to take the kinds of actions that will cause the economy as a whole to grow and create prosperity for all of us?

I am one who does trust the American people. I am one who thinks we need to roll back the tax increases that have occurred, allow people to keep more of their hard-earned money. I believe when we do that we will see the threefold result I have been talking about here, Mr. President. People will be able to earn more—if they are allowed to keep more, they can then do more.

I call upon all of us to support policies that move in that direction. I yield the floor. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3759

Mr. GRAHAM. Madam President, I see my friend and colleague, the Senator from Ohio, is on the floor, I assume, for purposes of offering his amendment. Before he commences I would like to take a few moments to comment on some statements that have been made about the amendment which I offered earlier and which will be the first amendment that will be voted on at 2:40 this afternoon. This amendment is about unfunded mandates.

It is about the reality that the legislation before us represents a staggering transfer of administrative costs and cost shift of programs from the Federal Government to the States and local communities in which legal aliens are resident.

The National Conference of State Legislatures, in examining just 10 of the literally scores of programs that will be covered by this act, has found that the cost to the States in those 10 programs is $744 million per year. The total cost could be into the billions.

The amendment that I have offered is a modest attempt to deal with that. It basically says, first, that if a Federal agency, State, or local government can make a determination that the cost savings of following the procedures of S. 1664 are less than the costs to administer the program, it would not be necessary to implement the program. We have done exactly this in a very analogous program called the SAVE Program, which is an employer verification program in which there is the capacity to waive out of the SAVE Program if it can be demonstrated that the benefits do not equal the costs of the program.

Assume, Madam President, that the issue were reversed. Would we affirmatively vote to say to a State, to a local community, that you must administer this federally mandated program even if the cost of administration can be shown to exceed the savings or the benefits of the program itself? I think not. And so our amendment would create such an opportunity.

I might just add one final point. We are requiring exactly the same administrative structure in a community such as Topeka, KS, as we are in Tampa, FL, although the number of legal aliens in Tampa, FL, probably substantially exceeds those in Topeka, KS. There should be some capability to adjust the level of burden to the reality of the circumstance in that particular community.

Second is the provision that if the Federal Government thinks this is such a good idea, then the Federal Government ought to pay for it. I thought that was the fundamental premise behind the unfunded mandate program that we passed as S. 1, as one of the first acts of the 104th Congress. I used the phrase ''deadbeat dad'' to describe what the Federal Government is about to do here. The Federal Government is about to say: ''We are going to put all of our reliance on the sponsor, but incidentally, if, in fact, the sponsor does not come through with the health care financing or the other sources of financing that will be necessary to maintain this legal alien, we, the Federal Government, are off the hook. It is now going to be up to the local community to pay those hospital costs for that legal alien or to pay the cost of prenatal care for the pregnant legal alien, poor woman.''

I think the phrase ''deadbeat dad'' properly describes what the Federal Government is trying to do: to shift an obligation to States and communities. If we think this is such a good idea and if we are faithful to our constitutional responsibility as the only level of Government that has jurisdiction over immigration, we ought to pay those costs, not ask the local government to do so.

Finally, in this amendment we recognize the fact that there are unusual emergency circumstances. We had one of those in my State in late August 1992 with Hurricane Andrew. I was there. I saw what happened as the emergency and disaster preparedness and response teams attempted to deal with an enormous natural disaster. The very idea of having to subject people who had seen their homes, their documents, their jobs, their lives wrecked by this hurricane, to then have to go through a tedious verification process to determine what their status was and what the income of a sponsor who may well have just been subjected to the same thing that they were, puts the public health at risk. If you cannot vaccinate people against a potential outbreak of typhoid after a natural disaster until you have gone through the bureaucratic steps of verification, just pure common sense tells you there has to be some capability to waive these in an emergency situation. This amendment provides that opportunity.

I believe this is a prudent amendment. Members of this Congress, Members of this Senate, who wish to deal effectively with the issue of illegal immigration should not have that tide of passion and emotion erase our basic sense of common sense and fairness and rational justice to preclude a community from making a judgment as to the cost-benefit analysis of implementing these programs to avoid the Federal Government assuming its responsibility to pay as well as it imposes new responsibilities and to be able to respond to unexpected emergency situations. That is the essence of the amendment which is before us, Madam President. I urge my colleagues at 2:40 to support it.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. May I inquire as to the pending business?

The PRESIDING OFFICER. The pending question is amendment 3759 offered by the Senator from Florida.

Mr. DEWINE. I ask unanimous consent to set aside for a moment the pending business.

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

AMENDMENT NO. 3835 TO AMENDMENT NO. 3745

(Purpose: To make persecution for resistance to coercive population control policies a basis for the granting of asylum)

Mr. DEWINE. Madam President, I call up my amendment numbered 3835.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself and Mr. ABRAHAM, proposes an amendment numbered 3835 to amendment No. 3745.

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

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

The amendment is as follows:

At the end of the amendment to the instructions to the motion to recommit, insert the following new section:

The language on page 177, between lines 8 and 9, is deemed to have the following insertion:

''SEC. 197. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

''Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: 'For purposes of determinations under this Act, a person who has been forced to abort a pregnancy, or to undergo such a procedure, or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subjected to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.' ''

Mr. DEWINE. Madam President, as we discuss far-reaching immigration reform, I think it behooves us to try to make our immigration laws as just and as fair as absolutely possible. If there are terrible injustices going on, we should definitely make use of this rare opportunity—a fundamental reform effort on the floor of the U.S. Senate, going on now—make use of this opportunity to correct those injustices.

Madam President, there is a provision in current immigration practice—not in law but in practice—that must, in my opinion, in the interests of justice, be changed. There are women in repressive countries who are forced to undergo coerced abortions and sterilizations. Until 1994, these women were offered asylum under the same standard as others fleeing persecutions. However, starting in 1994 and since that date, they have been forced to meet a tougher standard, as if the procedures they face somehow did not qualify as prima facie evidence of persecution. That is just wrong. My amendment is very simple. It would change the policy back to what it was before 1994.

My amendment is not controversial. It is supported by groups on the right and groups on the left, by pro-choice groups and pro-life groups. It is supported by the Clinton administration, and it was passed by the U.S. House of Representatives. However, because the specific issue I am discussing is not mentioned in the bill we are considering, my amendment would, of course, be ruled nongermane under standard postcloture procedures. If no Senator objected to proceeding with this amendment, a unanimous consent would override the germaneness issue and allow us to move on the amendment. This amendment, I might add, is supported by Amnesty International, it is supported by the Center for Reproductive Law and Policy, it is supported by the U.S. Catholic Conference, the Council of Jewish Federations, by the National Right to Life Committee—the list goes on and on and on.

But the Senator from Wyoming said on the floor earlier today that he would object to consideration of this amendment. Certainly this is his right to do this, and I fully understand that under the rules of the Senate the point of order of the Senator from Wyoming would be sustained because the amendment is, in fact, not germane. I will, therefore, in a moment, withdraw my amendment. But before I do, I would like to spend just a few minutes discussing a problem that I believe it would solve if we were allowed to go forward.

Think of a college teacher in China who is forced to have not one, two, three, but four abortions by her government. Many of her coworkers were forced to have six or seven abortions. That is a true story. It was told in compelling testimony at a hearing last year in the House Committee on International Relations, a hearing on the subject of ''Coercive Population Control in China.'' I have the transcript of that right here. That is the story, a true story.

That woman, under current procedure, would not be considered as having a per se reason to fear persecution. Madam President, I am not alone in believing that this is unjust. All the groups I have mentioned, from the Catholic Conference to abortion rights advocates, all of them agree that when a woman is forced by her government to undergo these procedures, her human rights are being violated. That is not a tough call. That is a fact.

How hard would it be, in practical terms, for us to recognize this fact in our national policy? Would it mean, as some have suggested, that we would face a deluge of millions of people flooding our shores? No, Madam President, it would not. The number of people granted asylum under the old policy, which we are asking to go back to, the policy my amendment would simply restore, that number of people who were granted asylum was actually very small every year. The number of people we let in because they were protesting China's coerced population control policy was averaging between 100 and 150 people every year. Each applicant of the kind we are discussing would not suddenly move to the front of the line. She would not get automatic asylum. She would not ever get special treatment. All she would get is the same chance as all other asylum seekers, the same judicial process and the same set of rules—what I would call simple, basic human justice.

Think of a woman who has just had her second child; another example. She gets a notice from her local commune sterilization committee, saying she has to report in and get sterilized.

Think of a woman who sees a baby girl, 7 days old, lying abandoned on the road. None of the bystanders want to rescue the baby. They are afraid of the government. The woman takes the baby home herself, and sure enough, then the sterilization police show up and see the new baby girl. They say this woman has too many children and she has to be sterilized, even though the new baby girl is not her own child. She has to escape to a distant and barren place to get away from the sterilizers.

Even years later—this is a true story—she was brave enough to go home, and she was sterilized. This is a true story, Madam President, yet another story that emerged in the hearings held by the House Committee on International Relations. It is a story of barbaric persecution in our own day and times; a crime against women and a crime against our common humanity.

I am not seeking, with this amendment, a special break for these women. All I ask is they receive the same treatment as anyone else who comes to America to seek asylum. Here is what my amendment, a noncontroversial amendment based on the people who support it, this is what it says—and then I will conclude because I know our time for a vote is shortly at hand. Let me read it.

> For purposes of determinations under this Act, a person who has been forced to abort a pregnancy, or to undergo [involuntary sterilization or who has been persecuted for failure or refusal to undergo such a procedure] or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subjected to persecution for such failure, refusal, or resistance, shall be deemed to have a well founded fear of persecution on account of political opinion.

That is the substance of this amendment. It is supported by the Clinton administration, it was passed by the U.S. House of Representatives, and it will be an issue in the conference.

Madam President, at this time I do withdraw my amendment. I appreciate the courtesy of my colleague from Wyoming for the time.

The amendment (No. 3835) was withdrawn.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I deeply thank the Senator from Ohio. With the remaining minute, let me just say I am very pleased it was withdrawn. I, too, have read the language, and the very troubling part is the part that says ''resistance to a coercive population control program'' deems that that person then fits the status of refugee.

We are dealing with China, a country with a population of 1.2 billion people. We are also dealing in this amendment with India, again with one of the largest populations in the world. We are dealing with an amendment that would apply, as of course it should, to all the countries in the world. When we do this, we should bear in mind that there are already young Chinese single—unmarried—males who are even now claiming asylum on the basis that one day they will want to have a family and more than one child and thus come under this coercive birth policy.

But if you are going to make a blanket application for refugee status, it reminds me so much of an American Secretary of State who visited China several years ago. He raised issues about their policies and slave labor and coercive birth policies and their immigration policies, which were very strict.

When he finished, the Premier asked the Secretary, ''How many millions do you want?''

I can tell you, if this amendment, in any form or this form, were to come to pass—and I deeply appreciate the withdrawal because it was not in order—I suggest that there will be millions of people who, under this language, will qualify.

We should remember that this amendment would also apply to tens of millions of persons—male and female—in India, who have undergone population control procedures—vasectomies

and tubal ligations. That program began in the 1950's. Many of those millions of persons bear the marks and scars of those procedures. I would expect that it would be very difficult for INS to prove that those procedures were not coerced. So this amendment would appear to make eligible for asylum in this country millions of persons—both male and female—in China, India and many other countries.

I understand the necessity to make foreign policy statements, but I think that they should not be made on an immigration measure.

Mr. DEWINE. Will the Senator yield for 20 seconds? Let me, if I can, briefly respond to that. We did not have this flood of the old policy and the old law, and the fact is, even with this amendment, we will still have to prove the facts. Then once you have established the facts, those facts, those compelling facts, we would then deem that meets the law.

So it is still a factual question that would have to be proved. The burden would still be there to prove. I am sure we will have another opportunity to talk about this in the future. I thank my colleague.

Mr. SIMPSON. Madam President, I sincerely thank the Senator from Ohio. It makes our work much less difficult.

Mr. KENNEDY. Madam President, I ask unanimous consent to proceed for 30 seconds.

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

Mr. KENNEDY. Mr. President, I thank the Senator for raising this issue. I think it is important to note that at the present time, a number of individuals who have applied for asylum on the basis of this kind of action have already been granted asylum and had deportation delayed. But I think it is something that we ought to get into in much greater degree.

I welcome the fact that this issue has been brought up, and we will work with the Senator from Ohio to try and find out how all of us can find an adequate solution to what is a barbaric practice.

I yield the floor.

VOTE ON AMENDMENT NO. 3759

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3759, the amendment offered by Senator GRAHAM of Florida.

Mr. GRAHAM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 30, nays 70, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—30

Akaka	Graham	Moseley-Braun
Boxer	Inouye	Moynihan
Bradley	Johnston	Murray
Breaux	Kennedy	Pell
Bumpers	Kerry	Pryor
Conrad	Lautenberg	Rockefeller
Daschle	Leahy	Sarbanes
Dodd	Levin	Simon
Ford	Lieberman	Wellstone
Glenn	Mikulski	Wyden

NAYS—70

Abraham	Faircloth	Lugar
Ashcroft	Feingold	Mack
Baucus	Feinstein	McCain
Bennett	Frist	McConnell
Biden	Gorton	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Pressler
Bryan	Gregg	Reid
Burns	Harkin	Robb
Byrd	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Heflin	Shelby
Coats	Helms	Simpson
Cochran	Hollings	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kerrey	Thurmond
Domenici	Kohl	Warner
Dorgan	Kyl	
Exon	Lott	

The amendment (No. 3759) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3840

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate, equally divided, on amendment No. 3840 offered by the Senators from Rhode Island and Florida.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I hope everybody will listen to this because we think it is important. Illegal immigrants now are entitled to a series of limited benefits, such as emergency Medicaid, prenatal Medicaid services, nutrition programs, and public assistance for immunizations. Illegal aliens are entitled to this. This is not the big broad scope of things. This is limited. What we are saying is legal immigrants should be entitled to the same thing. It is a little odd to say that the illegals can get these. Why do we give them to those individuals, the illegals? It is for the benefit of public health overall. It seems to me that the legal immigrants should likewise be entitled to immunization, prenatal, and postpartum Medicaid services. That is what it is all about. It is a limited group. It is not going to break the budget, but certainly the legals under equity should be entitled to what the illegals are entitled to.

Thank you.

Mr. SIMPSON. Give me your attention just for a moment, please. This amendment is about welfare reform for legal immigrants—the same issue you have already voted on seven separate times now. The reason that legal immigrants are in the situation they are in is because the person who brought them here promised to pay for their support. All we are saying is that sponsors should pay for these benefits if they have the means to do so. That is what deeming is. No legal immigrant will receive any fewer benefits than an illegal immigrant, but the legal immigrant's sponsor will have to pay for the benefits before the American taxpayers do. Should the financial burden be on the immigrant's sponsor or on the U.S. taxpayers? Take your pick.

The PRESIDING OFFICER. The question now occurs on the amendment offered by the Senator from Rhode Island. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 40, nays 60, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—40

Abraham	Hatfield	Moynihan
Akaka	Hollings	Murray
Boxer	Inouye	Nunn
Bradley	Jeffords	Pell
Bumpers	Kennedy	Pryor
Chafee	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
DeWine	Leahy	Simon
Dodd	Levin	Snowe
Feingold	Lieberman	Wellstone
Ford	Mack	Wyden
Graham	Mikulski	
Harkin	Moseley-Braun	

NAYS—60

Ashcroft	Dorgan	Kyl
Baucus	Exon	Lott
Bennett	Faircloth	Lugar
Biden	Feinstein	McCain
Bingaman	Frist	McConnell
Bond	Glenn	Murkowski
Breaux	Gorton	Nickles
Brown	Gramm	Pressler
Bryan	Grams	Reid
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Campbell	Hatch	Shelby
Coats	Heflin	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebaum	Thompson
Dole	Kempthorne	Thurmond
Domenici	Kerrey	Warner

The amendment (No. 3840) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. If I could have my colleagues' attention, I would like to make an announcement that I think is important to everyone.

I ask unanimous consent that the agreement relative to the 3:45 p.m. suspension of votes be vitiated.

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

Mr. DOLE. Let me say for the information of all Senators it is my understanding that a rollcall will not be necessary on the underlying Dole-Simpson

amendment. Therefore, Senators can expect two additional votes that will start within a minute, and it will be a 10-minute vote, and then we will start the other vote. The first will be on cloture on the bill. The second vote, if cloture is invoked, will be on final passage of the immigration bill.

I also ask unanimous consent that the yeas and nays be vitiated on amendment No. 3743.

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

Mr. DOLE. I ask for the yeas and nays on those two votes and that the votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. A number of our colleagues on both sides are headed for the White House after the second vote. There will be a bus at the bottom of the stairs to take them down there. I do not know how they will come back.

Mr. SIMPSON addressed the Chair.

(Disturbance in the Visitors' Gallery)

The PRESIDING OFFICER. The sergeant at arms will restore order.

The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, that disturbance is certainly in spirit with the last 10 days.

I did not realize I had such support up there in that quarter, and I must say I am very pleased. Somebody once said, ''You're on a roll.'' I said, ''I have been rolled for 6 months on this issue.''

AMENDMENTS NOS. 3873 AND 3874, AS MODIFIED

Mr. SIMPSON. Mr. President, let me say this. I have two amendments filed by Senator SNOWE, Nos. 3873 and 3874, as modified.

Mr. President, these two noncontroversial amendments relate to problems that have developed in recent years with the movement of persons along Maine's border with the Canadian province of New Brunswick. The amendments address issues that are critically important to the economic health and livelihood of many small communities in northern Maine. These communities have suffered severe economic harm from the discriminatory application of New Brunswick's provincial sales tax and other actions taken by Canadian officials to inappropriately impede crossborder movement.

I am not aware of any objections to the amendments, and I understand that they have been cleared on the other side.

I ask that the amendments be approved.

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

The amendments (Nos. 3873, and 3874) as modified, were agreed to, as follows:

AMENDMENT NO. 3873

(Purpose: To require a study and review of allegations of harassment by Canadian Customs agents for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border)

At the appropriate place, insert the following:

SEC. . REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) Not later than 30 days after the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of allegations of harassment by Canadian Customs agents for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment with the discriminatory imposition of the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, and with any other activities taken by the Canadian provincial and federal governments to deter cross-border commercial activities.

(2) In conducting the study in subparagraph (1), the Commissioner shall consult the representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons that the Commissioner deems important to the completion of the study.

(b) REPORT.—Not later than 120 days after enactment of this Act, the Commissioner of the United States Customs Service shall submit to Congress a report of the study and review detailed in subsection (a). The report shall also include recommendations for steps that the U.S. government can take to help end harassment by Canadian Customs agents found to have occurred.

AMENDMENT NO. 3874

(Purpose: To express the sense of Congress that the discriminatory application of the Provincial Sales Tax levied by the Canadian Province of New Brunswick on Canadian citizens of that province who purchase goods in the United States runs counter to the principle of free trade, *raises questions about the possible violation of* the North American Free Trade Agreement, and damages good relations between the United States and Canada)

At the appropriate place, insert the following:

SEC. —. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds that—

(1) in July 1993, Canadian Customs officers began collecting an 11% New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to U.S. businesses located in proximity to the border with New Brunswick;

(2) this impediment to cross-border trade compounds the damage already done from the Canadian government's imposition of a 7% tax on all good bought by Canadians in the United States;

(3) collection of the New Brunswick Provincial Sales Tax on goods purchased outside of New Brunswick is collected only along the U.S.-Canadian border—not long New Brunswick's borders with other Canadian provinces—thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States;

(4) in February 1994, the U.S. Trade Representative (USTR) publicly stated an intention to seek redress from the discriminatory application of the PST under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures; and

(5) initially, the USTR argued that filing a PST claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the PST claim has still not been put forward by the USTR.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Provincial Sales Tax levied by the Canadian Province of New Brunswick on Canadian citizens of that province who purchase goods in the United States raises questions about the possible violation of the North American Free Trade Agreement in its discriminatory application to cross-border trade with the United States and damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement for the discriminatory application of the New Brunswick Provincial Sales Tax on U.S.-Canada cross-border trade.

AMENDMENT NO. 3951 TO AMENDMENT NO. 3743

Mr. SIMPSON. I have a unanimous consent request that the following amendments be accepted. There is a package of managers' amendments at the desk, cleared on both sides, that will be noncontroversial.

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

The PRESIDING OFFICER. The clerk will report the amendment by number.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], proposes an amendment numbered 3951.

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

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

The amendment is as follows:

SEC. . ADMINISTRATIVE REVIEW OF ORDERS.

Section 274A(e)(7) is amended by striking the phrase '', within 30 days,''.

Section 274C(d)(4) is amended by striking the phrase '', within 30 days,''.

SEC. . SOCIAL SECURITY ACT.

Section 1173(d)(4)(B) of the Social Security Act (42 U.S.C. 1320B–7(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

''(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,''.

SEC. . HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980.

Section 214(d)(4)(B) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection: ''(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostatic or other

similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,''.

SEC. . HIGHER EDUCATION ACT OF 1965.

Section 484(g)(B) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

''(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,''.

SEC. . JUDICIAL REVIEW OF ORDERS OF EXCLUSION AND DEPORTATION.

Page 87, at the end of line 9, insert at the end the following:

''Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to exclude or deport an alien from the United States under Title II of this Act shall be available only in the judicial review of a final order of exclusion or deportation under this section. If a petition filed under this section raises a constitutional issue that the court of appeals finds presents a genuine issue of material fact that cannot be resolved on the basis of the administrative record, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides or is detained for a new hearing on the constitutional claim as if the proceedings were originally initiated in district court. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure.''

SEC. . LAND ACQUISITION AUTHORITY.

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended by redesignating subsections ''(b)'', ''(c)'', and ''(d)'' as subsections ''(c)'', ''(d)'', and ''(e)'' accordingly, and inserting the following new subsection ''(b)'':

''(b)—(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

''(2) The Attorney General may contract for or buy any interest in land identified pursuant to subsection (a) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

''(3) When the Attorney General and the lawful owner of an interest identified pursuant to subsection (a) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to 40 U.S.C. section 257.

''(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to subsection (a).''

SEC. . SERVICES TO FAMILY MEMBERS OF INS OFFICERS KILLED IN THE LINE OF DUTY.

SEC. 294. [8 U.S.C. 1364]—TRANSPORATION OF THE REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE DUTY.

(a) Notwithstanding any other provision of law, the Attorney General may expend appropriated funds to pay for:

(1) the transportation of the remains of any Immigration Officer or Border Patrol Agent killed in the line of duty to a place of burial located in the United States, the Commonwealth of Puerto Rico, or the territories and possessions of the United States;

(2) the transportation of the decedent's spouse and minor children to and from the same site at rates no greater than those established for official government travel; and

(3) any other memorial service sanctioned by the Department of Justice.

(b) The Department of Justice may prepay the costs of any transportation authorized by this section.

SEC. . POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended in subsection (a) by adding the following after the last sentence of that subsection:

''the Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under intergovernmental service agreements with State or local units of government. The Attorney General, in support of persons in administrative detention in non-Federal institutions, is further authorized to enter into cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for persons detained by the Immigration and Naturalization Service.''

Section 103 of the Immigration and Nationality Act (8 U.S.C. §1103) is amended in subsection (b) by adding the following:

''The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws of the United States.''

SEC. . PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. §1103(a)) is amended by adding at the end the following:

''After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.''

On page 173, line 16, insert ''(a)'' before the word ''Section''.

On page 174, at the end of line 4, insert the following:

''(b) As used in this section, ''good cause'' may include, but is not limited to, circumstances that changed after the applicant entered the U.S. and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; attempts to file affirmatively that were unsuccessful because of technical defects; efforts to seek asylum that were delayed by the temporary unavailability of professional assistance; the illness or death of the applicant's legal representative; or other extenuating circumstances as determined by the Attorney General.''

Page 106, line 15, strike ''(A), (B), or (D)'' and insert ''(B) or (D)''.

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

SEC. . CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—With respect to information provided pursuant to Section 150(b)(c) of this Act and except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using only information furnished solely by—

(A) a spouse or parent who has battered the alien or the alien's children or subjected the alien or the alien's children to extreme cruelty, or

(B) a member of the alien's spouse's or parent's family who has battered the alien or the alien's child or subjected the alien or alien's child to extreme cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act;

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) permit anyone other than the sworn officers and employees of the Department, bureau or agency, who needs to examine such information for legitimate Department, bureau, or agency purposes, to examine any publication of any individual who files for relief as a person who has been battered or subjected to extreme cruelty.

(b) EXCEPTIONS.—(1) The Attorney General may provide for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide for the furnishing of information furnished under this section to law enforcement officials to be used solely for legitimate law enforcement purposes.

SEC. . DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ''Commissioner'') shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study

shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated and are appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

Page 15, lines 12 through 14, strike: ''(other than a document used under section 274A of the Immigration and Nationality Act)''.

DEVELOPMENT OF COUNTERFEIT-PROOF SOCIAL SECURITY CARD

Mr. MOYNIHAN. Mr. President, I thank Senator SIMPSON and Senator KENNEDY for accepting this amendment providing for a prototype counterfeit-proof Social Security card.

It was 18 years ago that I first proposed we produce a tamper-resistant Social Security card to reduce fraud and enhance public confidence in our Social Security system. The amendment accepted today is very simple. It would require the Commissioner of the Social Security Administration to develop a prototype of a counterfeit-proof Social Security card. The prototype card would be designed with the security features necessary to be used reliably to confirm U.S. citizenship or legal resident alien status.

The amendment would also require the Commissioner to study and report to Congress on ways to improve the Social Security card application process so as to reduce fraud. An evaluation of cost and workload implications of issuing a counterfeit-resistant Social Security card is also required.

Let me point out that Congress adopted this provision last year as part of the Personal Responsibility and Work Opportunity Act (H.R. 4), the welfare legislation vetoed by the President. Senator DOLE cosponsored the amendment, and it passed the Senate by a voice vote. The Senate also included it in its version of the budget reconciliation bill, but the provision was dropped in the conference committee.

When the Social Security amendments were before us in 1983, we approved a provision to require the production of a new tamper-resistant Social Security card. The law, section 345 of Public Law 98–21, stated:

> The Social Security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited.

What a disappointment when late in 1983 the Social Security Administration began to issue the new card, and it became clear that the agency simply had not understood what Congress intended. The new card looks much like the old, much like the first ones produced by Social Security in 1936. It has the same design framing the name and nearly the same colors. It feels the same. An expert examining a card with a magnifying glass can certainly detect whether or not one of the new ones is genuine, but therein lies the problem. We should have a new, durable card that can hold vital information and can be authenticated easily.

A new Social Security card—one very difficult to counterfeit and easily verified as genuine—could be manufactured at a low cost. The major expense, if we were to approve new cards, would be the cost of the interview process, and that is why the amendment requires a study to include the cost and workload implications of a new card.

A Social Security card could be designed along the lines of today's high technology credit cards. The card could be highly tamper-resistant, and its authenticity could be readily discerned by the untrained eye. The card must be seen as a special document; one which would be visually and tactilely more difficult to counterfeit than the current paper card.

The magnetic strip would contain the Social Security number, encoded with an algorithm known only to the Social Security Administration. A so-called watermark strip could be placed over it, making it nearly impossible to counterfeit without technology that currently costs $10 million. The decoding algorithm could be integrated with the Social Security Administration computers.

The new cards will not eliminate all fraudulent use of Social Security cards. But it will close down the shopfront operations that flood America with false Social Security cards.

That is what the Congress intended in the 1983 legislation.

Let us try again. We have seen that it can be done. It is what the Clinton Administration intended last year when they introduced the Health Security card. As many of you remember, it had a magnetic strip to hold whatever information may be necessary.

I am pleased that the Senate has adopted this amendment, and I again thank the managers of the bill for their support.

Mr. SIMPSON. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is in order.

Mr. SIMPSON. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3951) was agreed to.

WORKER VERIFICATION/IDENTIFICATION SYSTEM

Mr. ROBB. Mr. President, I rise to discuss briefly an amendment I had offered to S. 1664, the Immigration and Financial Responsibility Act of 1996 but have subsequently withdrawn in the interest of completing action on the underlying bill without unnecessary delay at this time. This amendment was designed to ensure the consideration of innovative authentication technology as we develop a new verification system for alien employment and public assistance eligibility.

There is a large and important debate before us. Should we implement a national verification system in the United States? Well, we already have one, but it's failing America. It allows illegal immigrants to skirt the system—to take jobs away from Americans and immigrants who have played by the rules. Moreover, the current system also allows for abuse of our pubic assistance programs that were established to provide a safety net for those who have contributed to our society and deserve help in a time of need. We need to update the current verification system—and 53 Senate colleagues agree as evidenced by their votes to reject the Abraham amendment to strike the verification system from the bill.

The system in place now requires employers to check two forms of identification from a list of 29 acceptable documents. We know that these documents are far from being tamper-resistant and we know that employers are unfairly held accountable for hiring illegal aliens.

The bill before us sets out the goals and objectives for a new verification system and also provides for pilot projects to determine the costs, technology, and effectiveness of a new program. Contrary to what many believe, the bill's provisions address the concerns that have been expressed regarding privacy, the potential for discrimination, and cost. All of these provisions supplement the protections of the U.S. Constitution and anti-discrimination laws. And regarding cost, the unfunded federal mandates law and the recently-passed improvements to the Regulatory Flexibility Act will help insulate businesses and State and local governments against the imposition of exorbitant costs from a new verification system.

Looking at the inventive programs that businesses, universities, hospitals and other institutions are using to monitor human resources, it seems only appropriate that we consider the feasibility of upgrading our current system.

My amendment is simple. It would allow for the consideration of innovative authentication technology such as finger print readers or smart cards to verify eligibility for employment or other applicable Federal benefits in a pilot program.

Already, the INS has begun to investigate the feasibility of creating a new generation of smarter employment authorization cards, border-crossing cards, and green cards. And the Federal Government is also examining the uses of electronic benefits transfer. My amendment would supplement these activities.

Smart cards are credit card-sized devices containing one or more integrated circuits. They are information

carriers like ATM cards, that can hold bank account data, school ID numbers, benefit enrollment status, Social Security numbers and biometric data, such as photographs. Unlike ATM's, which give you access to accounts or information, smart cards actually hold the value of money and information.

I know that some of our colleagues are concerned about the use of biometric data such as DNA samples, blood types, or retina scans. My amendment does not anticipate the use of these types of biometric data. But the use of biometric data has already found its way into our daily lives. We use credit cards with photographs and driver's licences that detail our height, weight and gender. If we are to reduce document fraud, we must incorporate the limited use of biometric data. That is the only way to securely connect a document to an individual.

Setting aside the merits of my amendment, I understand the hesitance of many Members to embrace innovative authentication technologies. While the future is uncertain and change is difficult, we have to look ahead. We had a full debate on the issue of the so-called national ID card yesterday. And while I am not now promoting a national ID, nor did my amendment require the use of biometrics or smart cards, the concerns raised yesterday are similar. My amendment sought only to ensure the consideration of these tools in the development of the pilot programs.

While my amendment has been withdrawn, I will continue to work toward broadening the debate on smart cards and other forms of authentication technology with our Senate colleagues.

In utilizing the most up-to-date technology in these demonstration projects, we can ensure that the President will have the most efficient and the most cost-effective alternatives to scrutinize. If we take deliberate care to develop a new identification system, then we can all benefit: American workers can be further protected; Employers can be relieved of the burden of sanctions; the jobs magnet will be shut off; and most importantly, we will be able to clearly view the benefits of immigration and diversity in our society.

INS PRACTICES CONCERNING STUDENT VISA HOLDERS

Mr. FEINGOLD. I am told by colleges and universities that it is common for foreign students and scholars temporarily to drop out of status during the course of their studies. For example, a student might be told by a professor to drop a particular course, thereby inadvertently dropping below the 12 credits per term required by INS regulations to remain a bona fide student. INS currently allows such students to be reinstated to their previous status. Such reinstatement might not occur until later in the semester, however, when INS-designated school officials notice the problem

Does the Senator intend our visa-overstayer provision to alter the INS's practice in such cases?

Mr. ABRAHAM. No. In the situation you described, where the student continues to work in good faith toward his degree, the professor's directive to the student would constitute good cause for the student falling out of status temporarily.

Mr. FEINGOLD. There are many other situations that might cause a student to fall out of status. For example, a teaching assistant might have to devote an unusual amount of time to grading papers, or a foreign government's tuition payment might be delayed. As I said, I understand that the current practice of the INS in such circumstances is to reinstate such students and scholars to a valid status so that they may continue their studies.

Does the Senator intend that these and similar INS practices should continue?

Mr. ABRAHAM. Yes. My intention is not to displace current INS practice with respect to students who continue to work in good faith toward their degree but who temporarily fall out of status because of circumstances beyond their reasonable control.

Mr. FEINGOLD. Finally, some concern has been expressed about the possibility that the 60-day threshold might be reached if the student accumulates 60 days out of status over the course of several years. Do you intend our visa-overstayer sanctions apply in such cases?

Mr. ABRAHAM. No, I do not intend the sanctions to apply in cases where, for reasons like those described in the examples you've cited, a student has accumulated a total of 60 nonconsecutive days out of status over the course of his studies. I expect the 60-day period will normally be continuous for purposes of our visa-overstayer provision.

Mr. President, I rise today to discuss an amendment I had planned to offer, along with Mr. DEWINE, Mr. ROTH, and Mr. D'AMATO that would have addressed the enormous problem this country has with deporting aliens who commit violent and other felonious acts against Americans. Because the amendment is not germane at this time, I will not be offering it, but plan to raise this issue again at another time.

Let me start by outlining the problem we have right now with criminal aliens in this country.

Noncitizens in this country who are convicted of committing a variety of serious crimes are deportable and should be deported. These are not suspected criminals: These are convicted felons. And there are about half a million of them currently residing on U.S. soil. More than 50,000 crimes have been committed by aliens in this country recently enough to put the perpetrators in State and Federal prisons right now.

The reason these criminal aliens are here, despite their deportability under U.S. law, is that they are able to manipulate our immigration laws by requesting endless review of their orders of deportation. These are convicted criminals obstructing the operation of law by abusing unduly generous provisions of judicial and administrative review. As long as a petition for review is pending, they cannot be deported. Meanwhile, because there is nowhere to put them, many of them are released into the general population, never to be seen again. Thus, at present, aliens who are convicted felons are deported at a rate of about 4 percent a year.

Parenthetically, I would like to note that the study from which most of these figures are drawn—a Senate report on criminal aliens in the United States dated April 7, 1995—was conducted under the auspices of one of the cosponsors to the amendment I am offering today—my distinguished friend and colleague from Delaware, Mr. WILLIAM ROTH.

The bill presently before the Congress does a great deal to address many of the obstacles to ensuring that these individuals are in fact expeditiously deported. As introduced, it included provisions adding a variety of serious offenses to the crimes that constitute aggravated felonies; providing that aggravated felons are not permitted to sue the Government on the grounds that their deportations were not expeditious; providing for regulations to be issued by the Attorney General permitting INS officials to enter final orders of deportation stipulated to by the alien; providing that Federal judges are authorized to order deportation as a condition of probation; and requiring the Attorney General to report to Congress once a year on the number of and status of criminal aliens presently incarcerated.

While these provisions were helpful, they were not enough to prevent a criminal alien from using the key dilatory tacits presently used by these individuals to avoid deportation.

Accordingly, during Committee consideration of this bill, I sponsored a package of four amendments addressing the criminal alien problem. My amendments were cosponsored in whole or part by four Senators on the Judiciary Committee and all were accepted by the committee in lopsided votes. The package of amendments adopted by the Judiciary Committee and now part of the pending bill will do the following: First, prohibit the Attorney General from releasing convicted criminal aliens from custody; second, end judicial review for orders of deportation entered against these criminal aliens—while maintaining their right to administrative review and the right to review the underlying conviction; third, require the Attorney General to deport criminal aliens within 30 days of the conclusion of the alien's prison sentence—with exceptions made only for national security reasons or on account of the criminal alien's cooperation with law enforcement officials; and fourth, permit State criminal courts to enter conclusive findings of fact, during sentencing, that an alien

has been convicted of a deportable offense.

These amendments, now part of the bill, will go a long way toward ending the procedural chicanery by which criminal alien's make a mockery of our laws.

Still, loopholes remain, especially during the administrative review process. The amendment I had planned to offer to the illegal immigration bill would have sought to close these loopholes by doing the following: First, criminal aliens would be required to raise all claims for relief from deportation in a single administrative process including one appeal to the Board of Immigration Appeals.

The problem is this: While we have eliminated judicial review for orders of deportation entered against most criminal aliens, we have not eliminated their capacity to request repetitive administrative review of the deportation order. We have shortened the process, but it could still take, literally, a decade or more to complete the administrative procedures.

For example, criminal aliens will still be able to: First receive a hearing on their deportability from the immigration judge and then appeal that to the Board of Immigration Appeals; second, return to the immigration judge, this time requesting asylum, and then appeal that to the Board of Immigration Appeals; third, request 212(c) relief from the order of deportation and appeal that to the Board of Immigration Appeals; fourth, since several years will frequently have passed during the first rounds of administrative review, make a motion to reopen on the basis of changed circumstances, such as the connections to the community the criminal alien has formed, and frequently, the children the criminal alien has had while these other requests for relief were pending; fifth, continue to make additional motions to reopen.

Criminal aliens should be allowed only one bite at the apple. What needs to be done is this: Require that criminal aliens submit all claims for relief from deportation to the immigration judge and to the Board of Immigration Appeals the first time around. The amendment I am was going to offer does just that.

Second, judicial review for orders of exclusion entered against these criminal aliens would end.

This is a delaying tactic, much abused by excludable criminal aliens. Extensive—even repetitive—judicial review of orders of exclusion may be tolerable for other excludable aliens. There is no justifiable reason to tie up the system with such requests by criminals.

Third, the number of immigration judges, members of the Board of Immigration Appeals, and lawyers handling deportation cases at the INS would be doubled.

There are not enough judges within the INS to expeditiously dispose of deportation hearings with or without the streamlining provided by the other criminal alien provisions in this bill and the Terrorism Prevention Act. This amendment will double the number of members of the Board of Immigration Appeals, double the number of immigration judges—special inquiry officers, and double the number of INS attorneys handling deportation proceedings.

The criminal alien amendments I offered during the committee mark-up of the illegal immigration bill require the AG to deport criminal aliens within 30 days of the later of their release from incarceration, or issuance of the final order of deportation.

Such a requirement will be of no avail if the INS does not have enough judges and members of the Board of Immigration Appeals to dispose of these deportation proceedings. In 1995, the number of board members of the BIA was increased—to 12 members in all.

Meanwhile, it is conservatively estimated that there are almost half a million criminal aliens currently residing in this country. If only a quarter of those criminal aliens now on U.S. soil request deportation hearings and an appeal to the BIA—which is probably an extremely conservative estimate—12 board members will have to process over 100,000 appeals only to get through the deportations of these criminal aliens.

We will never reduce this backlog without adding much-needed personnel to handle these deportation proceedings fairly and expeditiously. Doubling their number is a modest increase if we are serious about deporting deportable criminal aliens.

Fourth, criminal aliens who have been convicted of serious crimes would be added to the list of aliens ineligible for naturalization.

Naturalization already requires that the alien demonstrate good moral character and have resided in the country for at least 5 years, among other things. Yet aliens who have been convicted of serious crimes are able to delay their deportations for many years allowing them to, first, achieve the 5 year requirement for naturalization, and, second, apply for naturalization 5 years after their conviction.

This not only injects into the deportation process an extremely powerful incentive for criminal aliens to delay their deportations, but rewards those who have not only been convicted of serious crimes to become citizens, but rewards the criminal aliens who have been able to manipulate the system in order to avoid being deported.

There are already various types of aliens that are foreclosed from naturalization. This amendment adds convicted criminals to the list. It is not unreasonable for the Congress to conclude that aliens who have been convicted of serious crimes while guests in this country cannot be deemed to have demonstrated good moral character for purposes of naturalization.

These are all reasonable reforms—reforms, I believe, that would shock most Americans only by their absence from current law.

Let me give just one example of why these reforms are needed. This example is not hypothetical. It is a real case of what happens when this country tries to deport noncitizens who are convicted of committing serious crimes in this country.

The case of Lyonel Dor is typical in all but one respect. Dor was an illegal alien, whereas the great majority of the criminal aliens in this country are lawful permanent residents.

Lyonel Dor entered the United States illegally in 1972. Six years later he was convicted of first degree manslaughter for participating in the murder of his aunt and served 6½ years in prison.

Illegal immigrants are deportable. Legal immigrants who help murder their aunts are deportable.

Yet Dor remained in this country for at least another 5 years after serving his prison sentence. He accomplished this by requesting and receiving unending review of the order of deportation against him. Dor was first ordered deported in March 1985. As of late 1989, Dor had not been deported. I do not know whether Lyonel Dor was ever deported or whether he is still here, requesting still more review.

But I do know that during that 5 years, Dor received 13 administrative proceedings and 4 judicial proceedings for review of the order of deportation against him. Every one of these proceedings concerned this country's attempt to deport Dor—an illegal immigrant and murderer. In two of the four judicial proceedings, Federal courts ordered that Dor not be deported—so that the order of deportation against Dor could be subjected to yet more review.

It is important to note that, although Dor's multiple requests for review of the deportation order were granted—upon review, not one of his claims was found to have any merit. Dor requested asylum, this was denied. Dor requested withholding of his deportation, this was denied. Dor requested adjustment of status, this was denied. Dor again applied for adjustment of status, and it was again denied. Dor applied for a writ of habeas corpus, this was denied. Each one of these requests for waiver of deportation was appealed to the Board of Immigration Appeals and sometimes to the courts, as well. Five times throughout these proceedings, Dor requested that his case be reopened. These requests, too, were denied. And these denials, he appealed.

This example is far from unique. To the contrary, it is rather typical. I could cite many, many others. It is time for this to stop.

Some reforms Senator HATCH included at my suggestion in the antiterrorism bill that was recently enacted will go a long way toward stopping it. The reforms contained in the legislation now before the Congress, including those from the original bill and those added through the amendments I offered at markup, would go still further in that direction. I am sorry that on account of the procedural posture

we are in, made necessary by the effort of some Members to bring up matters entirely extraneous to reforming illegal immigration, we will not have the opportunity to consider this additional amendment. I expect, however, to find an occasion in the near future to ensure its consideration.

Mr. SIMPSON. Mr. President, I would like to commend my able colleague for this excellent suggestion. Unlike some of the rest of what he has proposed in connection with this legislation, I wholeheartedly commend his untiring efforts with respect to criminal aliens, which I believe have improved the bill. I think this most recent proposal is likewise one I would support, and I do hope to have occasion to consider it further.

Mr. ABRAHAM. I very much appreciate the kind words of my colleague and friend from Wyoming.

Mr. ROTH. Mr. President, I rise today to speak in favor of this bill, on which Senator SIMPSON and others have labored so hard and for so long. The bill will do much to stem the tide of illegal immigration into this country.

During the Judiciary Committee's mark up of the bill in March, several provisions were added that address the problem of criminal aliens in this country. I want to draw my colleagues' attention in particular to these provisions, because they significantly strengthen the Federal Government's ability to deport and exclude aliens who have committed serious crimes in our country. Senator ABRAHAM pushed for these provisions in committee, and he is to be commended for that effort.

I would like to offer a brief historical perspective on the nature of the criminal alien crisis, based on my past investigative and legislative work in this area. Criminal aliens represent a problem of enormous proportions, and a problem, regrettably, that our present criminal and immigration laws do little to address.

In simplest terms, criminal aliens are noncitizens who commit serious crimes in this country. Currently, aliens who commit certain serious felonies are deportable or excludable. The problem is that at present we permit such aliens to go through two completely separate systems—one for their crimes, and one for their immigration status—in a way that invites abuse and creates confusion. The results are dismal.

At my direction during the previous Congress, the Permanent Subcommittee on Investigations conducted an investigation and held 2 days of hearings regarding criminal aliens in the United States. The subcommittee's investigation found that criminal aliens are a serious and growing threat to our public safety. They are also an expensive problem. Under even the most conservative of estimates, criminal aliens cost our criminal justice system hundreds of millions of dollars each year.

No one, including the INS, knows for sure how many criminal aliens there are in the United States. A study by our subcommittee staff estimated that there are about 450,000 criminal aliens in all parts of our criminal justice system including Federal and State prisons, local jails, probation, and parole. Incredibly, criminal aliens now account for an all time high of 25 percent of the Federal prison population.

Under current law, aliens who commit aggravated felonies or crimes of moral turpitude are deportable. But last year only about 4 percent of the estimated total number of criminal aliens in the United States were deported. The law is not being enforced in part because it is too complex with too many levels of appeal. It needs to be simplified.

The law is also not being enforced in part because INS does not have its act together. The INS is unable to even identify most of the criminal aliens who clog our State and local jails before these criminals are released back onto our streets.

As things now stand, many criminal aliens are released on bond by the INS while the deportation process is pending. It is not surprising that many skip bond and never show up for their hearings, especially in light of the fact that the INS makes little effort to locate them when they do abscond. In 1992 alone, nearly 11,000 aliens convicted of serious felonies failed to show up for their deportation hearings. It is safe to assume that many of them walk our streets today.

A frustrated INS official described the current state of affairs aptly when he said of criminal aliens—and I quote—''only the stupid and honest get deported.'' The others abuse the system with impunity.

Ironically, criminal aliens who have served their time and are fighting their deportation routinely received work permits from the INS, which allow them to get jobs while their appeals are pending. One INS deportation officer told the subcommittee staff that he spends only about 5 percent of his time looking for criminal aliens who have absconded, because he must spend most of his time processing work permits for criminal aliens with pending deportation proceedings. This is an outrageous situation.

Although, our investigation found that the INS is not adequately responding to the criminal alien problem, the INS does not deserve all the blame. Congress has made it far too difficult for the INS and law enforcement officials to identify, deport, and exclude criminal aliens.

In response to these problems, I introduced legislation last Congress and again during this one that would simplify the task of sending criminal aliens home. I am gratified that through the work of Senator ABRAHAM and the Judiciary Committee, S. 1664 contains some of the provisions in my legislation, as well as some additional improvements. Among them are the following: First, the bill broadens the definition of aggravated felon to include more crimes punishable by deportation. Second, it prohibits the Attorney General from releasing criminal aliens from custody. Third, it requires the Attorney General to deport criminal aliens—with certain exceptions—within 30 days of the end of the aliens' prison sentence, and mandates that such criminal aliens ordered deported by taken into custody pending deportation. Finally, it gives Federal judges the ability to order deportation of a criminal alien at the time of sentencing.

To be sure, during the floor debate on this bill, many colleagues have expressed sharp differences in how they wish to go about reforming our immigration laws. However, it is my hope that all Senators would agree that deporting and excluding aliens convicted of committing serious crimes ought to be a top priority. Because fixing existing laws to accomplish this goal ought to be an equally high priority, I urge my colleagues to support this bill.

ASYLUM AMENDMENT

Mr. LEAHY. Mr. President, yesterday the Senate adopted the asylum amendment that I offered along with Senators DEWINE, HATFIELD, KERRY, and WELLSTONE to preserve our asylum law for those seeking refuge from oppression. In addition to our colleagues who voted for the amendment, there are a number of people to thank for this important change in the Senate bill.

Three of our House colleagues, Representatives DIAZ-BALART, ROS-LEHTINEN, and SMITH felt so strongly about these provisions that they took the extraordinary step of sending ''Dear Colleague'' letters to the Senate urging that others join us ''in protecting human rights around the world'' and in supporting this amendment.

I would like to thank Alan Baban and Ana X. who appeared with me on April 30 in advance of the vote and retold their experiences with oppression and asylum. Without them and the refugees who came forward to make the case, we could not have succeeded in amending this bill and the antiterrorism law.

I want to thank all of those from around the country who wrote to me and my colleagues about the importance of this amendment. I know that the correspondence and calls that I received from Patrick Giantonio of Vermont Refugee Assistance; Gerry Haase of the Tibetan Resettlement Project; David Ferch and Philene Taomina of Groton; Bob Rosenfeld, Jane Bradley, Jean Lathrop, and Helen Rabin of Plainfield; Brenda Torpy and Dr. Jennifer Heath of Burlington; Barbara Buckley of Worchester; Valerie Mullen of Vershire; Helen Reindel, Joanna Messing, Sylvia Terry and Charles Ballantyne of Montpelier; Margaret Turner of Belmont; Don Kizer of Cavendish; Roald Cann of Springfield; Dr. A. Joshua Sherman of Midd; Pinelope Bennett of Norwich; Richard Moore of Putney; Sydney Liff of Attamount;

Abbas Alnasrawi of Shelburne; Robert and Mary Belenky of Marshfield; and other Vermonters about the asylum provisions of the bill were most meaningful. They understand what the disastrous impact of the changes in our asylum law, which would have been imposed by this bill, would have meant to real people facing oppression around the world.

I want to thank the Committee to Preserve Asylum, which has worked diligently from the beginning to focus needed attention on these provisions of the bill. Earlier this week I met with a number of representatives of organizations who support this effort, including Eve Dubrow of UNITE; John Fredicksson of the Lutheran Immigration and Refugee Service; Richard Foltin of the American Jewish Committee; Richard Li Albores of the National Asian Pacific American Legal Consortium; Michelle Pistone of the Lawyers' Committee for Human Rights; John Swenson of the U.S. Catholic Conference, Carol Wolchok of the American Bar Association; and Patricia Rengel of Amnesty International USA. I thank them all for their efforts on behalf of the asylum amendment and in connection with serving refugees in need from around the world.

I am grateful for the letters of support from the U.S. Catholic Conference, the American Bar Association, the American Friends Service Committee, the American Immigration Lawyers Association, the American Jewish Committee, the Lawyers Committee for Human Rights, the Asian Law Caucus, the Hebrew Immigrant Aid Society, the Lutheran Immigration and Refugee Service, the Asian American Legal Defense and Education Fund, the Domestic and Foreign Missionary Society of the Protestant Episcopal Church, the Mexican American Legal Defense and Educational Fund, the United Church Board for World Ministries, the ACLU, the National Asian Pacific American Legal Consortium and the Women's Commission for Refugee Women and Children.

At the risk of offending others, I want publicly to commend Carol Wolchok of the ABA, Michelle Pistone of the Lawyers Committee for Human Rights, Michael Hill of the U.S. Catholic Conference, Professor Philip Schrag of Georgetown, and Dr. Allen Keller of N.Y.U. for their tireless efforts on behalf of this amendment. They and those working with them live their commitment to justice and freedom every day. They help make America the great country that it is and must remain.

I am also especially grateful for the support of Bishop Cummins, the chairman of the Committee on Migration of the U.S. Catholic Conference. I had received an earlier letter from Cardinal Law in which he noted his opposition to the provisions in the bill that would have virtually eliminated the United States' commitment to help refugees seek protection from persecution. I am proud that the U.S. Catholic Conference supported the Leahy amendment, even though our amendment does not get as far as they would like.

I want to thank Anne Willem Bijleveld, the Representative of the United Nations High Commissioner for Refugees, for all her support on this matter.

In signing the antiterrorism law last week, the President included the following in his message: ''The bill also makes a number of major, ill-advised changes in our immigration laws having nothing to do with fighting terrorism. * * * The provisions will produce extraordinary administrative burdens on the Immigration and Naturalization Service.'' I believe that the President was referring to the requirements for summary exclusion that the Senate immigration bill would amend.

In a February letter the President sent to Congressman BERMAN, he noted his concern that ''we not sacrifice our proud tradition of refugee protection and support for the principles of the Convention Relating to the Status of Refugees.'' The President noted: ''This critically important Treaty, which responded to the displacement that followed the Second World War, has enjoyed broad bipartisan support in the Congress. Moreover, our efforts to urge other governments to comply with its provisions has been a major element of our diplomacy on international humanitarian issues.''

Specifically on the matter of summary exclusion, the President favors a ''carefully structured stand-by authority for expedited exclusion.'' That is what our amendment, in contrast to the bill, now provides.

With regard to the overall proposals for summary exclusion, the President wrote that they were ''too broad and would also result in considerable diversion of INS resources.'' He noted that: ''These provisions seem particularly unnecessary in view of the successful asylum reforms we have already initiated.''

Human rights organizations have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from INS detention for not meeting a credible fear standard. Under the summary screening that was proposed in the bill, these refugees would have been sent back to their persecutors without any opportunity for a hearing. I included many such examples in the RECORD on April 17. I now have collected many, many more.

I urge my colleagues to consider how the bill will impact refugees seeking asylum here and not just consider the theoretical possibility that they might be treated as the exceptional case.

Furthermore, the bill would have denied the federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. The bill would have allowed no judicial review whether a person was actually excludable and would have created unjustified exceptions to rulemaking procedural protections under the Administrative Procedure Act. These proposals would have signaled a fundamental change in the roles of our coordinate branches of Government and a dangerous precedent.

I urge my colleagues, especially those who did not support the asylum amendment, to think further about these important matters. While doing so, please do not continue to confuse asylum with illegal immigration. Do not vote with regard to circumstances that no longer exist after the recent reforms of the asylum process.

Refugees who seek asylum in the United States are not causing problems for America or Americans. They come to us for refuge and for protection. Let us not turn them back. Let us not abandon America's vital place in the world as a leader for human rights.

I want to thank and commend the Managers of the bill. Both Senator KENNEDY, who supported the asylum amendment, and Senator SIMPSON, who did not, have been exceptionally fair to me and to all of us on this issue and on every aspect of the bill. Immigration is a complicated issue and one that evokes emotions and strongly held feelings. They have been exceptional managers of this legislation and are extraordinary members.

I want to pay special tribute to my friend from Wyoming. On the asylum issue I might call him a worthy opponent, except that I do not believe that we are opponents. I believe that we both are working toward the same goal and both want America to remain a beacon of hope and freedom to the oppressed, wherever they may be.

He has announced that he will not be seeking reelection. That will be the Senate's loss. He is a dedicated, respected and productive member of this body. There are not many like ALAN SIMPSON and I will miss his counsel and his humor. I look forward to our continuing to work together on this important bill and many other matters in the days ahead.

Mr. SIMON. Mr. President, I want to thank the chairman and ranking member of the Immigration Subcommittee—Senators SIMPSON and KENNEDY—for their dedication and commitment to the issue of illegal immigration. They have steered the Senate through a difficult process, and we are all appreciative of their efforts this time, as we have been on numerous occasions past.

I will vote against final passage of this bill. The bill contains much that I support. I am gratified that the Senate has voted to retain the verification pilot programs that were adopted as a compromise in committee. These pilot programs are essential to combating the job magnet that lures illegal immigrants to the United States, and will also make immigration-related job discrimination less likely.

I am also gratified that the Senate passed the Leahy asylum amendment yesterday. This amendment, by preserving our Nation's commitment to providing safe haven for victims of persecution abroad, was a substantial improvement in this legislation, and one that corrected one of the major problems with this legislation as it came out of the Judiciary Committee.

Finally, unlike the House immigration bill, the Senate bill does not contain any provision allowing States to deny undocumented alien children primary or secondary education. Adoption of such an amendment would have been an imprudent response to the problem of illegal immigration, and would have cost the Nation far more than it would have saved it.

Despite the virtues of this legislation, I am compelled to vote against it because it still suffers from some serious problems—in particular, the provisions of the bill that serve to deny legal immigrants Government assistance. While I support the idea of tightening current deeming requirements, the bill will deny legal immigrants assistance that will prevent, not encourage, legal immigrants from receiving welfare, such as higher education and job training assistance. The bill makes a sieve out of the safety net that is essential for the most vulnerable of our society—children, pregnant women, and the disabled. Finally, this bill retroactively expands deeming requirements for those immigrants who are in the country today, without the benefit of a legally binding affidavit of support. There is no question that sponsors should be primarily liable for the well-being of the immigrants they bring in. At the same time, this bill lacks the flexibility that is necessary if we are to ensure a balanced and fair approach to the issue of immigrants and public assistance.

I am concerned about much of the rhetoric about immigrants and public assistance that has accompanied this debate. While we have heard much about the pressures immigrants place on our system of public assistance, the fact is that the overwhelming majority of immigrants—over 93 percent—do not receive welfare, and that working-age nonrefugee immigrants use Government assistance at the same levels as native-born Americans. While specific programs—in particular, SSI—receive disproportionate use by immigrants, we should address such problems specifically, without cutting off access to resources that will help immigrants avoid the welfare dependency that concerns us all.

Having set out my objections to the bill, I hope that I will be able to support a conference agreement on illegal immigration. The House immigration bill has several provisions in the public assistance area preferable to the Senate bill—in particular, the exemption from deeming for higher education, and the limitation on programs that can give rise to deportation as a public charge. Adoption of these provisions in the conference will substantially improve this legislation.

On the other hand, any illegal immigration conference agreement should not include any provision allowing States to deny primary or secondary educational assistance to undocumented aliens. Such a provision, while not in the Senate bill, is in the House bill. Inclusion of such a provision in the conference agreement would cause many of those who support the Senate bill to oppose the conference report.

We are close to having an illegal immigration bill we can all be proud of, but we are not there yet.

Mr. THURMOND. Mr. President, I rise today in support of S. 1664, the Immigration Control and Financial Responsibility Act of 1996. It cannot be disputed that our immigration system is currently fraught with serious problems, including a flood of illegal immigrants, criminal aliens, undesirable burdens on public services, and many other concerns. These problems weaken our country as a whole, and erode public support for basic principles which are central to our Nation. Americans are a generous people, but they do not like to have their generosity abused. I am pleased that we have confronted these hard issues with both compassion and resolve, and that the Senate is now giving consideration to final passage of this immigration reform bill.

Among the many notable provisions in this immigration bill are those designed to increase enforcement of our borders; limit ineligible aliens' public benefits; improve deportation procedures; and reduce alien smuggling. There is no serious disagreement over the pressing need to strengthen our laws against illegal immigration, but there has been much debate over the details of how this can best be achieved. I am committed to enacting this legislation in order to sharply reduce the flow of illegal aliens into our Nation, by ensuring adequate enforcement along our borders, among other things.

Mr. President, I commend Senator SIMPSON for his leadership on immigration issues, and particularly on his role in bringing this important legislation to this point today. Although we have not agreed on every issue, the commitment and expertise of Senator SIMPSON have been invaluable in moving needed reform forward.

Immigration matters are complex and tend to be divisive. It is my belief, however, that illegal immigration is among the most serious problems confronting our Nation today. We should pass this legislation to address these problems, and I urge my colleagues to adopt this measure.

RELAX NATURALIZATION REQUIREMENTS FOR HMONG PATRIOTS

Mr. WELLSTONE. Mr. President, I rise to express my support for an important provision in the House version of S. 1664, the illegal immigration bill, which I had intended to offer as an amendment to this bill. This House provision, authored by Congressman VENTO, would help expedite the naturalization of Hmong patriots recruited by the CIA who served alongside U.S. military forces during the Vietnam war. Earlier this week, I submitted a corresponding amendment in this Chamber. The Wellstone amendment No. 3872, would have relaxed the naturalization requirement for permanent residents who served in these guerrilla units in Laos, and their spouses or widows, by waiving the language requirement and the residency requirement aliens normally must meet. I still believe these steps are necessary to address the unique situation of the Hmong, and I will continue to press for their enactment.

Let me describe what has happened over the past few days. I was prepared to offer the amendment, but after discussion with numerous colleagues on and off the committee, it has become clear that a number of Senators had concerns about the reach and scope of the changes being proposed, and thus would likely be unwilling to support my amendment in its current form. While I intend to continue to press hard for these changes, I do not want to endanger the chances for these provisions in the conference committee by pushing this to a premature vote, the outcome of which is in doubt, and so I will not offer the amendment. Instead, I will continue to work with Senator SIMPSON, Senator KENNEDY, the other Senate conferees, and Congressman VENTO to craft a provision they will find acceptable.

I was surprised and disappointed that there were concerns expressed about this amendment. I had thought it would be noncontroversial. During the Vietnam war, the CIA recruited tens of thousands of Hmong people to serve in special guerrilla forces, to fight against the Communist government in Laos. Between 10,000 and 20,000 of them are estimated to have lost their lives in this struggle, and thousands more were forced to flee to refugee camps or to other nations when the war ended to avoid the persecution that many feared would follow. Many came to the United States, concentrating in California, Minnesota, Wisconsin, New York, and several other States.

These men and women, many of whom were very young when they served, have sacrificed a great deal in defense of our Nation, and they deserve an improved chance to become citizens. The waivers I have proposed are consistent with our long tradition of recognizing the service of those who come to the aid of the United States during wartime.

Normally, under current law, aliens or noncitizen nationals who served in U.S. forces are eligible for naturalization regardless of age, period of residency, or physical presence in the United States. The Hmong patriots, however, fall through the cracks because the units with which they served

were not technically U.S. units, despite the fact that in many cases they were recruited, trained, and funded by the intelligence services of the U.S. Government, and coordinated closely with U.S. forces in the region. Many served as scouts for U.S. forces, and there are many stories of their extraordinary heroism in helping to rescue downed U.S. pilots during this period.

The most serious obstacle these Hmong patriots face in obtaining citizenship is the language barrier. The Hmong language has not existed in written form until very recently, so it has been enormously difficult, especially for older Hmong, despite their best efforts, to learn to read and write in English.

The House bill would waive the residency and language requirements for naturalization. These steps are necessary to address the unique situation of the Hmong. By far the most serious problem facing this community is their difficulty with learning English. While for some current law waiver regulations applying to residency are sufficient, this authority does not cover all of them.

Mr. President, there is a long-established precedent for granting waivers to groups who fought bravely on the side of U.S. forces in defense of freedom all over the world. U.S. law has allowed those who fought with us in WWI and II, the Korean war, and the Vietnam war to be naturalized, regardless of age, period of residence, or presence in the United States. It has also been allowed for those who served with us, but were not technically part of U.S units. In the 1990 immigration bill, Congress adopted a waiver for Filipino scouts who served in World War II. Many of them have now become full-fledged citizens who participate in the democratic process.

No one appreciates the value of the democratic process more than Seng Thao, who fought for 7 years against the Communists in Laos and was wounded twice. When he began his training, he was only 14. Although his military service ended in 1975, he stayed in Laos to defend his family and his village until 1979. It was in 1979 that his family made the voyage to Thailand, where they were sent to a ''re-education'' camp. There they were reportedly physically abused, and coerced to give up everything they had. They were later moved to Ban Vanai Refugee camp.

Seng Thao came to the United States in 1980, and now works at Riverview Packaging in Minneapolis. He is a productive member of society, and has earned the right to be called a U.S. citizen. He writes, ''I would like to be a citizen of this great country * * * because this is my home now.''

Another Hmong patriot, Wa Chi Thao, was recruited in 1961 when he was 11 years old. During his 14 years of fighting, he suffered a wound in a bomb explosion, came to the aid of two downed American pilots, and saw his wife die in combat. Before coming to live in St. Paul, MN, Thao and his family spent 10 miserable years in refugee camps.

Mr. President, however we feel about the legacy of the Vietnam war, let us recognize the service of these patriots who came to the aid of the United States in a time of war, and honor the memories of those they left behind, with this modest step. It would not open the floodgates for new immigration by creating a new category of immigrants, nor would it make Hmong patriots eligible for veterans benefits. It simply recognizes the service of Seng Thao and other Hmong like him, who served in U.S.-recruited units during the Vietnam war, by granting them a waiver of the English residency requirements and a waiver of the residency requirement. It does not automatically extend them citizenship, but acknowledges their contributions by easing the path to citizenship.

As the immigration bill moves to a House-Senate conference committee, I urge my colleagues who will serve on the conference to recede to the House language on this important provision. I am confident that we can work together to provide these critical benefits to Hmong veterans who served or Nation during wartime.

Mrs. MURRAY. Mr. President, as the Senate considers S.1664, the Immigration Control and Fiscal Responsibility Act, I want to take this opportunity to explore and comment on a number of the key issues.

Immigration reform has always been a controversial issue for our immigrant based society. As our Nation continues to develop and grow, it is appropriate for the Senate to debate these issues. Therefore, I want to complement the members of the Judiciary Committee, both the majority and the minority, who have labored to bring this bill to the floor.

The bill does do much to address the problems associated with illegal immigration. I support the bill's provisions to add several thousand new border patrol agents between now and the year 2001. Additionally, I support the language to add new INS investigators to enforce alien smuggling and employment laws. Illegal immigration along our Southern border is a serious and costly problem. We have a responsibility to meet the needs of our Southern States and to ease the financial burdens associated with illegal immigration.

It is important to note that many of the bill's provisions dealing with illegal immigration are similar, and in some cases identical, to legislation proposed by President Clinton. Despite the ongoing problems with illegal immigration, the Clinton administration has waged an unprecedented campaign against illegal immigration. The administration has increased the number of Border Patrol agents by 40 percent since 1993. The administration is on target to meet its goal of 7,000 Border Patrol agents, trained and deployed, by the end of fiscal year 1998. I commend the administration for committing the financial resources and political capital to fight illegal immigration.

Despite laudable attempts to combat illegal immigration, this legislation threatens to become a punitive vehicle aimed directly at children and families. My objections are numerous; I will detail a few today. If the Senate chooses to follow our House colleagues down the road of punishing children and families as well as abandoning our historical and cultural acceptance of legal immigrants, I will oppose the legislation.

My objections begin with any effort to combine legal immigration restrictions and cutbacks with S. 1664, the bill before the Senate to curb illegal immigration. The effort to combine the two issues will doom passage of illegal immigration reform this year.

Legal immigrants have long been a source of strength for our Nation. My own family has an immigration story to tell. My husband's family immigrated to Washington State from Norway and settled in the Ballard section of Seattle. Even today, the Ballard community remains the focal point for Scandinavian culture in Seattle. Flags from Norway dot most of the storefronts, school children can learn to speak Norwegian and summer festivals highlight our shared cultural heritage. My husband's family came to Seattle as the shipping and fishing industries first began to shape the Pacific Northwest economy. Today, these industries generate thousands of jobs for Washingtonians and more than $1 billion in annual economic activity.

Just as early immigrants boosted the growth of the shipping and fisheries industries, today's immigrants are instrumental to the growth of Washington's high-technology sector. My Washington State colleague, Senator SLADE GORTON, and I wrote to Chairman SIMPSON in late November to express our opposition to language that would severely restrict the ability of the high-technology industry to access global talent when necessary to facilitate economic growth in the United States. Tens of thousands of Washington State residents are employed in the high-technology industry at high-skill, high-wage jobs. Senator GORTON and I both believe in the historic record of the United States in attracting and keeping the best international talent and harnessing this talent for the benefit of all residents of our State and our country.

I also want to take a moment to express my strong personal and moral objection to any amendment to deny educational benefits to any child. This in my mind is perhaps the most troubling language associated with this bill. I simply cannot understand this attempt to punish innocent children as well as turn our classrooms into interrogation rooms, and our teachers into INS agents. This language is veto bait; both

the Secretary of Education and the Attorney General have indicated this language will generate veto recommendations for the President.

The U.S. Supreme Court in Plyler versus Doe ruled that States may not, consistent with the 14th amendment, deny undocumented children the same free public education they provide to other children living in the State.

The language barring children from school is mean-spirited. I am saddened the House of Representatives chose to include this language in its version of illegal immigration reform. I implore on the Senate, please reject this cruel attack on innocent children. The language is in reality a massive unfunded mandate upon our schools and upon the State and local government entities that will be forced to pay costs associated with these barred children in the community on a daily basis.

This legislation proposes to allow States to base a legal immigrant's eligibility for a host of public assistance programs on their income, and that of their sponsor. I am particularly concerned about this legislation's impact on children.

Here are just some of the services children now have access to that States could deny them under this proposal: Maternal and Child Health Services, Preventive Health and Health Services, public health assistance for immunizations and testing and treatment to prevent the spread of communicable diseases, services from Community Health Centers, Child Care and Development Block Grant services, Child Nutrition Act Programs, including Women and Infant Children [WIC], and Head Start.

All these programs help children. All could be denied to certain, legal immigrant children. I would like to remind the proponents that children's needs are not different, just because their paperwork is different. And what could be more noble or of greater benefit to the Nation than giving a child—any child—every opportunity to succeed in life?

Mr. President, I remain committed to combating the problems associated with illegal immigration, particularly in the Southern States where our problems are most severe. It remains my hope that this legislation will not lose focus on this objective.

Therefore, Mr. President, I intend to vote in favor of S. 1664. I do so with reservations, however, because the Senate rejected a number of very good amendments, which, if adopted, I believe would have strengthened this bill. As it stands, this bill will achieve some needed reforms in immigration policy. However, I feel it dances a bit too close to the line in terms of humanitarian treatment of individual people.

I can say with confidence that if the Senate bill is altered in any way to reflect the House-passed bill during conference, I will not support it. Specifically, I cannot in good conscience support any provisions that would deny basic human services, such as education and health care, to children. Likewise, I cannot support any conference report that places new onerous restrictions on legal immigration. I do not believe this would be in the interest of the Nation's economy or culture.

By sticking close to the Senate mark, a conference committee on illegal immigration reform can show the American people that Congress is occasionally capable of putting aside fundamental differences and crafting consensus legislation that serves the public interest. I sincerely hope this happens.

Mr. KOHL. Mr. President, I rise today in strong support of our efforts to address the problem of illegal immigration. It is shameful and, frankly, embarrassing that the strongest nation in the world has had such difficulty controlling its own borders. This bill will help us make progress in this crucial area.

The administration has already begun to make headway. Commissioner Meissner and the INS have strengthened the Border Patrol and targeted agents and equipment to the areas with the highest number of illegal entries. They've improved the asylum process, reducing asylum claims by 57 percent and clearly restoring integrity to the system. And they deported a record number of criminal and noncriminal illegal aliens in 1995.

But with almost 4 million illegal aliens residing in this country, we obviously need to do more. Mr. President, this legislation is a good start. With broad bipartisan support, S. 1664 was voted out of the Judiciary Committee. This bill is not perfect and the proposed reforms not foolproof, but the American public has sent a clear message. They want us to act against those who break our laws to come here, who take jobs at the expense of hard-working Americans, and who surreptitiously benefit from the generous safety net provided by our tax dollars.

We approved a number of good amendments during the Judiciary Committee markup, as we have done these past weeks during floor debate. We have worked together in a bipartisan manner and moved forward, recognizing that this issue is too important, and this problem too serious, for us to have let progress be indefinitely delayed by peripheral debates.

Mr. President, let me address a number of the contentious issues that arose during our debate on this bill.

First and foremost, I am pleased that we kept separate the illegal and legal immigration measures. Simply put, illegal and legal immigration are fundamentally different issues. And Congress must not let our common frustration with illegal immigrants unfairly color the circumstances of legal immigrants: The risk of injustice is too great.

Mr. President, we put our minds to it and effectively debated the provisions of S. 1664, and we can do the same with regard to the legal immigration bill. If the majority of the Senate agrees that problems exist in both areas, then combining legal and illegal reform packages would only have impeded fair and deliberative treatment of either issue.

Second, we should be pleased that we maintained the guts of this bill: The proposed verification pilot projects. Those who oppose the pilot projects have legitimate concerns about the accuracy of data, the uses to which that data is put, and whether it will really decrease employment discrimination and the employment of illegal aliens. But the response to these concerns should not be to throw out the idea altogether. I am pleased that the Senate voted to uphold the reasonable compromise adopted by the committee. That is, conduct extensive demonstration projects, see if they work and then ask Congress to take a look at the results and decide whether a national verification system is a good idea. If the verification system is ineffective or, worse, civil liberties are compromised, we can junk the system. And we should. But if pilot projects could move us down the road toward a workable approach, one which stops illegal aliens from getting jobs, then at the very least it deserves a try.

Third, with regard to the summary exclusion provisions, we all agree that the United States must uphold its obligation to provide refuge for people legitimately fleeing persecution. And obviously the challenge lies in balancing our desire to provide a safe haven with the need to protect our borders and avoid fraud.

As mentioned earlier, INS has begun to move us toward achieving this balance. And the Judiciary Committee added its help by adopting a 1-year post-entry time limit for filing defensive asylum claims. However, S. 1664's provisions establishing new grounds for the exclusion of immigrants who arrive at our borders without proper documentation and claim asylum were troubling. Senator SIMPSON's bill would have essentially left the determination of whether that claim is credible to a Border Patrol agent. These changes would have placed the United States at serious risk of sending legitimate asylees back to their persecutors. Indeed, the U.N. High Commissioner on Refugees had told us as much, all in the name of solving a problem that does not exist. Fortunately, Senator LEAHY's amendment to remove the summary exclusion provisions succeeded.

Fourth, the issue of deeming and the related obligations of an immigrant sponsor are extremely complex. Persuasive arguments can be made on both sides but, overall, this bill's provisions strengthening an immigrant sponsor's obligations are fair and prudent. It is reasonable to ask that the sponsor's affidavit of support be legally enforceable and that deeming extend to more public assistance programs. When legal immigrants come to this country they take a vow not to become a public

charge. And it is the sponsor, not the taxpayer, who should foot the bill when a legal immigrant needs help. However, I must express regret that the Senate voted down the Chafee amendment. At a minimum, the Senate should have ensured that illegal aliens are not afforded more privileges than legal immigrants and approved this provision in the interest of public health.

Finally, I am pleased that S. 1664 includes my amendment on the international matchmaking business. This amendment launches a study of international matchmaking companies, heretofore unregulated and operating in the shadows. These companies may be exploiting people in desperate situations. The study is not aimed at the men and women who use these businesses for legitimate companionship. Instead, it is a very positive and important step toward gathering the information we need so that we can determine the extent to which these companies contribute to the very troubling problems of domestic violence against immigrant women and immigration marriage fraud.

Mr. President, my own parents were immigrants. There is no doubt that our Nation has benefited immensely from the hard work and ambitions of the generations of legal immigrants that have chosen to start new lives in America. This bill, by cracking down on illegal immigration, will continue this rich tradition. I commend the hard work and commitment of the managers of the bill, Senators SIMPSON and KENNEDY.

Our current immigration policies, though not perfect, stand as strong evidence that the United States is fundamentally a generous and compassionate nation. Though we sometimes differ over the best way to continue that strong tradition, we all share a common desire to stem the tide of illegal immigration to this country. With our minds on the common goal, let us approve this legislation on behalf of the American public.

Mr. DODD. Mr. President, I rise today to speak in support of this bill to curb illegal immigration.

Since its first days as a nation, the United States has always been a refuge for those seeking to escape political and religious persecution. America has consistently provided limitless economic, political, and social opportunities for those who come to our Nation and are intent on working hard and improving their lives and those of their children.

It is this influx of immigrants from diverse cultures and distant lands that has made America a shining example to the world. That's why millions of people across the globe look to the United States as a land of opportunity. It's why they come to our borders in the hopes of entering our Nation and achieving a better life.

It was the promise of the American Dream that brought my family to this country from Ireland. And it was the desire for a better life that brought millions of other immigrants to America, whether they came over on the *Mayflower* or if they came to our land in just the past few days.

As Franklin Delano Roosevelt reminded us more than 50 years ago, with the exception of native Americans, ''All of our people all over the country. * * * are immigrants or descendants of immigrants, including even those who came over here on the *Mayflower*.''

Nearly every Senator in this body is a descendant of immigrants. And I believe that we should provide the same opportunities for those who come after us as our forefathers accorded to those who came before us.

However, while I strongly support continued immigration to our Nation, there are proper rules and procedures to be adhered to. If you play by the rules and follow the laws of our country than the opportunity to live in America should be available.

But, the opportunity to come to America does not give people the right to enter our Nation illegally. It does not give them the right to break the law. Nor does it give companies or businessman the right to hire illegal aliens and take away jobs from hard-working Americans who pay their taxes and play by the rules.

Let me just say that I commend this administration for all it has done in curbing illegal immigration. Since 1993, the Clinton administration increased the Immigration and Naturalization Service budget by 72 percent. More than 1,000 new Border Patrol agents have been deployed. Additionally, more than 140,000 illegal and criminal aliens have been deported since 1993.

What's more, this administration is helping more eligible immigrants become citizens. In fact, in fiscal year 1995 more than half a million citizenship applications were completed.

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

This legislation increases the size of the Border Patrol. It authorizes voluntary pilot projects to test improved employee verification system. It forces sponsors to take greater responsibility for the immigrants they bring into the country. And it increases the penalties for alien smuggling and fraud.

These are all necessary steps and I believe they are necessary to curb illegal immigration in our country. What's more they were strongly influenced by the bipartisan Jordan Commission on Immigration Reform.

While, I do remain concerned about the benefit provisions in this legislation, there are enough positive aspects of this bill to make it worthwhile.

I am particularly pleased that this body decided to defer taking up the issue of legal immigration. It is essential that we do not confuse the two issues.

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

Legal immigrants pay nearly 95 percent more in taxes then they receive in benefits. More than 93 percent do not receive welfare benefits. In fact, native-born Americans are more likely to receive welfare then poor immigrants.

Legal immigrants are not the problem. They play by the rules and they don't deserve to have their benefits or their rights cut.

I am also pleased that this bill includes the Leahy amendment, which prevents barriers from being placed in front of those who seek political and humanitarian asylum.

We must avoid putting those who come to our country seeking asylum, into a position where their political beliefs could cause them to face the possibility of imprisonment, injury, or even death if they return to their homeland.

We must never forget as a nation that America has and will continue to be seen as a beacon of hope and freedom for those who are oppressed or maltreated. We must not shirk our role as a haven for those fleeing persecution.

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

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

Today, we must continue to maintain our obligation to immigration as a nation and as a people. While not perfect, I believe this bill takes us in the right direction toward upholding our commitment to an inclusive and commonsense immigration policy.

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

But, due in part to the service rendered by the able Senator from Wyoming [Mr. SIMPSON] on this bill, S. 1664, ''The Immigration Control and Financial Responsibility Act of 1996'' the Federal Government will have meaningful tools to discourage illegal immigration and better handle illegal aliens in our country. We are grateful for the enormous amount of time and expertise AL SIMPSON has devoted throughout his tenure in the Senate to the formulation of a workable, credible immigration policy. All of us have benefited from Senator SIMPSON's tireless efforts.

Mr. President, immigration is an especially important issue to the American people, and it is important that we not forget that ours is a nation of

immigrants. America has always had a very generous immigration policy. But while it is politically correct in some circles to call for an open immigration policy—allowing in all who seek admission—it would be a serious mistake of judgment to fail to assess the consequences of an out-of-control influx of immigrants, legal or illegal.

During the 1985 consideration of immigration reform, some Senators cautioned against granting amnesty to the illegal aliens pouring across our borders. I was among those who stated such an apprehension. It was envisioned that such amnesty would establish a dangerous precedent certain to encourage even more illegal immigration. Another concern in the 1985 debate was the potential for an enormous increase in Federal welfare spending. Both concerns were valid and both have come to pass.

The National Bureau of Economic Research, Inc., has compiled statistics showing that from 1984 to 1990, the percentage of welfare benefits distributed to immigrant households has risen from 9.8 to 13.8 percent. There is no indication that the percentage will decrease in the years ahead.

The abuse in the Supplemental Security Income Program alone is startling. According to the Congressional Budget Office, 25 percent of the growth in SSI between 1993 and 1996 is due to immigrants—an astounding number because of the percentage of immigrants among SSI recipients—2.9 percent of the general population are immigrants and 29 percent of the SSI-aged beneficiaries are immigrants.

Thousands of North Carolinians, and others across the Nation, have contacted me to describe their problems with the current U.S. immigration system. Most often, citizens express disgust at the numbers of noncitizens receiving welfare benefits almost from the day they slip over the borders into the United States.

Mr. President, it is impossible to suggest to my fellow North Carolinians that there is any wisdom or common sense to an immigration policy that allows noncitizens to receive welfare checks or any other Federal benefits and services. Sponsors of this bill agreed. The bill correctly changes the current system which aliens can sign up for a long list of welfare benefits including Aid to Families With Dependant Children, Supplemental Security Income, and food stamps. With mention seldom, if ever made, of the U.S. law these aliens are violating—a law which clearly states that nobody may immigrate to the United States without demonstrating that he or she is not ''likely at any time to become a public charge.'' Hard-working taxpayers should not be required to shell out funds to aliens who have broken the promise they made when entering the country.

North Carolinians will be relieved to learn that many attempts—through the amending process—to lessen the impact of the bill's rigid enforcement of this law were soundly defeated. In addition, the bill further forbids receipt of any Federal, State, or local government benefit by noncitizens.

Mr. President, it is virtually impossible to estimate the total number of illegal immigrants in our country—in 1983, the Immigration and Nationalization Service estimated that there were 3.4 million in our country. Some have crossed our borders illegally while others have overstayed their visas and permits. The National Immigration Forum has given what is perceived as a conservative estimate that the number of illegals in the United States is about 3.2 million, pushed downward by the amnesty of 1987–88 which has resulted in a 200,000 to 300,000 addition to America's population each year.

At a time when the Federal Government is wrestling with its $5 trillion debt, it is the responsibility of Congress to find out where the taxpayers' funds are being used. It is our duty to take a position on the doling out of the taxpayers' funds to people not legally in our country and aliens who should not be in line for welfare benefits.

As of Tuesday, April 30, the debt stood at $5,102,048,827,234.22, meaning that every man, woman, and child in our Nation owes $19,271.23 on a per capita basis.

Mr. President, the bill before the Senate tightens the enforcement and improves the effectiveness of our immigration law by: First, adding additional Border Patrol and investigative personnel; second, creating additional detention facilities; third, increasing penalties for alien smuggling and document fraud; fourth, reforming asylum, exclusion and deportation law and procedures; and fifth, by ending distribution of welfare to noncitizens.

I support this measure because it will make it more difficult for immigrants to enter this country illegally. This is a bold step to protect the rights and best interests of citizens of the United States.

Mr. FEINGOLD. Mr. President, I rise to explain my opposition to S. 1664, the illegal immigration bill approved by the full Senate today.

There are several provisions in the bill that I strongly support and that I believe will significantly improve our ability to curb illegal immigration. For example, providing additional personnel and resources to the Border Patrol marks an unprecedented effort to provide law enforcement agencies with the tools to maintain the integrity of our border. And the tough new penalties authored by the Senator from Michigan, Senator ABRAHAM, and myself for those who come here legally and fail to depart when their visas expire is the first time ever anyone has proposed cracking down on the visa overstayer problem—a problem that represents up to one-half of our illegal immigration problems.

In addition, I am also pleased that we were able to ensure that this legislation does not dramatically reduce current levels of legal immigration. As I have consistently said, we should focus on those who are breaking the rules, not those who are abiding by them.

Unfortunately, the bill contains very troubling provisions relating to the establishment of a national worker verification system that I remain strongly opposed to and that I believe violate the principle I have just outlined.

Some believe that a massive new national verification system to verify the identity of all U.S. citizens and alien residents is a measured response to the illegal immigration problem. I could not disagree more. INS tells us that less than 2 percent of the U.S. population is here illegally. I do not understand why some believe it is a measured response to verify the identity of 98 percent of the population—that which is residing here legally—to root out the small percentage that is here illegally.

Moreover, the cost to employers of complying with this Federal mandate and navigating this complex new Federal bureaucracy cannot be understated. Will employers be required to buy expensive computers and the necessary software so they can communicate with a Federal bureaucrat in Washington, DC?

I do not understand how some of the same Senators who so vocally supported regulatory relief for small businesses last year can be so enthusiastic about passing yet another Federal mandate and more Federal paperwork onto our Nation's employers.

Finally, I joined the Senators from Michigan, Senator ABRAHAM, and Ohio, Senator DEWINE, in a bipartisan attempt to remove the bill's new and onerous requirements relating to birth certificates and driver's license.

S. 1664 would mark an unprecedented Federal preemption of every State's right to fashion and issue their birth certificates and driver's license. Under this bill, local and State agencies must comply with federally mandated regulations relating to the composition and issuance of these identification documents. I oppose the federalization of these documents, and am gravely concerned that such an act puts us squarely on the road to having some sort of national ID card.

Moreover, the bill does not contain one word about how the States and local governments are to pay for these changes. Again, this provision stands in direct contradiction to one of the 104th Congress' few bipartisan successes—the enactment of unfunded mandates legislation. These provisions represent an enormous unfunded mandate, and is precisely why they are opposed by the National Conference of State Legislatures and the National Association of Counties.

Mr. President, I do want to take a moment to commend the senior Senator from Wyoming, Senator SIMPSON, and the senior Senator from Massachusetts, Senator KENNEDY. They have

taken on a tremendously difficult task and they are to be recognized for their hard work and dedication to reforming our immigration laws.

I do regret that I have some fundamental disagreements over how we should go about reforming those laws, but I look forward to working with my colleagues to modify these provisions during the duration of the legislative process so as to minimalize the bill's impact on our Nation's employers, workers, legal immigrants and State and local governments.

I yield the floor.

Ms. SNOWE. Mr. President, I would like to express my deep appreciation to the managers of S. 1644, Chairman SIMPSON and Senator KENNEDY, for their support for my two amendments that have been adopted en bloc. These are amendments Nos. 3873 and 3874, as amended.

Mr. President, these two noncontroversial amendments relate to problems that have developed in recent years with the movement of persons along Maine's border with the Canadian province of New Brunswick.

The first amendment expresses the sense of Congress on New Brunswick's discriminatory application of its Provincial sales tax only on those Canadians crossing the border with the United States and not on Canadians crossing the border from other Canadian provinces. The second amendment calls for the U.S. Customs Service to conduct a study of reports of harassment by Canadian Customs officials of Canadians returning to New Brunswick from Maine.

Mr. President, nearly 3 years ago, in July 1993, Canadian Customs officers began collecting an 11 percent New Brunswick Provincial sales tax on goods purchased in the United States by New Brunswick residents. It immediately became clear that this tax collection at the United States-New Brunswick border was intended to discourage Canadians from shopping in Maine. This is evidenced by the fact that New Brunswick collects the tax only along its international border with the United States, not along its border with other Canadian provinces. Thus, the tax is being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States.

I would like to make it clear that while I regret such cross-border impediments to the movement of people and goods, New Brunswick's right to attempt to collect its sales tax on the purchase of goods outside the province by New Brunswick residents has never been questioned. The issue is the discriminatory application of New Brunswick's sales tax only on goods purchased in the United States, an application that runs directly counter to the letter and spirit of the North American Free Trade Agreement.

Mr. President, this impediment to the cross-border movement of persons and goods not only violates Canada's NAFTA obligations, but it has severely damaged the economies of a number of communities in northern Maine who formerly provided services to significant numbers of New Brunswick residents.

Soon after the imposition of the New Brunswick Provincial sales tax, I began working with the U.S. Trade Representative to seek redress under the then-existing dispute mechanism available under the United States-Canada Free Trade Agreement. But before that dispute mechanism could be engaged, Congress approved the North American Free Trade Agreement, which required an entirely new dispute mechanism to be created.

In February 1994, more than 2 years ago, the United States Trade Representative publicly stated that the United States would seek redress from Canada for the discriminatory application of New Brunswick's Provincial sales tax under the dispute resolution process contained in chapter 20 of the NAFTA. Trade Representative Kantor said that he would seek such redress as soon as the dispute resolution process was established.

Mr. President, the dispute resolution process contained in chapter 20 of the NAFTA has now been in place for a year, but the USTR has still not submitted this case. Therefore, my first amendment simply states the sense of Congress that the United States should move forward without delay in bringing the Provincial sales tax issue before the NAFTA dispute resolution process. The people of Maine deserve their day in court.

Mr. President, my second amendment would address disturbing reports of harassment by Canadian Customs officials of New Brunswick residents upon their return to Canada from northern Maine. The amendment asks the U.S. Customs Service to investigate these allegations, and to report back to Congress. If Customs officials find that such harassment has occurred, the amendment calls on the U.S. Customs Service to recommend actions that could be taken to address the problem.

The amendment also calls on the Customs Service to consult with representatives of the State of Maine, local businesses, and any other knowledgeable persons who might be able to assist Customs in the completion of the study. This will ensure that the Customs Service has full access to all those in Maine who have received reports of Canadian Customs harassment of New Brunswick residents.

Mr. President, these two amendments may seem minor to many of my colleagues, but they address issues that are critically important to the economic health and livelihood of many small communities in northern Maine. These communities have suffered severe economic harm from the discriminatory application of New Brunswick's Provincial sales tax and other actions taken by Canadian officials to impede cross border shopping by Canadians in the United States. Before we move forward on this important bill to better control our own borders, I believe that these issues simply must be resolved.

Again, Mr. President, I would like to thank Chairman SIMPSON and Senator KENNEDY for their critical support for these important amendments.

F–1 VISA HOLDERS

Mr. BOND. Mr. President, I would like to bring an important issue to the attention of my colleagues, INS regulations at 8 CFR sec. 214.2(f)(10) preclude practical training during the first 9-months of a full-time undergraduate student's enrollment in a Service-approved college or university. In other words, an F–1 visa holder lawfully enrolled as an undergraduate student in a college or university with an approved curriculum may not participate in practical training or an internship program without completing 9 full months of classroom time. This restriction applies to undergraduate students but does not apply to graduate students. I might add that there is no legislative history to support such a distinction.

Mr. SIMPSON. I was not aware of that regulation. Has my colleague inquired as to the position of the INS and the agency's reasoning for writing the regulation in this manner?

Mr. BOND. I sent a letter to INS Commissioner Doris Meissner requesting her to advise me of the official position of the INS and any actions the agency may take to remedy the situation. Unfortunately the INS Commissioner must not have felt that the issue was of the importance for her to respond personally. I did receive a letter from the Office of Congressional Affairs stating that the rationale for the regulation is the well-established fact that the initial academic year of an undergraduate curriculum is focused around introductory curriculum rather than paid practical training outside the classroom. The agency representative said this position is consistent with congressional intent.

Mr. SIMPSON. Is this response acceptable to my colleague?

Mr. BOND. I say to my colleague that I remain unconvinced that this regulation is consistent with the intent of Congress. This situation concerns me because a liberal arts college in Missouri that offers a full-time undergraduate curriculum includes practical training. For a number of reasons, the foreign students are rotated along with the American students through the program and a number of students begin the internship training in their first year of school. This is an impressive program. The school ensures that all the foreign students are lawfully enrolled. Finally, the college values the enrollment and participation of the F–1 visa holders. It is important to the future and the success of the program to have the flexibility to rotate the students through the practical training as needed.

Would my colleague agree that this is a matter that deserves the attention

of the INS? Should the INS find that the program is a valid program and the students are lawfully admitted, I believe these students should be permitted to participate in the practical training in this manner.

Mr. SIMPSON. I agree with my colleague that this situation deserves the attention of the INS. I would have thought that the INS Commissioner would have responded to you personally. Are the students in these programs completing their course of study? Are they receiving a liberal arts degree? I would be interested in those questions. I commend you for your interest in this issue.

Mr. BOND. The students in this program are lawfully enrolled, they complete their course of study and they receive a liberal arts degree. I have prepared an amendment to correct this situation, but I am going to withhold introducing the amendment at this time and attempt to work through this situation with the INS. However, should this situation not be addressed I will consider offering the amendment when the Senate considers the appropriate future legislation.

Mr. SIMPSON. I would be willing to give such an amendment the consideration it deserves at that time.

Mr. BOND. Will my colleague, the distinguished chairman of the Judiciary Committee, agree that this situation warrants the full attention of the Immigration and Naturalization Service?

Mr. HATCH. I agree with my colleague, the INS should give the issue the attention it deserves. Should my colleague offer such an amendment, I will also be willing to consider supporting the amendment.

Mr. BOND. I thank my colleagues for their consideration and will keep them apprised of the disposition of this important issue.

Mr. MCCAIN. Mr. President, I applaud the hard work of the Senate Judiciary Committee on this immigration reform legislation. This bill contains many important provisions that will help stem the rising tide of illegal immigration to the United States and reduce the costs to taxpayers from any continued illegal immigration.

I take this opportunity to emphasize that I voted against an amendment offered by Senator LEAHY that would have stricken summary exclusion provisions from this bill and the recently passed antiterrorism bill because we must curtail asylum abuse in order to fully address our Nation's serious problem of illegal immigration.

I also want to address a provision in the immigration bill that would allow an employer to ask an employee or potential employee for additional documentation to establish the employee's authorization to work. This provision creates an intent standard which provides that an employer does not violate fair labor standards in requesting additional documentation from an employee unless the employer intended to discriminate on the basis of race or national origin.

Under current law, an employer may not request any documents in addition to those contained on a prescribed list of documents when verifying an employee's eligibility to work. At the same time, employers fearing sanctions for hiring an illegal alien often feel compelled to request additional documents from individuals, especially when they have constructive knowledge that an individual is not authorized to work.

I understand that some have expressed concerns that changing the law could make it more difficult to prove discrimination in document abuse cases. However, cases decided before current law was enacted show that our immigration laws protect against such discrimination even without a harsh strict liability standard. Thus, I believe this change in the law strikes a proper balance between the need to protect against discrimination and the need not to punish employer's who reasonably suspect that an employee or applicant is not authorized to work.

Again, I commend the Senate Judiciary Committee on their excellent work in crafting this immigration reform legislation.

Mr. SMITH. Mr. President, I rise in strong support of H.R. 2202, the Immigration Control and Financial Responsibility Act of 1996.

It has been said before, but it bears repeating that as a nation we must close the back door to illegal immigration if the front door of legal immigration is to remain open. This landmark legislation represents a major step toward that goal.

Mr. President, as passed by the Senate, H.R. 2202 significantly augments the Nation's Border Patrol. The bill also provides the Department of Justice with important new legal tools to fight alien smuggling and document fraud. In addition, H.R. 2202 enhances the ability of the Justice Department to secure the prompt deportation of criminal aliens.

Equally important, H.R. 2202 protects the taxpayers by taking numerous steps to assure that legal immigrants come to the United States to work, not to go on welfare.

The one major provision of H.R. 2202 with which I disagree is the one that establishes pilot programs for various systems to verify the employment eligibility of new workers. Some have called this part of this bill the beginning of an eventual ''national identification system'' or ''national identification card.'' I share this concern. During the Senate's consideration of this illegal immigration bill, therefore, I voted to support the Abraham-Feingold amendment to strike the national identification pilot programs provisions from the legislation.

On balance, though, H.R. 2202 is a strong bill. It will strike a powerful blow against illegal immigration. In the majestic words of the poet Emma Lazarus, America still lifts her ''lamp beside the Golden Door'' for legal immigrants. With this bill, however, we are now moving to put a new padlock on the back door to keep out those who seek to violate our laws against illegal immigration.

Mr. BYRD. Mr. President, as we consider this legislation, I ask my colleagues to focus on this fact: According to the Immigration and Naturalization Service, there are approximately 4 million illegal immigrants permanently residing in this country today, and that number grows by an estimated 300,000 each and every year. Clearly, such numbers should be a siren song to this Congress.

That is why I will support this final, amended version of S. 1664, the Immigration Control and Financial Responsibility Act. It is, in my opinion, a positive step in our overall effort to improve our Nation's immigration policies. The bill makes much-needed and substantive reforms in the current law by focusing on the problem of illegal immigration without unfairly punishing law-abiding employers and those who come to this country and play by the rules.

This bill concentrates on better enforcement, both at our borders and in dealing with those who overstay their visa, by increasing the number of Border Patrol agents and investigative personnel over the next 5 fiscal years. It provides for 4,700 new Border Patrol agents, a total increase of 90 percent above current levels. It authorizes the hiring of 300 full-time INS investigators who will concentrate on alien smuggling and enforcing employer sanctions. And it authorizes 300 new INS officers to investigate aliens who entered legally on a temporary visa, but have overstayed that visa and are now in the United States illegally.

This bill also works to streamline current exclusion and deportation processes for anyone attempting to enter the United States without proper documentation, or with false documentation. No longer will such individuals be able to stay on indefinitely while their case is endlessly adjudicated. While genuine refugees are still offered important protections, abuse of the system will be largely curtailed through a new system which allows specially trained asylum officers at ports of entry to determine if refugee seekers have a credible fear of persecution. If they do, then they can go through the normal process of establishing their claim. But if they cannot establish a proper claim, then the new provisions in this bill will prevent them from simply being released into the streets.

Mr. President, S. 1664 also contains new language that will effectively deal with criminal aliens. For those individuals who come to this country and commit crimes—and there are an estimated 450,000 such criminal aliens in our jails and at large throughout the Nation—there are tough new provisions

in this bill that will keep them off our streets and deport them more quickly. For example, under this bill, criminal aliens will no longer have the luxury of deciding whether they will serve their sentence in this country or their home country. On the contrary, this bill allows for the renegotiation of prisoner-transfer treaties that will take away that decision from the criminal alien.

In addition, this bill places new restrictions—much-needed restrictions—on the use of welfare by immigrants. For the first time, self-sufficiency will be the watchword for those coming to the United States. By making noncitizens ineligible for Federal means-tested programs, and by ''deeming'' a sponsor's income attributable to an immigrant, the American taxpayer will no longer be financially responsible for new arrivals.

Mr. President, currently, individuals who sponsor an immigrant's entry into the United States must pledge financial support for that immigrant by signing an affidavit. But those affidavits, as it turns out, are not legally binding, and therefore not enforceable. Consequently, they are simply not worth the paper they are printed on. Under this bill, though, the sponsor's affidavit of support will be a legally binding document, thereby creating a legal claim that the Federal Government or any State government can seek to enforce. Moreover, the affidavit remains enforceable against the sponsor until the immigrant becomes a naturalized citizen, or has worked 40 qualifying quarters in this country.

Mr. President, each of the provisions that I have noted are, I believe, good provisions. Each will be effective in combating the problem of illegal immigration. But on their own, these reforms cannot stem the root of the problem. They cannot get at the underlying cause for why the United States has such a large illegal alien population, now estimated by the INS at some 4 million persons.

On the contrary, the only way to effectively halt the flow of illegal immigrants into the United States is to take away the biggest magnet of all: the magnet of jobs. Pure and simple, we must do more to deny jobs to those who are in the country unlawfully than we are presently doing. And I believe that the most realistic way to turn off the jobs magnet is through the new worker verification system provided for in this bill.

This provision, jointly crafted by Senators SIMPSON and KENNEDY, will require the President, acting through the Justice Department, to conduct several local or regional pilot programs over the next 3 years to test new and better ways of verifying employment eligibility. These pilot programs will test the feasibility of implementing electronic or telephonic verification systems that will reduce employment of illegal immigrants, while at the same time protecting the privacy of all Americans.

The verification systems that will be tested in these demonstration projects will be required to reliably determine whether the person applying for employment is actually eligible to work, and whether or not such individual is an imposter, fraudulently claiming another person's identity. Under the terms of the Simpson-Kennedy amendment, any system tested would be required to reliably verify employment authorization within 5 business days, and do so in 99 percent of all inquiries. The systems must also provide an accessible and reliable process for authorized workers to examine the contents of their records and correct errors within 10 business days. And any identification documents used in these demonstration projects must be resistant to tampering and counterfeiting.

Mr. President, as I noted at the start of my comments, I believe S. 1664 is a good bill, with many tough provisions. In my opinion, this legislation will make significant strides toward reducing the number of illegal immigrants in the United States, and in helping to lift the financial burden for these people from the shoulders of the American taxpayer.

At the same time, however, I am disappointed that the Senate did not see fit to address the entire issue of immigration, both illegal and legal. I do not believe, as I know some do, that the issues neatly separate into distinct matters. I do not believe, as some apparently do, that we can have a coherent, integrated policy in this area when we choose to ignore necessary reforms in legal immigration.

Mr. President, I believe that the time is way overdue for all of us to take a fresh, cold, hard look at our total national immigration policy and its impact on our society. It is clear to me that such an evaluation is badly needed and that a new consensus about the kind of immigration policies we need to enhance our particular goals must be formulated by the Congress. It seems indisputable to me that any nation's overall immigration policy must first and foremost seek to enhance the survival and integrity of that nation's culture as a whole by encouraging a broad consensus and shared beliefs. Simply put, our Nation must put its own citizens' concerns above the laudable goal of helping people from other nations. We must consider our own national priorities and the needs of our own citizens first.

As Alexander Hamilton said on January 12, 1802, ''The safety of a republic depends essentially on the energy of a common national sentiment; on a uniformity of principles and habits; on the exemption of the citizens from foreign bias, and prejudice; and on the love of country which will almost invariably be found to be closely connected with birth, education and family.''

But what we are beginning to see in our country is the fragmentation of peoples into groups who tend to put the group above the Nation. This trend toward Balkanization of America into ethnic enclaves is a slippage we need to take positive steps to curtail.

The extreme result of Balkanization of course is the ethnic bloodshed we have witnessed in the former Yugoslavia. When we think of immigration in America, I believe most of us draw an image of America as a melting pot where ethnic differences are subordinated for the benefit of the greater whole. Recent evidence throws this imagery into some question. The process of assimilation into a common language and belief system, and shared values, is no longer occurring as it has in the past with the waves of new immigrants now washing into our country. Rather than melting into one people, we seem to fragment and separate in warring groups.

The recent history of immigration into America shows that it is governed by, first, the laws which we write, and second, the implementation of those laws. Obviously when we write new law, we must then look to our own employment needs, to the effects on our welfare rolls, and to the impacts on the resources we dedicate to our schools and health system as we proceed. We obviously have an obligation to put our own people, their standard of living, and their opportunities for education, employment and health first. So we here in Congress must take responsibility for the effect of the immigration laws which we write on the continued health of our Nation. We cannot shirk or shift this responsibility.

The American people tell us in convincing polls, some 70 percent, that they think we are taking in more immigrants—legal and illegal—than we can properly absorb and assimilate. The Immigration Act of 1965 apparently triggered huge increases in immigration, and not necessarily by design. Various estimates, including those of the INS, project an average of well over 1 million immigrants per year, both legal and illegal, will settle in the United States in the current decade, with no subsidence of that flood in sight unless we in the Congress take action to do something about it.

To really get to the heart of the problem, we have to be willing to examine and debate the newly developing demographic dynamics among all cultural and ethnic groups including developing trends in regional and urban concentration, and our own national racial mix on a basis which is dispassionate, fair and not prejudicial. Perhaps this is difficult for many, but we cannot treat such practical analysis as taboo because a changing cultural mix in a locality, a city, a State or a region can have profound social, economic, and political consequences on us all which cannot be ignored. For instance, should we not be looking at the particular impacts of immigration in specific geographic concentrations and make an effort to reduce the possibilities of Balkanization and the creation

of enclaves? There is already some documentation of demographic movements of some ethnic groups away from, and in reaction to, such enclaves. We need to take steps to better understand the demographic shifts that are occurring in our country and the consequent economic and political results of those shifting tides.

There is one area of abuse which starkly highlights the need for thorough dispassionate review of certain practices which have reached near ridiculous proportions. It is time we reexamined our policy of rewarding family preferences automatically to the children of illegal-immigrant mothers. The practice of coming to the United States, illegally, solely to have a child which is then automatically an American citizen with right to preference in bringing in other family members has reached epidemic proportions in California particularly. Most of the births, according to the Los Angeles Times of January 6, 1992, in Los Angeles County are reported to have been of this variety. Something is clearly wrong with our policy in this regard and I support addressing the problem.

One fundamental issue which ought to be discussed is the primacy of our national language. There is nothing more fundamental to an integrated state and culture than a common language. The trend toward bilingualism in some areas, I contend, may not be productive at all, but instead may simply delay the mastering of English for many immigrants. Any policy or law which encourages the use of other languages at the expense of learning English naturally erodes our traditional national identity in a most direct and important way. Requiring education to be in English is the best way I know of to keep the melting pot melting.

Second, we seem to have shifted away from employment-oriented immigration, designed to fill particular gaps in our work force, and gravitated instead to an emphasis on family reunification. The Judiciary Committee has debated the numbers allowed for family reunification, but I would question the emphasis on this priority above employment tests for potential citizens. It seems to me to be simple common sense to encourage immigration to the United States among applicants who can help the United States meet certain needs that might strengthen our workforce and help us be better able to compete in a global economy.

Third, even when we review those employment-oriented visa programs which are now on the books, we find them to be wrongly implemented. The Labor Department Inspector General has recently found two key programs, the Permanent Labor Certification [PLC] program and the Temporary Labor Condition Application [LCA] program to be approaching a ''sham.'' These programs, allowing a combined ceiling of some 200,000 worker entry visas per year, were designed to bring in workers for jobs that could not be filled by Americans, allowing us to hire the best and the brightest in the international labor market so Americans can remain competitive in the world economy. But instead of protecting American workers' jobs and wages, the real result has been to simply displace qualified American workers for essentially middle level jobs, and the Labor Department report recommends the programs be abolished.

Fourth, there is solid evidence that some immigrants come to the United States to participate in the welfare state, or do so because of a failure to find a job in their own land. This bill, S. 1664, attempts to address this issue through strict, new, deportation rules aimed at any immigrant that becomes a ''public charge,'' and I commend the committee for that initiative. However, these new public charge regulations will have no affect unless we aggressively work to actually deport such individuals. Implementation of similar legal provisions in the past has been disappointing, and a renewed attempt is clearly needed.

The pattern of immigration since 1965 has unfortunately shifted to less skilled workers than was the case in earlier decades and, in the 1980's a large majority of immigrants came from the developing world, particularly Latin America and Asia. Surely it should not be taboo to consider whether the great numbers of developing world cultural groups can actually provide the skills needed for the current U.S. job market. Are these prevalent immigrant groups going to strengthen our Nation with their skills or weaken it because of their needs? That should be the question we ask when we write such law. The wave of immigrants is arriving as a result of policy we write in the Congress and, therefore, I suggest we are obliged to commission ongoing evaluations of the process and success of immigrant assimilation into American society. Any ethnic and national mix caused by our immigration laws should be the result of conscious, deliberate policy embodied in the laws we consider here on this floor, not of accident or politics or a disinclination to take on sensitive groups or issues.

Finally, I suggest we need to be consistent in our approach to the growing and complex problems associated with immigration. We cannot complain about the changing ethnic mix of immigrants, on the one hand, and then exploit such people for cheap labor, on the other. We need to assume responsibility for the results of our immigration policies, evaluate them on an ongoing basis, and take the legislative steps to change what we do not favor. Let us for once attempt to remove hypocrisy and political correctness from this issue, and face the realities squarely and responsibly. If we feel the ethnic mix is becoming unbalanced and the number of immigrants is too high, for the sake of our survival as a Nation, we must take the difficult but necessary steps to correct the situation. As the 1994 U.S. Commission on Immigration Reform, chaired by the late Barbara Jordan, stated in its report on page 1, ''we disagree with those who would label efforts to control immigration as being inherently anti-immigrant. Rather, it is both a right and a responsibility of a democratic society to manage immigration so that it serves the national interest.''

As the Jordan Commission pointed out, we need to address legal immigration as well as illegal, and we need to install an enforcement system that makes it far harder to overstay visas. I hope we can get a time certain to consider S. 1665, on legal immigration and find a way to engage the other body on that matter.

Mr. SIMPSON. Mr. President, we are ready to proceed with the regular order.

VOTE ON AMENDMENT NO. 3743, AS AMENDED

The PRESIDING OFFICER. The question now occurs on the underlying amendment as amended.

Mr. SIMPSON. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3743), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

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

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the bill (S. 1664) shall be brought to a close? The yeas are automatic.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 107 Leg.]

YEAS—100

Abraham	Biden	Breaux
Akaka	Bingaman	Brown
Ashcroft	Bond	Bryan
Baucus	Boxer	Bumpers
Bennett	Bradley	Burns