in the field for the three tiered fence. We see it as a dangerous situation. If an agent goes between the three fences and gets into trouble, there is a longer response time for another Border Patrol agent to come to his/her aid . . .'' From a tactical perspective, agents travelling along roads surrounded by fencing present an easy target for alien smugglers and others ready to thwart our enforcement efforts. Our experience has shown that when agents travel in a single, predictable line, they and their vehicles are susceptible to attack with rocks and other objects.

Response time to an emergency situation in areas adjacent to fenced in areas will be greatly and unnecessarily increased if this provision is enacted. Agents that patrol between the sections of the fence will not have the ability to quickly and directly get out of the areas at critical times. With triple fencing, smugglers can easily block a Border Patrol vehicle with debris and limit agent mobility to the fixed path bounded by the fence. In addition, the rocky terrain and deep canyons in this region of California make a continuous road impossible to build and use. The challenges presented by this terrain are better met through the other tactics currently deployed in the San Diego Sector.

We support physical barriers along the border when and where they are appropriate and have erected 23 miles of fences along the California Border as an important part of our strategic plans. In order to build the fence that is now in place, it was necessary to construct an access road along the border. Rather than specifying barriers, we recommend funding to construct ''all-weather roads'', since the existing roads become impassable after relatively little rainfall. The current situation prohibits the Border Patrol from actually reaching the border and interrupts repair and maintenance on the fence. Rain also precludes the Border Patrol from working close to the border in a high visibility, deterrent posture. Agents must pull back and work from hardpacked or paved streets during these periods. With an all-weather road system, Border Patrol agents would have access to the fence even during the extended rainy season.

We fully recognize the usefulness and need for border fencing and have been at the forefront of fencing innovations for many years. Single fencing is a valid deterrent in many areas and we will continue to use this tool at various locations to meet the needs of the San Diego Sector Border Patrol. In some carefully selected areas, multiple fencing may be appropriate. Other deterrence technologies, such as enhanced communications systems, lighting, low light television systems and fixed infrared/daylight cameras also will compliment the existing and planned fencing. In our view, the actual deployment of personnel, physical barriers, technology and operational judgments are decisions best left to the Border Patrol with responsibility for the day-to-day operation at the ground level.

Please do not hesitate to contact me if I can be of further assistance. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mrs. FEINSTEIN. Both these letters, Mr. President, make a strong case and, to me, a convincing case that the current $12 million proposal to construct a triple-fence barrier along the entire 14-mile stretch is not feasible, and would not accomplish the intended goals, and could pose safety risks for Border Patrol agents.

The INS argues that some border areas are not suitable for multiple fences and are not sealed off by a single barrier because of the steep terrain. They made the case that it would be difficult if not impossible to erect a triple fence in these areas at below a cost of $110 million—far above the $12 million in this proposal.

This, to me, is overly expensive and a waste of taxpayer money. The INS and Border Patrol argue that a triple fence running for 14½ miles would be dangerous and ineffective.

Now, what this amendment does is present a sensible, cost-effective substitute for the triple fence concept. It has the strong support of the INS, the Border Patrol, and the National Border Patrol Council. Essentially, what the amendment would do is authorize $12 million for construction of a vitally needed all-weather road system along the border. It would allow for the low-light television system, more ground sensors and infrared night-vision equipment. It would also provide some flexibility with respect to the border fence itself.

I am told that of the 14 mile area, the INS has located eight locations which it has said could be suitable for three-tier barriers that range in length from half a mile to 3 miles in length. That totals about 9½ miles. Once again, their top priority would be construction of an all-weather road system in this area.

What this amendment does, bottom line, is say, ''INS, use your best judgment.'' There is $12 million authorized. Have flexibility. Be able to create your all-weather roads, the necessary infrastructure, and use the triple fencing where it is safe and makes sense to do so.

I think that is the appropriate way, really, to handle this situation.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3776 TO AMENDMENT NO. 3743

(Purpose: To strike the provision relating to the language of deportation notice)

Mrs. FEINSTEIN. 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 California [Mrs. FEINSTEIN], for herself and Mr. SIMON, proposes an amendment numbered 3776 to amendment No. 3743.

Mrs. FEINSTEIN. 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:

Beginning on page 99, strike line 10 and all that follows through line 13.

Mrs. FEINSTEIN. Mr. President, this amendment essentially corrects what I believe is a mistake in the bill. Present law allows for the use of both English and Spanish in deportation orders. The bill, as it came out of committee, struck that section. Therefore, only English could be used in deportation orders.

Frankly, it does not make sense to give somebody a deportation order that they cannot read. And the dominant majority of illegal immigrants in the State of California speak Spanish only. Therefore, it would make sense that a deportation order be in Spanish and in English.

My amendment would simply strike the English-only requirement. I am joined by Senator SIMON in this amendment that would restore the language to its prior situation.

If I might, I neglected to mention something, and I would like to remedy that, Mr. President. Senator BOXER is a cosponsor on the alternative language on the triple fence.

Mr. President, I ask for the yeas and nays on the second amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can call up an amendment that is now at the desk. I am not going to debate it for more than a couple of minutes.

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

AMENDMENT NO. 3865 TO AMENDMENT NO. 3743

(Purpose: To authorize asylum or refugee status, or the withholding of deportation, for individuals who have been threatened with an act of female genital mutilation)

Mr. REID. 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 Nevada [Mr. REID], for himself, Ms. MOSELEY-BRAUN and Mr. SIMON, proposes an amendment numbered 3865 to amendment No. 3743.

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

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

The amendment is as follows:

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . FEMALE GENITAL MUTILATION.

(A) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the Fourteenth Amendment, as well as under the treaty clause of the Constitution to enact such legislation.

(b) BASIS OF ASYLUM.—(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended—

(A) by inserting after ''political opinion'' the first place it appears: ''or because the person has been threatened with an act of female genital mutilation'';

(B) by inserting after ''political opinion'' the second place it appears the following: '', or who has been threatened with an act of female genital mutilation'';

(C) by inserting after ''political opinion'' the third place it appears the following: ''or who ordered, threatened, or participated in the performance of female genital mutilation''; and

(D) by adding at the end the following new sentence: ''The term 'female genital mutilation' means an action described in section 116(a) of title 18, United States Code.''.

(2) Section 243(h)(1) (8 U.S.C. 1253(h)(1)) is amended by inserting after ''political opinion'' the following: ''or would be threatened with an act of female genital mutilation''.

(c) CRIMINAL CONDUCT.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

§ 116. Female genital mutilation

''(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) A surgical operation is not a violation of this section if the operation is—

''(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

''(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

''(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

''(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

''(1) that person has undergone female circumcision, excision, or infibulation; or

''(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.''.

''(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

''116. Female genital mutilation.''

''(d) EFFECTIVE DATE.—Subsection (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

Mr. REID. Mr. President, I have asked for a vote on amendment No. 3865, the one that has been debated at length in this body on other occasions—in fact, yesterday, during a time that I obtained the floor, I talked about this amendment at some length. This is making female genital mutilation illegal in the United States and a basis for asylum.

I ask unanimous consent that Senator CAROL MOSELEY-BRAUN be added as a cosponsor and that the senior Senator from Illinois, Senator SIMON, be added as a cosponsor.

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

Mr. REID. Mr. President, over 100 million women and girls have been mutilated by this procedure in the world. Six-thousand each day are mutilated—7 days a week, 365 days a year. Most girls, of course, are too young or do not have the means to flee.

Mr. President, 3 years ago, Canada made female genital mutilation a basis for asylum. Since that time, two women have been granted asylum for that reason. So for us to think this is going to open the floodgates for people seeking asylum on that basis, it will not happen. Remember, most of the people upon whom this procedure is performed are little girls.

So we do not have to fear a wave of immigrants coming and claiming this as a basis for their coming here. But the United States must take a stand and speak out against this horrid practice. We must make it illegal and recognize it as basis for asylum.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMPSON. What is the status?

Mr. REID. I say to my friend this, and I should have said this earlier, before I answered the Senator's question. I appreciate the work on this immigration bill. I appreciate the work the Senator has done on helping me with

other amendments and a managers' amendment. I have worked with the Senator on this issue and on a number of different pieces of legislation.

I asked for the yeas and nays on this amendment.

Mr. SIMPSON. Mr. President, I have spent not so many years with people telling me how helpful they can be, and that is the most gratifying thing that I can hardly speak on it through the years. ''I want to help you, Senator SIMPSON.'' But this amendment is not helpful. This is a very controversial amendment.

I share the Senator's views about this brutal procedure. It is a cultural matter. You get into serious issues that are unresolvable. If we are to give the yeas and nays, is the Senator indicating he wishes that to be discussed or debated tonight? According to many I have spoken to, that will take a great deal of debate.

Mr. REID. Any time the Senator wishes. I have no desire as to when the matter is discussed.

Mr. SIMPSON. I then request of my friend, if he wishes to help the cause, not request the yeas and nays, and we will work tomorrow on a time appropriate to deal with that issue.

Mr. REID. That is fine. I withdraw the request for the yeas and nays.

Mr. SIMPSON. I thank the Senator. Certainly, it will not be foreclosed. It is a critical issue. It is also one of those issues that opens some extraordinary avenues of approach in the United States.

Mr. REID. I know the Senator wants to move this bill along. But I did state that Canada made this procedure a basis for asylum 3 years ago, and they have had two people granted asylum in 3 years.

Mr. SIMPSON. That is a very helpful part of the central debate. My friend knows I can trust him and he can trust me.

Let me speak quickly on Senator FEINSTEIN's amendment with regard to the fence. I think that that flexibility may be appropriate. I have carried a good deal of water on this. I do not see others here to speak on it. That flexibility may well be appropriate. But with regard to the requirement of deportation notices in Spanish and English—and that is also the amendment of the Senator from California—I would oppose that amendment and let me share just briefly why.

To require that all deportation notices be in Spanish as well as English, when many deportees do not speak Spanish, but rather one of a score of other languages—Spanish is not the language of all people we deport. We deport people from all over the world. Many Spanish speakers do understand English. Many deportees do not speak Spanish and, as I say, it is a puzzle and it is also wasteful. I also believe it is important. It creates the impression that Spanish is equal to English in this country.

Spanish is not equal to English in this country as the common language that is the United States of America. We are going to vote on that soon. I did not vote to make English the official language of the United States when it came up years ago. I will do so now because I think there have been some adjustments, some understandings that will be helpful. But this creates the impression that Spanish is, as I say, equal to English in this country. We should not mandate that our Government conduct its business in any language other than English.

It is in the INS' interest to guarantee that the subject of a deportation order understands its contents. I agree with that, having been a lawyer for 18 years. Therefore—please hear this —the INS does, and should, provide translations, or translators whenever necessary, and not just into Spanish, but into whatever language is most appropriate.

My colleagues should know section 164(a) does not impair the due process rights of any alien in a deportation proceeding—none. So, as I say, I am puzzled at that, unless we are going to ignore scores of other languages and that is apparently what we would do in this instance.

Mr. KENNEDY. Mr. President, I see the Senator from California still on the floor. As I understand it, current law is English and Spanish, but there is also the current practice of also printing that in other languages that are related to the language of the individual that would be subject to the deportation. That is my understanding of what currently exists.

That seems to be the way that it makes most sense. I do not know whether we are trying to make a problem here. I support the Senator. It is my understanding they print it in other languages as necessary. I do not know whether we are making a problem here that does not exist. That happens to be sort of the current situation. I intend to support the Senator.

Mrs. FEINSTEIN. Mr. President, just to respond very briefly to the Senator from Massachusetts, the present act refers to this: Each order to show cause, or other notice in this subsection, shall be printed in English and Spanish and shall specify that the alien may be represented by an attorney in deportation proceedings, et cetera.

All we are putting back in is the reference to English and Spanish. The real fact is that, if on the California border someone is going to get a deportation notice, it really should be in Spanish if one expects them to read it and understand it.

Mr. KENNEDY. If the Senator will yield. As I understand it, the effect of the amendment is to restore current law.

Mrs. FEINSTEIN. That is correct.

Mr. KENNEDY. So supporting the Senator's amendment would effectively restore the current law, which has been well explained by the Senator from California. That permits the English, Spanish, and also the language of the individual that is going to be affected. It seems to me that restoration of the current law is desirable.

AMENDMENT NO. 3829, AS MODIFIED

Mr. KENNEDY. Mr. President, I had introduced earlier amendment 3829 that is pending and has been temporarily set aside. I would like to—it is not the minimum wage—I had actually put that out of my mind for now.

Mr. SIMPSON. It will come back.

Mr. KENNEDY. It will come back.

Mr. President, on 3829, the amendment which was to try to strengthen the protections for certain workers, I send to the desk a modification to the amendment and ask, I believe since the yeas and nays have been ordered, unanimous consent that it be in order to amend the amendment and to amend it as designated.

The PRESIDING OFFICER. Is their objection to modifying the amendment?

Without objection, it is so ordered.

The amendment (No. 3829), as modified, 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 based on receipt of credible material information, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application''.

Mr. KENNEDY. Mr. President, as I understand it now, with those changes which had been suggested by my friend and colleague, hopefully, it will be acceptable to the Senate. When we reach the hour of 8 o'clock and we begin the consideration, I will ask for a voice vote on this amendment. I will also ask unanimous consent that a colloquy between the Senator from Wyoming and myself be put in place.

I thank the Senator for his assistance in working this through. I think it is a very constructive suggestion, and we welcome his recommendations. Hopefully, it will be accepted in the Senate.

Mr. SIMPSON. Mr. President, I believe there is one other possible objection on my side of the aisle with regard to that. I will have that information in a few moments. With regard to the colloquy, it is perfectly appropriate for me. It resolves the issue.

I say to my friend from California—if I might have the attention of my friend from California, Senator FEINSTEIN, if I could just have a moment with my friend from California, I commend her for her extraordinary work in this field. But what we are trying to avoid here by what we did in the bill is that the law does not give an option to put it in Spanish or English. The present law says that it ''shall be'' in English and Spanish. ''Each order to show cause, or other notice under this subsection, shall be in English and Spanish,'' which seems absurd when you are

presenting it to Chinese or someone else. That is why we dropped it.

It was not so we could be sinister. It is absolutely bizarre that someone from any other country on Earth, non-Spanish-speaking country, is presented with this order in English and Spanish which is a waste of resources of the INS. Our provision would simply allow the translators and interpreters to be there, and they would. They are there. You can require that in any language of the dozens or hundreds of the world. That is what that was. It was a requirement. There was no option to it.

Mrs. FEINSTEIN. Will the Senator yield for a question?

Mr. SIMPSON. Yes.

Mrs. FEINSTEIN. My concern is that if this is removed from the bill, deportation notices, particularly in California, will go out in English only, and the great bulk of them go to Spanish. So we are taking out the requirement that it be—just as the Senator said, and as I believe I read—in English and Spanish, but we are replacing that with silence. My concern is that the silence will be interpreted and in English only. Therefore, we will have people who will not be able to read their notice.

Mr. SIMPSON. Mr. President, I respectfully say that the INS has translators in each of these situations. There is a clear understanding because a deportation notice is a serious issue, and the current law requires—demands—and says ''shall'' even if the alien does not speak Spanish. If the alien does speak Spanish, there is someone there from the INS, and it does not matter what language. That person is then provided with the translation and the translators to be certain that they heard what was said.

If you remember the Medvid issue, the Soviet ship jumper, we not only had a person there speaking Russian; we had a person there speaking Ukraine.

That is what we do in this situation. All we are saying is it seems rather puzzling to know that, though we are going to have deportees from the wide world over, we still then have presented something that is printed in English and Spanish regardless of who they are.

Mr. KENNEDY. Mr. President, I ask unanimous consent that if a rollcall vote on amendment 3829 is required, it occur following the series of votes that have already been ordered to begin at 8 o'clock.

That is already part of the order?

The PRESIDING OFFICER. The vote will now occur on——

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent that we have 2 more minutes so that the floor manager can list the order of the various amendments for the information of the Members of the Senate.

Mr. HELMS. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I will agree if the Senator will agree to have 10-minute votes after the first one in the series that the unanimous-consent request would follow.

Mr. KENNEDY. Mr. President, that is more than fine with me. That would be a decision I would leave to the majority, but it is more than fine with me.

Mr. SIMPSON. Let me say, Mr. President, to my friend from North Carolina, it is perfectly appropriate with me that every succeeding vote will be 10 minutes in duration. But I have a bit of a problem with regard to the amendment, the first amendment of Senator FEINSTEIN. One of our Members who would like to speak on that issue has been a great supporter of the amendment as it left the Judiciary Committee, and so I would ask that that simply not be part of the vote, and it is not. We were going to possibly accept that, but there will be further debate on that at least from one Member on our side.

So we will have four amendments to vote on so that our colleagues will know the lay of the land. The first amendment is a Kennedy amendment to determine work eligibility of prospective employees. The second is a Simon amendment to adjust the definition of ''public charge.'' The third is to allocate a number of investigators with regard to complaints.

Now, that one we may get taken care of with a colloquy.

And then the fourth one, and I would ask unanimous consent that a vote occur with respect to the Feinstein amendment No. 3776 last in the sequence under the same terms as previously entered.

The PRESIDING OFFICER. The Chair would ask the Senator from Wyoming to withhold the unanimous-consent request until we act on the unanimous-consent request of the Senator from Massachusetts.

Does the Senator from North Carolina object?

Mr. HELMS. I will object unless it is made clear in the unanimous-consent request that the first vote be 15 minutes and the succeeding three be 10 minutes each.

Mr. SIMPSON. Mr. President, I would certainly add that.

Mr. HELMS. Very well. In that case, I have no objection, Mr. President.

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

Mr. SIMPSON. Mr. President, we move fast. Let me just say that if someone on the other side of the aisle were late for the first 15-minute vote, it might be a problem. It is not to me. But let the record show that there is also 2 minutes equally divided on each of these amendments, so that our colleagues will be aware of that.

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

Mr. KENNEDY. Mr. President, have the yeas and nays been ordered on 3816?

The PRESIDING OFFICER. Yes, they have been ordered.

VOTE ON AMENDMENT NO. 3816

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3816. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber who desire to vote?

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

[Rollcall Vote No. 96 Leg.]

YEAS—32

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Inouye	Pell
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—67

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Baucus	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Boxer	Gregg	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Roth
Burns	Helms	Santorum
Campbell	Hollings	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Levin	Thurmond
Domenici	Lieberman	Warner
Exon	Lott	Wyden
Faircloth	Lugar	
Feinstein	Mack	

NOT VOTING—1

Cohen

So the amendment (No. 3816) was rejected.

AMENDMENT NO. 3809

The PRESIDING OFFICER. On amendment No. 3809, there will now be 2 minutes for debate equally divided.

Mr. SIMPSON. May we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SIMPSON. Mr. President, so that our colleagues will know the procedure and the schedule, we have three amendments with a 10-minute time agreement. One of those may be resolved within a few minutes. So the maximum will be three, unless the leader has something further. The minimum will be two.

Mr. President, now we are on the Simon amendment No. 3809 with 1 minute on each side. I yield to my friend, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. This is an amendment, my colleagues, that conforms the Senate bill to the House bill for the basis

of deportation. Under the language that is now in the bill, without this amendment, any kind of Federal assistance may be a basis for deportation if you receive it for 1 year.

For example, a student who would get a student loan, where the sponsor either had to have gone bankrupt or did not have the income, together with the income of the family that came in, that would be a basis for deportation. If in rural Kentucky or Illinois someone got rural transportation for elderly and the disabled, that would be a basis for deportation. That just does not make sense. We keep the AFDC, SSI, food stamps, Medicaid, housing, and State cash assistance. If you get any of those for 1 year, you can be deported, but not any general Federal program.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, one of the improvements made by the bill is in the definition of ''public charge'' and ''affidavits of support.'' The bill defines ''public charge'' with reference to taxpayer-funded assistance for which eligibility is based on need.

Mr. President, I believe that this definition is quite consistent with the general policy requiring self-sufficiency of immigrants. Programs should not be limited to cash programs. The noncash programs are also a serious burden on the taxpayers. If the immigrant uses such taxpayer-funded assistance, he or she is a public charge. How else should the term ''public charge'' be defined than someone who has received needs-based taxpayer-funded assistance? That person has not been self-sufficient, as the American people had a right to expect.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment No. 3809. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. I announced that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—36

Akaka	Hatfield	Mikulski
Bingaman	Hollings	Moseley-Braun
Bradley	Inouye	Moynihan
Breaux	Jeffords	Murray
Chafee	Kennedy	Nunn
Daschle	Kerrey	Pell
Dodd	Kerry	Robb
Dorgan	Kohl	Rockefeller
Feingold	Lautenberg	Sarbanes
Glenn	Leahy	Simon
Graham	Levin	Wellstone
Harkin	Lieberman	Wyden

NAYS—63

Abraham	Bennett	Boxer
Ashcroft	Biden	Brown
Baucus	Bond	Bryan
Bumpers	Gorton	McConnell
Burns	Gramm	Murkowski
Byrd	Grams	Nickles
Campbell	Grassley	Pressler
Coats	Gregg	Pryor
Cochran	Hatch	Reid
Conrad	Heflin	Roth
Coverdell	Helms	Santorum
Craig	Hutchison	Shelby
D'Amato	Inhofe	Simpson
DeWine	Johnston	Smith
Dole	Kassebaum	Snowe
Domenici	Kempthorne	Specter
Exon	Kyl	Stevens
Faircloth	Lott	Thomas
Feinstein	Lugar	Thompson
Ford	Mack	Thurmond
Frist	McCain	Warner

NOT VOTING—1

Cohen

The amendment (No. 3809) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, there will not be a necessity for two more rollcall votes. Only one will be required.

AMENDMENT NO 3829

Mr. SIMPSON. Mr. President, it is my understanding that under the revised language the Department of Labor cannot initiate a compliance review, random or otherwise, on its own initiative.

If the Department of Labor receives credible, material information giving it reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the INA, or had failed to comply with the terms and conditions of such an application, then the Department of Labor may investigate that complaint, but only that complaint.

The credible, material information may come from any source outside the Department of Labor.

Mr. KENNEDY. That is correct.

Mr. SIMPSON. I urge the amendment be adopted.

Mr. KENNEDY. Mr. President, I hope we could have a voice vote on this amendment. We have adjusted the amendment to respond to some of the concerns.

Mr. SIMPSON. On behalf of our majority leader, I announce this will be the last vote this evening.

Mr. KENNEDY. Mr. President, all this amendment does is provide equal treatment for the temporary workers and the permanent workers in terms of the enforcement procedures. There has been a recent IG report outlining the difficulties and complexity. We have modified the amendment, and I would hope that it would be adopted.

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

So the amendment (No. 3829) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3776

The PRESIDING OFFICER. The pending question is amendment No. 3776 offered by the Senator FEINSTEIN. The yeas and nays have been ordered, and there will be 2 minutes of debate equally divided.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, the present law states that deportation notices will be sent out in Spanish and English. The bill coming out of committee deletes this. So deportation notices would be sent out in English, essentially. There is no requirement in the law.

What we would do in this amendment is strike what is recommended and go back to present law, so that deportation notices are required to be sent out in Spanish and English. The reason is because the great majority of illegal immigrants penetrating across the Southwest border speak Spanish, and the overwhelming bulk of them do not speak English. Therefore, when they receive a deportation notice, they should be able to read it. So we would retain the language of present law.

Mr. SIMPSON. Mr. President, to require that all deportation notices be in Spanish, as well as in English, when many deportees do not speak Spanish but rather one of other scores of languages, and many Spanish speakers do understand English, I think makes little sense.

I think you have to remember that it is in the INS's interest to guarantee that the subject of a deportation order understands what it is. Therefore, today, all the INS does is provide translations, or translators, whenever necessary in any language, not just Spanish, but into whatever language is most appropriate. That is the essence. So that we remove the word ''shall.'' It is difficult to have someone delivered a deportation notice in English or Spanish when they are Chinese. There is no requirement for it. They will be taken care of by the INS through all types of deportation procedures, including translators.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3776 offered by Senator FEINSTEIN.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

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

[Rollcall Vote No. 98 Leg.]

YEAS—42

Abraham	Breaux	D'Amato
Akaka	Bumpers	Daschle
Bingaman	Byrd	DeWine
Boxer	Conrad	Dodd

Domenici	Johnston	Murray
Feingold	Kennedy	Pell
Feinstein	Kerrey	Robb
Ford	Kerry	Rockefeller
Graham	Kohl	Sarbanes
Harkin	Lautenberg	Simon
Hatch	Lieberman	Snowe
Hollings	Mikulski	Thompson
Hutchison	Moseley-Braun	Wellstone
Inouye	Moynihan	Wyden

NAYS—57

Ashcroft	Frist	Mack
Baucus	Glenn	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Bradley	Grassley	Nunn
Brown	Gregg	Pressler
Bryan	Hatfield	Pryor
Burns	Heflin	Reid
Campbell	Helms	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kyl	Specter
Dole	Leahy	Stevens
Dorgan	Levin	Thomas
Exon	Lott	Thurmond
Faircloth	Lugar	Warner

NOT VOTING—1

Cohen

So the amendment (No. 3776) was rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I thank all of my colleagues, especially Senator KENNEDY, my fellow floor manager on that side of the aisle, for the extraordinary support and assistance today in moving the issue along.

Now I am going to propound a unanimous consent-request. I have shared this with my fellow manager so that we might move tomorrow to what I think will be a conclusion hopefully of this legislation, or at least a portion of it, a large portion of it.

I ask unanimous consent that the following amendments be the only remaining amendments in order prior to the vote on the Simpson amendment, as amended, provided that all provisions of rule XXII remain in order notwithstanding this agreement. And I hereby state the amendments: Abraham, Abraham, DeWine, Bradley, Graham, Graham, Graham, Graham—four Graham amendments—Leahy, Bryan, Harkin, three Simpson amendments, Chafee, Hutchison, DeWine again, Graham, Gramm of Texas, Senator Simon two, Senator Wellstone two, Senator Kennedy two, Reid, Robb, Feinstein No. 3777, Simpson No. 3853, and Simpson No. 3854.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. SIMPSON. Mr. President, I would ask approval of that agreement.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank Senator SIMPSON and our other colleagues for their attention and for their cooperation during the day. We had several interruptions which were unavoidable. We had an opportunity to debate several matters.

It does look like a sizable group remain. As of yesterday, there were 156 amendments, so we have disposed probably of 6 or 8 and we are down to 28. So we are moving at least in the right direction. From my own knowledge from some of our colleagues, they have indicated a number of these are place holders.

We will have some very important measures to take up for debate tomorrow, and we will look forward to that and to a continuing effort to reach accommodation on the areas where we can and to let the Senate speak to the areas we cannot.

Mr. President, I thank my colleague and friend from Wyoming and all of our staffs. We will look forward to addressing these issues on tomorrow.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for the leader, I have several unanimous-consent requests. I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

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

WARD VALLEY

Mr. PRESSLER. Mr. President, 16 years ago, we in Congress passed the Low-Level Radioactive Waste Policy Act. This bill gave the States the responsibility of developing permanent repositories for this Nation's low-level nuclear waste. Now the Clinton administration wants to take away that authority.

For 8 years, South Dakota, as a member of the Southwestern Compact, along with North Dakota, Arizona and California, has worked to fulfill its duty to license a storage site. It did the job.

Ward Valley, CA is the first low-level waste site to be licensed in the Nation. After countless scientific and environmental studies and tests, the State of California and the Nuclear Regulatory Commission approved Ward Valley as a safe and effective place to store the Southwestern Compact's low-level radioactive waste.

However, there is one problem. Ward Valley is Federal land. It is managed by the Bureau of Land Management.

The Southwestern Compact has requested that Ward Valley be transferred to the State of California. The Clinton administration refuses to take action. Instead, it has stalled—again, and again, and again.

First, the Secretary of the Interior ordered a Supplemental Environmental Impact Statement. Then, he ordered the National Academy of Sciences to perform a special report on the suitability of Ward Valley for waste storage. Each study presented the Southwestern Compact with a clean bill of health for Ward Valley. Yet, the administration still delays.

Now, the administration has ordered additional studies on the effects of tritium—studies the State of California already intended to perform, but not until the land transfer was complete. Also, I would note, the National Academy of Sciences made no mention that such studies should be a prerequisite to the land transfer.

Instead, the Academy believes that this type of study should be ongoing—conducted in conjunction with operation of the waste storage facility. Unfortunately, I suspect that even if California gives in to demands and performs these tests, the administration will just think up new demands—anything to keep the Ward Valley waste site from becoming reality.

So who benefits from these delays? No one. This is yet one more example of the Clinton administration's pandering to the environmental extremists—extremists intent on waging a war on the West.

Scientific evidence shows that Ward Valley is a safe location for low-level radioactive waste storage. Neither public health nor the environment will be at risk. In fact, most of the waste to be stored at Ward Valley is nothing more than hospital gloves and other supplies which may have come in contact with radioactive elements used by healthcare providers.

By contrast, continued delays creates risks—both to public health and the environment. Currently, low-level waste is simply stored on site—at hospitals, industries, or research institutions. In the four States of the Southwestern Compact, there are over 800 low-level radioactive waste sites. These sites were not meant to be permanent facilities. Thus, there have been no environmental studies, no long-term monitoring systems, nothing to guarantee safe storage of the waste.

With no regional low-level radioactive waste storage sites available, South Dakota is forced to transport its low-level radioactive waste across the country to a disposal facility in Barnwell, S.C.

Clearly, the costs of transporting this waste across the country are great—from the monetary cost to the waste generators, to the legal ramifications of transporting hazardous waste,