

Since Canada refuses to a fair settlement through negotiation, I see no alternative other than to remove the cause of the trouble.

Now, these are tough measures, but if your partner is playing hard ball, you need more than a golfing cap and a whiffle bat, you need a hard plastic helmet and Louisville slugger. You need tough measures like the ones my bill will provide.

I say let us stand up, restore fairness in the timber market, let us give a hand to some workers who have suffered grave injustice. I ask support for my bill, which I think, once enacted, we can restore the playing field so it is fair and give people in our country the justice they deserve.

By Ms. MOSELEY-BRAUN (for herself and Mr. SIMON):

S. 1393. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; to the Committee on Energy and Natural Resources.

HYDROELECTRIC PROJECT LEGISLATION

• Ms. MOSELEY-BRAUN. Mr. President, the bill I am introducing today, on behalf of myself and Senator SIMON, grants the city of Alton, IL, a 6-year extension of its Federal Energy Regulatory Commission [FERC] license to begin construction of a hydroelectric power project next to lock and dam 26R on the Mississippi River. This extension is necessary because the Alton license expired October 15, 1995.

A license to permit construction for this proposed plant was first issued by FERC to the Missouri Joint Municipal Electric Utility Commission [MJMEUC] on October 15, 1987. MJMEUC transferred the license to the city of Alton with FERC approval on April 5, 1990. At the time of the transfer, the city of Alton entered into an agreement with Sithe Energies, a developer, which was granted a licensing extension pursuant to the Federal Power Act and Public Law No. 102-240, 105 Stat. 1914, section 1075 (b) of the Intermodal Surface Transportation Efficiency Act of 1991.

Between 1990 and 1995, Sithe Energies developed plans for a hydroelectric plant. However, there were several problems with its proposal. Sithe Energies was depending on State subsidies to support the estimated \$190 million cost of the plant. The Illinois General Assembly did not provide those subsidies. Further, Sithe Energies was unable to comply with several FERC license requirements. For example, Sithe was unable to meet the FERC requirement for a fish mortality study. The proposed plant would have

In May 1995, Sithe Energies terminated its relationship with the city of Alton. Subsequently, the city was contacted by Bedford Energies with a new plan that happens to be more economically feasible. Bedford Energies is proposing a smaller plant, using turbines that move more slowly and which should therefore reduce the plant's impact on fish and aquatic life in the Mississippi. The cost of the project is estimated to be \$110 million—much less than the Sithe Energies' project. The projected costs per kilowatt hour is approximately one-half of Sithe's estimates.

The city of Alton and the River Bend area have been hit hard by plant closings and the loss of manufacturing jobs over the past 20 years. During the 1980's, Alton alone lost nearly 4,000 jobs. Alton's per capita income is significantly below the State of Illinois' average per capita income and, since 1970, Alton's population has declined from 39,700 to 33,064 residents. Alton's unemployment rate currently exceeds 9 percent and has consistently exceeded State and national averages. One-hundred to one-hundred fifty jobs are expected to be created during the 2- or 3-year construction phase of this project, and 6 to 12 permanent power plant operator jobs will be created once the plant is operational. The royalties from power sales will provide revenue to the city for capital improvements and other needed city projects which impact employment.

Lock and dam 26R on the Mississippi was designed and constructed for a hydroelectric plant. Because of the difficulties the city experienced with Sithe Energies, there was simply no way that construction could have begun in accordance with the schedule anticipated by the current license. This FERC license extension is a reasonable proposition for the residents of Alton who are counting on this project. Mr. President, this type of license extension has precedent in previous congressional action, and it is my hope that the Congress can move this non-controversial bill forward as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS.

1.—Notwithstanding the time limit in section 13 of the Federal U.S.C. 806) that would otherwise Federal Energy Regulatory Commission project numbered 3246, the Commission at the request of the licensee in accordance with the good faith, and public interest, re-hat section and the Commission as under that section, extend

until October 15, 2001, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the license for the project described in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend until October 15, 2001, the time required for commencement of construction of the project. •

By Mr. SIMPSON:

S. 1394. A bill to amend the Immigration and Nationality Act to reform the legal immigration of immigrants and nonimmigrants to the United States; to the Committee on the Judiciary.

THE IMMIGRATION REFORM ACT OF 1995

Mr. SIMPSON. Mr. President, I have stood before my good colleagues so many times over the last 15 years seeking their support for reform of the immigration laws of our country. Today I do so once again, and this time the proposed change is fundamental.

The bill I am introducing today is the product of many years. It would reform the law relating to legal immigration—to reduce the level and to revise the criteria of selection. Many of the proposals are consistent with recommendations of the U.S. Commission on Immigration Reform and its very able Chairwoman, that remarkable and impressive woman, former Congresswoman Barbara Jordan. She and a bipartisan group of people put together some very important recommendations for us. The members of the Commission were appointed by the Speaker, by the Republicans, by the Democrats, by the majority leader, the minority leader. I ask unanimous consent that their names be printed in the RECORD.

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

MEMBERS OF THE COMMISSION

Barbara Jordan, Chair.
Lawrence H. Fuchs, Vice Chair.
Michael S. Teitelbaum, Vice Chair.
Richard Estrada.
Harold Ezell.
Robert Charles Hill.
Warren R. Leiden.
Nelson Merced.
Bruce A. Morrison.

Mr. SIMPSON. They are wonderful, contributing members of this society.

Mr. President, there are those in this country, including some in this body, who eternally say, "If it ain't broke, don't fix it." I have heard that old, tired canard too many times. They assert that the present immigration-related problems of this country relate entirely to illegal immigrants, to the failure to prevent rampant violation of immigration law—not only by the hundreds of thousands per year who cross this border illegally, but also by a perhaps equal number of persons who

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enter legally on temporary visas, and then remain here even after their approved period of stay has expired.

Mr. President, illegal immigration is, indeed, a major problem, and I introduced legislation earlier this year which would greatly improve our ability to combat that. In June, that bill, S. 269, was favorably reported out of the Immigration Subcommittee, which I have the honor to chair.

Perhaps the most important element of that bill is its proposed enhancement of the employer sanction system that is so necessary if we are ever to control both forms of illegal immigration, visa overstays, as well as illegal border crossing. The employer sanction system has been left incomplete and ineffective in the years since enactment of the 1986 immigration reform bill, because expected improvements in the system that is used to verify work authorization have never been made. S. 269 would require a series of pilot programs and within 8 years a final verification system. This system would be used not only for employment but for welfare or any other form of public assistance.

The proposals for an improved verification system have been controversial. Ironically, I point out to my colleagues that anyone getting on an airplane in the United States in the last 3 weeks has been asked to present a picture ID of themselves. I have not seen much media squawk about that, or any concerned and high-emotion editorials about the "slippery slope," or threats to our privacy or civil liberties. Perhaps it was partly because no Federal card was involved. Yet, even when the President held up before the joint session of Congress 2 years ago a card and said, "This is a health care card and everyone will have one," not much was said about "the card" then—a great deal about health care but not much about "the card."

Maybe it was also because such actions have to do with their personal interest and their health and safety.

In any case, the system I favor would involve no "national ID card," no new card of any kind—just improvements in various ID and other systems that are already in use. I refer to telephone verification of a Social Security number—a service already available to employers—plus improvements in the State driver's license or ID card, and in the birth certificate. That would be it. I honestly do not believe the American people have any reason for concern, and I honestly do not believe that they will be concerned, else we would have heard a little bit about that in these past weeks with what is happening to them at each and every airport in this country.

But, Mr. President, curbing or even stopping illegal immigration is not enough. Why do I say this? A major reason is that the American people are increasingly troubled about the impact legal immigration is having on their country. Poll after poll shows us this.

The people have made it so very clear they believe the level of immigration is too high. The people have been saying more or less the same thing for a very long time.

According to a recent article in the *American Enterprise*, which reviewed 11 major polls taken since 1955, well over 60 percent of the American people favor a reduction in immigration, according to most polls since 1980—and that has always included legal immigration whenever it was specifically asked about.

Yet, what do people see going on, year after year after year? They see steady increases. In 1953, 170,000 new legal immigrants. In 1963, 306,000; 1973, 400,000; 1983, 560,000; in 1993, 904,000. Thus, in these 40 years since 1953, the annual level of new immigrants has gone up fivefold, rising from 170,000 to 904,000.

The American people have become increasingly restless and dissatisfied at seeing their will ignored. Proposition 187 may be only the first of many indicators of their real displeasure.

Mr. President, there are individuals and groups who are actively and obsessively working against the efforts of those of us here and in the other body—and on the Commission on Immigration Reform—who are all doing our level best to develop and enact into law an immigration policy that will better promote the long-term best interests of this entire Nation. These individuals and groups form an unholy alliance composed of, one, those wanting to preserve the historically high current level of immigration and all aspects of current law which enable a person to bring to this country extended family members, not even part of the nuclear family—a nuclear family being spouses and minor children—joined with, two, certain employers who want to avoid paying wages high enough to attract U.S. workers, or to preserve their "right" to bring in the employee they really want, notwithstanding the impact on any U.S. workers.

I submit that we must break through all of this clatter. We must not allow these defenders of the status quo to deter us from the national interest-based policy the American people so deeply want—and deserve.

Now, I have recently read that one in the other body claimed that to reduce legal immigration is to "punish legal immigrants" for the actions of the illegals. That is surely quite an extraordinary claim. To use the word "punish" in this way is another fine example of rhetorical exuberance—not uncommon around this village, of course. But, still, let us try to keep at least one foot on the ground.

No one has the "right" to immigrate to the United States. Hear that. There are apparently hundreds of millions who would like to do so, but none of them has any "right" to do so. For the citizens of this country and their legislators to decide to reduce the level of legal immigration is not to "punish"

anybody. "Punishment" is something imposed because of a judgment that the punished person has done "something wrong." It is most usually meted out with an intent to encourage more acceptable behavior.

The issue involved in legal immigration reform is not whether individual aliens abroad, who would like to be legal immigrants—or even aliens who have already succeeded in becoming legal immigrants—have done anything "blameworthy." It is simply that the annual addition of 800,000 new residents, including hundreds of thousands of new workers, has some major consequences—and some of these consequences are ones the American people simply and clearly do not want. No mystery here; no evil reasoning.

Taking it as a given that a majority of the American people believe that immigration, under current law, has consequences which are harmful to their interests, it is appropriate that they demand change. And that is exactly what they are doing: demanding change—not punishment—but change.

Mr. President, the American people are so very fed up with being told—when they want immigration laws enacted which they believe will serve their national interest and when they also want the law to be enforced—that they are being cruel and mean-spirited and racist. They are fed up with the efforts to make them feel that Americans do not have that most fundamental right of any people: to decide who will join them here and help form the future country in which they and their posterity will live.

We must not allow ourselves to be distracted by these wretched rhetorical excesses and the confused non sequiturs and the babble used by so many of the opponents of the direly needed reform. Let us focus our attention always on the main issue: What will promote the best interest of the entire Nation.

We are so fortunate in having the substantial assistance in our efforts of the U.S. Commission on Immigration Reform, who have worked so diligently and so well to produce their recommendations on changes to be made to the system of legal immigration. Their ideas have been of immense help to me. As I describe my bill, I will refer frequently to their well-founded and thoughtful recommendations.

We are also most fortunate in having such talented and dedicated legislators working in a consistent, bipartisan fashion in the other body, the House of Representatives—especially my friends, LAMAR SMITH and JOHN BRYANT. The steady, patient, and fair way they have proceeded in the processing of a bill under the chairmanship of Senator HENRY HYDE—a lovely friend of many years—is something we would do well to keep in mind as we go forward with our work here. I and my immigration sidekick here in the Senate, Senator TED KENNEDY, will heed their lessons.

Mr. President, the people are demanding change—and soon—and they are so right.

Most immigration to our United States is of a legal nature and, thus, many of the impacts the people find most troubling are due to legal immigration.

For too many U.S. workers, the impact of immigration includes adverse effects on their own wages and individual job opportunities.

At this time—when major U.S. employers like IBM, AT&T, and GM are laying off workers by the tens of thousands, when the defense industry has undergone a major downsizing, when we read of the difficulty so many young American college graduates are facing in finding a job in their own field—we must then reconsider some of the increases that we authorized in 1990, before so many of these events had occurred and when certain experts were predicting to us shortages of scientists and engineers, shortages that would not have occurred even if the 1990 increases in immigration had not come about.

The current major reform of the Nation's welfare system, which we will complete this session, is another reason why we must revise the present system. It is expected that these reforms will add large numbers of unskilled workers to the labor market. That is how the law will read: "After 2 years on welfare, if you are able bodied, you will work." As a result, it is increasingly inappropriate for U.S. employers to be able to continue to petition for unskilled or low-skilled workers. That adversely affects the job opportunities and wages of the least-advantaged U.S. workers.

Mr. President, the bill I am introducing today contains new and lower limits on immigration; and assigns a "higher priority" to immigrants with skills and other characteristics that are consistent with the needs of the entire Nation—rather than primarily the needs or wishes of those abroad who would wish to come to this country, or the fraction of our own population who wish to bring in their relatives or who want to employ foreign workers.

Mr. President, in 1990 the level of legal immigration was increased substantially, by 37 percent. This was done partly because Congress and the President believed that the 1986 immigration reform law had instituted workable measures—including sanctions against employers who knowingly employ illegal aliens—that would greatly reduce illegal immigration. Unfortunately, the belief was overly optimistic. As a result, total immigration—legal plus illegal—had been in excess of 1 million per year.

For this reason—and because the American people so clearly want it—the annual level of legal immigration to the United States must—at least for the time being—be significantly reduced.

The bill I am introducing today would reduce the annual level of regu-

lar nonrefugee legal immigration from 675,000 to about 540,000. This would include 90,000 employment-related immigrants, plus 450,000 family immigrants—composed of 300,000 of the "nuclear family," that is, spouse and minor children citizens and permanent residents, and 150,000 per year to reduce the backlog of spouses and unmarried minor children of permanent residents who are already eligible to come here.

Mr. President, I believe my colleagues should be aware that most other bills in this area introduced in this Congress and in the last Congress have proposed nonrefugee totals much lower than mine. Most have proposed 300,000, or even less.

Now, I do know that some do find the constant talk about numbers to be quite distasteful, but I sense that many who feel this way are not in very close touch with the American people—who observe firsthand just how much these "numbers" mean to conditions in the heavily impacted areas of this country. Yes, the issue of "numbers" is an essential element of the problem and the people will not let us forget that.

Yes, I know full well that the numbers represent human beings—human faces—and that to reduce immigration because it is in the interest of the entire Nation, nevertheless has its cost. And this cost may, indeed, involve many fine individuals in many places outside of this country giving up their dreams of a lifetime. This is not easy for us, and that is why we must keep focused always on the ultimate issue of what will promote the long-term best interests of the American people—those of us here.

It is time to slow down, to reassess, to make certain that we are assimilating well the extraordinary level of immigration the country has been experiencing in recent years. Yes, I say "assimilating." Barbara Jordan uses that term, too. That should not be a "politically incorrect" term. Terms like "assimilation" and "Americanization" should not be "politically incorrect."

Mr. President, my bill also proposes major reform of the criteria for selecting immigrants, including both family-sponsored and employment-based immigrants.

The bill would reserve family-sponsored immigration for those most likely actually to be living with the relatives in the United States with whom they are in theory being "reunited."

Mr. President, in 1965 the United States adopted an immigration law that was primarily oriented toward family reunification. With some modifications, this emphasis has continued ever since.

The policy has not been limited to reunification of the closest family members, those most likely to actually live together in the United States; that is, spouses and unmarried minor children: what is called the "nuclear family"—the family unit the American people believe is most conducive to the raising of healthy, productive, and happy children.

No, the current policy has also given preference to adult or married children, parents, and brothers and sisters, who are much less likely to live with the U.S. relative who has petitioned for them. Last year, family immigrants outside of the nuclear family totaled more than 150,000.

This policy of admitting immigrants who are relatives of citizens and immigrants but outside of their nuclear families is serving primarily the interests of the immigrants themselves and those of their relatives in the United States.

Because the American people want immigration reduced, and because eliminating the preferences for non-nuclear family would not greatly offend the family values of the American people, this is an area where significant change should be made.

Accordingly, the bill would narrow the presently numerically unlimited category of "immediate relatives" of U.S. citizens to include only: spouses and unmarried minor children, plus parents 65 or older, if the greatest number of their sons and daughters reside in the United States. It would also reserve numerically limited family immigration for spouses and unmarried minor children of lawful permanent resident aliens—"green card" holders—at an annual ceiling of 85,000, still above the current level of new petitions coming in on behalf of such immigrants.

The Commission on Immigration Reform also recommends this elimination of most family classifications not related to the nuclear family.

In addition, "special immigrant" status would be provided for severely disabled adult sons and daughters of citizens or permanent residents, which is again consistent with the recommendations of the Commission on Immigration Reform. This provision would require a showing of being able to provide adequate medical and long-term care insurance for any such dependent immigrants.

The bill would also provide for a very generous program to reduce the current backlog of spouses and unmarried minor children of permanent residents—now 1.1 million. The bill would authorize 150,000 additional visa numbers per year until all who are now "on the waiting list" have been reached. This too was recommended by the Commission.

Mr. President, I want to remind my colleagues of a final point on family immigration. Neither the Government of these United States, nor the American people are responsible in any way for "breaking up" extended families abroad. Please hear that. No, immigrants who have come here consciously chose to do so and, by doing so, they personally chose to leave most of their family behind—to "break up" their family. No one else is responsible.

The American people will continue to generously favor allowing individual citizens and permanent residents to

"sponsor" members of their immediate family—their spouse or unmarried minor children, even those disabled sons and daughters and elderly parents who they want to have live with them. But it is not in the best interests of the American people to continue to allow the immigration of the entire "rest of the family" they made a conscious choice to leave behind, and then witness the spawning of the chain migration of the in-laws, and in-laws of in-laws, to which this clearly leads.

Mr. President, the bill's proposed changes in the employment-related classifications are intended to protect the wages and job opportunities of our U.S. workers, especially those who are first entering upon their careers, and to preserve long-term incentives for Americans to acquire needed skills and education, and for employers to continually encourage them to do so.

We have a wonderful group of fine young people who have acquired an excellent and often very expensive education—and much of it, interestingly enough, paid for directly or indirectly by the U.S. taxpayers. It is in the national interest that their learned and natural abilities be fully utilized before employers are permitted to employ foreign workers.

At this time then I will review briefly the bill's employment-related provisions.

REFORM OF PREFERENCE REQUIREMENTS

Section 103 would reform the "employment-based" preference classifications, generally again along the lines recommended by the Commission. Two of the three components of the existing first preference—priority workers—would be essentially retained in the first two new preferences: First, aliens with extraordinary ability—the "superstars"—and second, executives and managers of multinational firms. The first would be modified, as recommended by the Commission, by the addition of aliens with the clear potential for extraordinary achievement. The second provision, relating to multinational executives and managers, would be modified by the addition of a definition of the current multinational firm and a requirement for meeting a longer period of prior work experience.

Both of these classifications would be exempt from the new labor certification requirements I will also explain.

Also exempt from the labor certification requirement would be two other classifications in current law: third, investors and fourth, "special immigrants," which includes clergy and other religious workers, as well as several other classifications, such as former employees of the U.S. Government.

The "outstanding professors and researchers" category would be dropped, but please be assured that more than enough "numbers" would be provided under our "extraordinary ability classification" to accommodate all of these genuinely outstanding individuals.

In addition to the four classifications that would not be subject to the new labor certification requirements, the bill proposes three classifications that would then be subject to labor certification: fifth, professionals with an advanced degree and at least 3 years experience in the profession practiced outside of the United States after the receipt of their degree, sixth, professionals with a baccalaureate degree and at least 5 years experience in their profession practiced outside of the United States after the receipt of their degree, and (7) skilled workers with at least 5 years experience gained outside of the U.S., plus having at least a high school education, and 2 years of college or of specialized vocational training.

The foreign work experience requirement is basically intended to provide protection for U.S. workers who are just beginning their careers.

These three classifications would also require a minimum score on a test of the English language. Again, this is employment-based only. We are not talking about family. No test there.

NEW LABOR CERTIFICATION REQUIREMENTS

Section 104 proposes that the present labor certification process be replaced with a new system involving two alternative approaches. Under the first alternative, a petitioning employer would be required to pay a fee equal to 25 percent of annual compensation and to demonstrate they have made appropriate efforts to recruit U.S. workers, including the offering of at least 100 percent of the actual wage paid by the employer for such employment or 105 percent of "prevailing wage," whichever is higher. The fees would be paid into private, industry-specific funds that would use the money solely to finance training or education programs or in other ways to reduce the industry's dependency on foreign workers.

This section also proposes that the permanent resident status to be obtained under the preferences subject to the labor certification would be "conditional"—as is the status obtained as the result of marriage. The conditional status would become full permanent resident status after 2 years if the alien were still employed by the petitioning employer and had also received the required wage.

This first approach to labor certification generally follows the recommendations of the Commission, although they did not recommend a particular amount for the fee. Twenty-five percent was chosen because it is a balance between the standard fee charged by recruiters in the computer programming industry and "recruitment" for other positions. The goal is to make an employer's "cost" of obtaining and employing a foreign worker at least as expensive as the cost of paying a professional recruiter to find a U.S. worker and then paying all of the worker's wages and benefits.

Under the second approach, the Secretary of Labor would be authorized to determine that a nationwide labor

shortage or labor surplus does exist in the United States with respect to one or more occupational classifications. If there was a determination of labor shortage made, a labor certification would be deemed to have been issued. The fee would still be required, in order to provide funding for the private, industry-specific funds mentioned earlier, and to maintain the basic incentive of employers to seek—and to take action to increase the supply of—U.S. workers. If there were a determination of a labor surplus, no labor certification could be issued.

NUMERICAL LIMIT FOR EMPLOYMENT-BASED IMMIGRANTS

Section 112 would reduce the total for employment-related immigrants to 90,000. Although the total immigrants allowable under current law, as the result of the 1990 act, is 140,000, the actual entries in fiscal year 1994 were about 93,000—excluding unskilled workers and immigrants under the Chinese Student Adjustment Act. Thus, this provision of the bill would reduce the employment-based numerical limit to about the current level of new immigrants under the skilled-worker categories. We believe it to be fair.

NONIMMIGRANTS

The bill also contains provisions relating to nonimmigrants, including temporary foreign workers.

PROHIBITION OF "DUAL INTENT"; REDUCTION OF MAXIMUM STAY TO 3 YEARS

Section 201 would, first, prohibit what is commonly known as "dual intent" for the visa classifications of H-1B—temporary foreign worker in a "specialty occupation"—or L—intra-company transferee.

Before 1990, an overseas consular officer could refuse a visa applicant if the officer thought the applicant "intended" to remain in the United States permanently—in other words, if he or she had the intent to become, ultimately, an immigrant, as well as the similar intent to be, initially, a temporary worker. The 1990 act authorized this "dual intent" for H-1B and L visas.

After the change proposed by my bill, those visas would once again not be issued unless the applicant had a "residence" in a foreign country which he had no intention of ever abandoning—which is the rule for all other temporary visas.

The second change proposed by this section is that the "maximum stay" under these visas would be reduced to 3 years—from 6 years—for H-1B and H-2B—or from either 5 or 7 years—for L. A 3-year maximum is more consistent with the "supposedly" temporary nature of the job—and of the stay of the worker. It would also reduce the total number of such foreign workers who could be in the United States at any one time.

ANNUAL FEE; RECRUITMENT AND OTHER ATTENTIONS; FOREIGN EXPERIENCE REQUIREMENT

Section 202 would require the petitioning employer to pay an annual fee

in order to employ an H-1B worker. The fee would be used for the same purposes as the fee for immigrants that I mentioned earlier, although the H-1B fee would be lower—5 percent in the first year, 7.5 percent in the second, and 10 percent in the third.

The section would also require petitioning employers to make several "attestations" in addition to those that are required under current law before entry of an H-1B worker could be approved: the employer would have to agree: First, to pay the H-1B worker at least 100 percent of the actual compensation as paid by the employer for such workers or 105 percent of the "prevailing wage," whichever is higher; second, not to replace U.S. workers with H-1B workers unless each replacement worker were paid at least 105 percent of the mean of the compensation paid to the replaced workers; third, to take "timely, significant, and effective steps" to end dependence on foreign workers; and fourth, if it is a job contractor, to require its clients to make the same attestations as would the direct employers. The employer would also have to attest that it had attempted to recruit a U.S. worker, offering at least 100 percent of the actual compensation paid by the employer for such workers or 105 percent of the "prevailing wage," whichever is higher.

Finally, the section would require that all H-1B workers have 2 years experience in their specialty while working outside of the United States after obtaining their most recently received degree. Similar to the foreign work experience required for immigrants, this is intended basically to protect job opportunities for U.S. workers who are just entering their careers.

DEFINITION OF MULTINATIONAL FIRM FOR L VISAS

Section 203 would apply to L visas—intracompany transferees—the same definition of "multinational firm" as is contained in the bill for purposes of describing the employment-based immigrant classification as used for certain multinational executives and managers.

CONCLUSION

Mr. President, the citizens of this Nation very much want, and they do surely deserve, an immigration policy that is designed primarily to promote their own long-term interests—their Nation's—and the interests of their descendants. This has thus been the fundamental criterion in the drafting of my own bill—together with my own intuition and feelings about the realities of today's political world. We must remain reasonable and responsive in pursuing this legislation and avoid the efforts of extremists, revisionists, and restrictionist. And be assured, this fundamental national-interest criterion will be my constant and steady guide as I move the bill through the oftentimes treacherous waters of the legislative process.

Mr. President, I ask unanimous consent that a section-by-section summary

of the bill be printed in the RECORD at the conclusion of my remarks.

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

SUMMARY OF THE IMMIGRATION REFORM ACT OF 1995

This bill would amend provisions of the Immigration and Nationality Act, primarily those relating to the numerical limits and selection criteria for immigrants and nonimmigrants.

CHANGES IN FAMILY CLASSIFICATIONS

Sec. 101. Immediate relative classification. This would narrow the immigrant classification "immediate relatives" of U.S. citizens (a numerically unlimited classification). At present, the classification includes spouses and unmarried minor (under 21) children of citizens, plus parents of adult citizens. After the change, only a portion of the parents would be included: those 65 or older, whose sons and daughters reside for the most part in the United States (the latter is often called the "Australian rule"). The goal is to provide immigrant visas to "reunify" the parents most likely to live with their U.S. citizen sons or daughters, but only if there is not another country with a greater number of sons and daughters with whom the parent could live.

The section also proposes an amendment to the "public charge" exclusion that would condition admission of these parents on adequate medical and long-term care insurance.

Parents not qualified to immigrate to the U.S. under the new "immediate relative" classification would be able to immigrate through one of the employment-related classifications or to visit their U.S. relatives with a tourist visa.

Sec. 102. Family-sponsored preference classifications.

This would limit family preferences to the nuclear family (spouse and unmarried minor children) of lawful permanent residents. (However, severely disabled sons and daughters of citizens or permanent residents would have "special immigrant" status; see below.)

Thus, the section would eliminate or greatly narrow several non-nuclear family preferences, as recently recommended by the U.S. Commission on Immigration Reform:

4th (brothers and sisters of adult citizens)
3rd (married sons and daughters of citizens)

1st (unmarried adult sons and daughters of citizens)

2B (unmarried adult sons and daughters of permanent residents)

These classifications would be eliminated, except that bill section 105 would create a new "special immigrant" classification for "disabled" adult sons and daughters of citizens or lawful permanent residents, consistent with the Commission's recommendations.

CHANGES IN EMPLOYMENT PREFERENCES AND SPECIAL IMMIGRANTS

Sec. 103. Employment-based preference classifications.

This would reform the employment-based preferences. Two of the three components of the existing 1st preference (priority workers) would be essentially retained in the first two new preferences: (1) aliens with extraordinary ability (the "superstars"), and (2) executives and managers of multinational firms. The first would be modified, as recommended by the Commission, by the addition of aliens with the potential for extraordinary achievement. The second provision, relating to multinational executives and managers, would be modified by the addition

of a definition of multinational firm and a requirement for a longer period of prior work experience. These classifications would be exempt from the new labor certification requirements (see below).

Also exempt from the labor cert. requirement would be two other classifications in current law: (3) investors and (4) "special immigrants." The investor classification would be modified to eliminate the "set-aside for targeted employment areas" and by a requirement that the new jobs which must be created be for citizens or lawful permanent residents (not "other immigrants lawfully authorized to be employed in the United States;" thus, for example, jobs for H-1B temporary workers would not be counted).

"Special immigrants" include, among other classifications (e.g., former employees of the U.S. government), clergy and other religious workers. One proposed change: the required two years of experience in religious work would have to have been abroad. (The major change for the "special immigrant" classifications, however, would be the addition, in section 105 of the bill, of a new classification: severely disabled adult sons and daughters of citizens and lawful permanent residents.)

The outstanding professors category would be eliminated, but more than enough numbers would be provided for the extraordinary ability classification to accommodate professors who are genuinely outstanding.

In addition to the four classifications not subject to the new labor certification requirements, the bill proposes three classifications that would be subject to labor certification: (5) professionals with an advanced degree and at least 3 years experience in the profession outside the U.S. after receipt of the degree, (6) professionals with a baccalaureate degree and at least 5 years experience in the profession outside the U.S. after receipt of the degree, and (7) skilled workers with at least 5 years experience outside the U.S. and at least a high school education plus two years of college or specialized vocational training. The foreign work experience requirement is intended to provide additional protection for U.S. workers just beginning their careers.

The latter three classifications would also require a minimum score on a test of English.

The first of the seven employment-based classifications would have complete priority over the second (only the visa numbers available after demand under the first classification had been completely satisfied would be available for the second). Similarly, the 2nd classification would have complete priority over the 3rd, the 3rd over the 4th, and so on—with two exceptions: (a) there would be a numerical limit on most "special immigrants" under the 4th classification, and (b) the 5th classification (professionals with an advanced degree) and 6th classification (professionals with a baccalaureate degree) would each be allocated half of the numbers available after demand in higher classifications had been satisfied. The allocation between the 5th and 6th classifications reflects their current relative levels, as well as the fact that a professional with a baccalaureate degree in a particular field may contribute more to the economy than a professional with an advanced degree in a different field, one in less demand.

Sec. 104. Labor certification.

This proposes that the present labor certification process be replaced with a new system providing two alternative approaches. Under the first alternative, a petitioning employer would be required to pay a fee equal to 25% of annual compensation and to demonstrate appropriate efforts to recruit U.S. workers, including the offering of at least

100% of the actual compensation paid by the employer for such employment, or 105% of "prevailing compensation," whichever is higher.

The lawful permanent resident status obtained under the preferences subject to labor certification would be conditional (like the status obtained as the result of marriage). The conditional status would become full lawful permanent resident status after 2 years if the alien were still employed by the petitioning employer and had received the required wage (105% of prevailing wage). This section of the bill contains many provisions describing the procedure to be followed to upgrade the conditional status. Such provisions are modeled on INA section 216 (intended to combat marriage fraud).

Such approach generally follows recommendations of the Commission. The Commission did not recommend a particular amount for the fee. 25% was chosen because it is in the middle of the range of fees charged by professional recruiters in various industries. The goal is to make an employer's cost of obtaining and employing a foreign worker at least as expensive as the cost of paying a professional recruiter to find a U.S. worker and then paying the worker's wages and benefits. The fees would be paid into private, industry-specific funds, which would use the money to finance training or education programs or in other ways to reduce the industry's dependence on foreign workers.

Under the second approach, the Secretary of Labor would be authorized to determine that a nationwide labor shortage or labor surplus existed in the United States with respect to one or more occupational classifications. If there were a determination of labor shortage, a labor certification would be deemed to have been issued. The 25% fee would still be required, in order (a) to provide additional funding for the industry-specific private funds, and (b) to maintain the incentive of employers to seek—and to take action to increase the supply of—U.S. workers. If there were a determination of a labor surplus, no labor certification could be issued.

Any person could request that the Secretary make such a determination, by submitting evidence relevant to whether or not the claimed labor shortage (or surplus) existed. The burden of proof would be on the person making the request. The request could not be considered unless the requester had provided notice to other persons with an interest (as determined by the Secretary). Such other persons, or anyone else, could submit documentary evidence relevant to the Secretary's determination.

Sec. 105. Special immigrant classifications. This section would create a new "special immigrant" classification for severely disabled sons or daughters of citizens or lawful permanent residents. It contains a definition of "disabled son or daughter" which would require a "severe mental or physical impairment" that is likely to continue indefinitely and that causes "substantially total inability to perform functions necessary for independent living." Providing such a classification is consistent with recommendations of the Commission.

The definition is based on several Federal statutes relating to disability, modified to refer to the degree of disability consistent with the policy of this "special immigrant" classification. Such policy is that it should cover only the sons and daughters who cannot take care of themselves and whose parents in the U.S. want to care for them at home.

The section also proposes an amendment to the "public charge" exclusion that would condition admission of these disabled sons

and daughters on a showing of adequate medical and long-term care insurance. Failure to provide such insurance would subject the sponsor to civil penalties.

NEW PROVISION ON THE EFFECT OF AN APPROVED IMMIGRANT VISA PETITION

Sec. 106. Effect of approved immigrant visa petition.

This would reduce a problem in current visa practice which arises from the division of visa responsibility between INS and the State Department. At present, when an applicant is found ineligible for an immigrant visa by a consular officer—e.g., because the alien does not have the claimed occupation or family relationship—the officer may only "suspend action" and return the petition to INS. At that point, INS caseload is frequently such that the petition is once again approved, without additional investigation, and sent back to the consular officer. If the officer does not have additional factual evidence indicating that the alien is not entitled to immigrant status, the visa is issued. Section 106 would authorize the officer to deny the visa and return the petition to INS for appropriate action. This section is based on the view that the consular officer, who has the petition beneficiary before him, is in a better position to make the final determination of eligibility than an INS officer considering only the paperwork, usually hundreds of miles from the petitioner and thousands of miles from the beneficiary.

NEW PROVISION ON JUDICIAL REVIEW OF AGENCY ACTIONS ON VISA PETITIONS

Sec. 107. Judicial review.

This would establish limitations and conditions on judicial review of agency actions relating to petitions for a visa or adjustment of status.

CHANGES IN NUMERICAL LIMITS FOR FAMILY PREFERENCES

Sec. 111. World-wide numerical limitation on family-sponsored immigration.

This would reduce the numerical limit for family preference immigrants to 85,000, approximately the current level of new petitions for spouses and unmarried minor children of permanent residents (the only remaining family preference classification in the new system). Unused visa numbers would not carry over from one year to the next.

The result would be a decrease of about 140,000 from the current annual total of about 226,000 (for the full current group of 4 family preferences). Together with the likely reduction of at least 35,000 in "immediate relatives" of citizens that would result from limiting the admission of parents to those 65 or older, this provision would result in a level of family immigrants of about 300,000, a reduction of about 175,000 per year. Most of this saving (up to 150,000 per year) would be devoted to reducing the 1.1 million backlog in spouses and unmarried minor children of lawful permanent residents, resulting in overall family immigration of about 450,000 until the backlog is eliminated.

CHANGES IN NUMERICAL LIMITS FOR EMPLOYMENT PREFERENCES

Sec. 112. World-wide numerical limitation on employment-based immigration.

This would reduce the limit to 90,000. The total allowable under current law is 140,000. However, the actual entries in FY94 were about 93,000 (excluding unskilled workers and immigrants under the Chinese Student Adjustment Act). Thus, this provision of the bill would reduce the annual numerical limit for employment-based immigrants to approximately the current level of new immigrants under the skilled-worker categories.

CHANGES IN THE PER-COUNTRY LIMIT

Sec. 113. Numerical limitation on immigration from a single foreign state.

This would reestablish the per-country limit of 20,000 for preference immigrants in effect before 1990 (a 40,000 limit is proposed for "contiguous countries" and 5,000 for "dependent areas"). The limit would not, however, affect spouses and unmarried minor children of lawful permanent residents as long as the backlog-clearance numbers were being provided (see sec. 114 below).

As under current law, this limit would not restrict the level of "immediate relatives" of citizens. However, the bill proposes to reduce the limit for a particular foreign state in a fiscal year by the number of immediate relatives of citizens above the 20,000 (40,000 for "contiguous countries" and 5,000 for "dependent areas") such foreign state sent in the prior year. For example, if in fiscal year 1995 the number of nationals from a non-contiguous country who entered as immediate relatives was 30,000, then the per-country limit for such country for fiscal year 1996 would be 10,000 fewer than the normal 20,000.

BACKLOG REDUCTION

Sec. 114. Transition for certain backlogged spouses and children of lawful permanent residents.

This would authorize 150,000 additional visa numbers in the first fiscal year beginning on or after the bill's effective date for reduction of the current backlog of spouses and unmarried minor children of permanent residents (now 1.1 million). After such first year, the quantity of backlog reduction numbers would be equal to the lesser of 150,000 and the amount by which the level of family immigration in the prior fiscal year was below the current level of about 475,000. The full 150,000 would be available, for example, if the level of nuclear family of permanent resident aliens were 85,000 (the limit provided in the bill) and the level of immediate relatives of citizens were no more than about 240,000 (if the bill's provisions were now in effect, the current level would be no more than 215,000, probably much less). The goal is for the total level of family immigrants (including those using backlog reduction numbers) to be no higher than currently.

The backlog numbers would go first to the spouses and children of permanent resident aliens who had not obtained immigrant status through the amnesty program of the Immigration Reform and Control Act of 1986 ("IRCA"). Backlog numbers would be provided for as long as anyone now on the waiting list had not been reached.

REVIEW OF NUMERICAL LIMITS BY CONGRESS

Sec. 115. Congressional review of numerical limitations.

This would require that after the present backlog of spouses and children of permanent resident aliens had declined to 10,000, or 5 years after enactment, whichever came later, the Judiciary Committees of the House and Senate each hold a hearing on the subject of whether the annual numerical limitations on family-sponsored or employment-based immigrant classifications should be changed. If, within 30 days of such a hearing, a bill pertaining solely to such a change was reported, that bill would be considered by the House and Senate under expedited procedures described in this section.

NONIMMIGRANTS

Sec. 201. Changes in H and L classifications.

This would, first, prohibit "dual intent" (present intent to work temporarily, but with the ultimate intent to immigrate permanently). After the change, an H-1B (temporary foreign worker in a "specialty occupation") or L (intra-company transferee) visa could not be issued unless the applicant had a residence in a foreign country which he had no intention of abandoning, which is the rule for all other nonimmigrant visas.

Second, the maximum stay under these visas would be reduced to three years—from six years (for H-1B and H-2B) or from either five or seven years (for L).

Sec. 202. Changes in H-1B classification.

This would require a petitioning employer to pay an annual fee in order to employ an H-1B temporary foreign worker. The fee would be used for the same purposes as the fee under bill section 104.

The section would also require petitioning employers to make several additional attestations before entry of an H-1B worker could be approved: the employer must agree (1) to pay the H-1B worker at least 100% of the actual compensation paid by the employer for such workers or 105% of the prevailing compensation (whichever was higher); (2) not to replace U.S. workers with H-1B workers unless each replacement worker were paid at least 105 percent of the mean of the compensation paid to the replaced workers; (3) to take "timely, significant, and effective steps" to end dependence on foreign workers; and (4) if it is a job contractor, to require its clients to make the same attestations as direct employers. The employer would also have to attest that it had attempted to recruit a U.S. worker, offering at least its current actual compensation for the job, or 105 percent of the prevailing compensation in the area, whichever was higher.

The section would also provide that "prevailing compensation" for an occupational classification, such as researcher, could not be considered to vary depending on the characteristics of the employer, except to the extent there is a difference in either (a) working conditions (for example the presence or absence of conditions that could make the job so attractive or unattractive relative to similar jobs for other employers that wages would be affected), or (b) the functional requirements of the job.

Finally, the section would require that all H-1B workers have two years experience in their specialty outside the U.S. after obtaining their most recently received degree.

Sec. 203. Changes in L classification.

This would provide the same definition of "multinational firm" contained in bill section 103 for purposes of the new employment-based immigrant classification for certain multinational executives and managers.

Sec. 204. Pilot program on information and tracking system relating to nonimmigrant foreign students.

This would establish a pilot program to collect from colleges and universities certain information relating to nonimmigrant students and make it available in electronic form to selected U.S. consulates and INS officers. Such information would include whether an alien is enrolled, or has been accepted for enrollment, in a U.S. college or university; current U.S. address; and whether the alien is a full-time or part-time student and is making normal progress toward the degree.

NOTE ON TOTAL NUMBERS

Under the bill, the numerical limits are: 85,000 for family preferences and 90,000 for employment preferences. The current level of spouses and children of citizens, plus parents 65 or older, is approximately 215,000. These numbers together total 390,000. Adding the backlog reduction of 150,000 brings the total to 540,000 (not including refugees).

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would very much like to commend the Senator from Wyoming for his work on immigration.

I am privileged to serve on his subcommittee on immigration on the Ju-

diciary Committee, and it has been very wonderful for me to be able to watch him work out various problems in what has been a most difficult arena in which to legislate.

So I would just like to say to him, I am delighted he has presented his bill. I look forward to reading it. I hope I will be able to cosponsor it. I look forward to work with him in the committee as this bill is moved.

I think, Mr. President, that the Senator from Wyoming understands the need to move a bill in this session of the Congress. So I would like him to know that I am very respectful and grateful for his work in this area.

By Mr. PRESSLER (for himself and Mr. EXON):

S. 1396. A bill to amend title 49, United States Code, to provide for the regulation of surface transportation; to the Committee on Commerce, Science, and Transportation.

THE INTERSTATE COMMERCE COMMISSION SUNSET ACT OF 1995

Mr. PRESSLER. Mr. President, today I am introducing the Interstate Commerce Commission Sunset Act of 1995. I am very pleased to be joined in this effort by Senator EXON. It is a bipartisan bill and I urge my colleagues' bipartisan support as we work toward what must be very swift passage. Let me also make it clear at the outset that this bill is a work in progress. I introduce it today as the next step in a process of discussions and revisions that have been ongoing for months. This process will continue.

I would like to begin by outlining some of the underlying philosophy that went into its drafting. In addition, I will address the procedural posture in which we find ourselves in relation to this bill.

In preparation of the legislation we are introducing today, Senator EXON and I have worked together very closely. In fact, much of this legislation initially was written by my good friend and distinguished coauthor. Compromise and cooperation have produced what I feel is a balanced bill, addressing the immediate and compelling needs driving this legislation.

Our staff members and those of other committee members have collaborated throughout this process. They have spent many long hours in joint meetings with various interest groups and constituents who have raised concerns or urged additions. We have worked very hard to address legitimate concerns, and have made numerous changes to the previously circulated staff draft in an effort to address those concerns. However, as hard as we have worked to please all parties, our policy decisions ultimately were driven, in part, by the need to produce a bill which could be passed and signed into law this year. In short, the clock is running.

For reasons I shall address in a moment, however, we have made a conscious effort to avoid addressing broad-

er transportation policy issues than those directly related to sunseting the ICC and transferring its essential functions to its successor. To that extent, the Senate bill is more limited in scope than its House counterpart. Indeed, it remains largely unchanged from the staff draft which was circulated some time ago.

Mr. President, I introduce this legislation with mixed feelings. On the one hand, I am a firm believer in a less-is-better approach when it comes to government. Too often in Congress, we gage accomplishment by quantity rather than quality. We need to reduce Federal Government. In that sense, this is historic legislation. The ICC is our oldest independent agency, yet its functions can and should be reduced. Indeed, this could be said about every agency, every executive department, and both Houses of Congress. Less would be better. Our bill moves us in that direction.

However, the positive and necessary adjudicatory role of the ICC should not come to a screeching halt. Indeed, the ICC has performed and continues to perform important functions. For example, without its abandonment public interest review authority, my home State of South Dakota would today have hundreds of miles less rail service than we presently enjoy.

Quite honestly, budget constraints and appropriations legislation which terminate the agency's functions at the end of this year renders moot any debate over whether or not we should keep the ICC. Given the realities of the budget situation, the issue is not whether the ICC should be terminated, but how it will be dismantled.

Therefore, we must determine what ICC functions can continue to be effectively performed by a successor with a greatly reduced budget. Which functions can be subsumed into the Department of Transportation? Is there an ongoing need for a review process independent of political pressures? These are questions this legislation is designed to address.

This bill provides a reasoned approach designated to ensure continued protections against industry abuse while at the same time assure the economic efficiencies of our Nation's surface transportation system can continue. We propose to sunset the ICC and transfer its necessary residual functions to an independent Intermodal Surface Transportation Board within the U.S. Department of Transportation. The Board would administer the residual regulations over rail carriers and pipelines and provide limited adjudicatory oversight over the motor carrier industry. The Secretary of Transportation would inherit the residual nonadjudicatory functions governing the motor carrier industry.

Fundamentally, the approach taken in this legislation was to limit its

SUMMARY OF THE IMMIGRATION REFORM ACT OF 1995 (S. 1394)
introduced by Senator Alan K. Simpson November 3, 1995

This bill would amend provisions of the Immigration and Nationality Act, primarily those relating to the numerical limits and selection criteria for immigrants and nonimmigrants.

Changes in family classifications

Sec. 101. Immediate relative classification.

This would narrow the immigrant classification "immediate relatives" of U.S. citizens (a numerically unlimited classification). At present, the classification includes spouses and unmarried minor (under 21) children of citizens, plus parents of adult citizens. After the change, only a portion of the parents would be included: those 65 or older, whose sons and daughters reside for the most part in the United States (the latter is often called the "Australian rule"). The goal is to provide immigrant visas to "reunify" the parents most likely to live with their U.S. citizen sons or daughters, but only if there is not another country with a greater number of sons and daughters with whom the parent could live.

The section also proposes an amendment to the "public charge" exclusion that would condition admission of these parents on adequate medical and long-term care insurance.

Parents not qualified to immigrate to the U.S. under the new "immediate relative" classification would be able to immigrate through one of the employment-related classifications or to visit their U.S. relatives with a tourist visa.

Sec. 102. Family-sponsored preference classifications.

This would limit family preferences to the nuclear family (spouse and unmarried minor children) of lawful permanent residents. (However, severely disabled sons and daughters of citizens or permanent residents would have "special immigrant" status; see below.)

Thus, the section would eliminate or greatly narrow several *non-nuclear family* preferences, as recently recommended by the U.S. Commission on Immigration Reform:

- 4th (brothers and sisters of adult citizens)
- 3rd (married sons and daughters of citizens)
- 1st (unmarried adult sons and daughters of citizens)
- 2B (unmarried adult sons and daughters of permanent residents)

These classifications would be eliminated, except that bill section 105 would create a new "special immigrant" classification for "disabled" adult sons and daughters of citizens or lawful permanent residents, consistent with the Commission's recommendations.

Changes in employment preferences and special immigrants

Sec. 103. Employment-based preference classifications.

This would reform the employment-based preferences. Two of the three components of the existing 1st preference (priority workers) would be essentially retained in the first two new preferences: (1) aliens with extraordinary ability (the "superstars"), and (2) executives and managers of multinational firms. The first would be modified, as recommended by the Commission, by the addition of aliens with the *potential* for extraordinary achievement. The second provision, relating to multinational executives and managers, would be modified by the addition of a definition of multinational firm and a requirement for a longer period of prior work experience. These classifications would be exempt from the new labor certification requirements (see below).

Also exempt from the labor cert. requirement would be two other classifications in current law: (3) investors and (4) "special immigrants." The investor classification would be modified to eliminate the "set-aside for targeted employment areas" and by a requirement that the new jobs which must be created be for citizens or lawful permanent residents (not "other immigrants lawfully authorized to be employed in the United States;" thus, for example, jobs for H-1B temporary workers would not be counted).

"Special immigrants" include, among other classifications (e.g., former employees of the U.S. government), clergy and other religious workers. One proposed change: the required two years of experience in religious work would have to have been abroad. (The major change for the "special immigrant" classifications, however, would be the addition, in section 105 of the bill, of a new classification: severely disabled adult sons and daughters of citizens and lawful permanent residents.)

The outstanding professors category would be eliminated, but more than enough numbers would be provided for the extraordinary ability classification to accommodate professors who are genuinely outstanding.

In addition to the four classifications not subject to the new labor certification requirements, the bill proposes three classifications that would be subject to labor certification: (5) professionals with an advanced degree and at least 3 years experience in the profession *outside* the U.S. *after* receipt of the degree, (6) professionals with a baccalaureate degree and at least 5 years experience in the profession *outside* the U.S. *after* receipt of the degree, and (7) skilled workers with at least 5 years experience *outside* the U.S. and at least a high school education plus two years of college or specialized vocational training. The foreign work experience requirement is intended to provide additional protection for U.S. workers just beginning their careers.

The latter three classifications would also require a minimum score on a test of English.

The first of the seven employment-based classifications would have complete priority over the second (only the visa numbers available after demand under the first classification had been completely satisfied would be available for the second). Similarly, the 2nd classification would have complete priority over the 3rd, the 3rd over the 4th, and so on — with two exceptions: (a) there would be a numerical limit on most “special immigrants” under the 4th classification, and (b) the 5th classification (professionals with an advanced degree) and 6th classification (professionals with a baccalaureate degree) would each be allocated half of the numbers available after demand in higher classifications had been satisfied. The allocation between the 5th and 6th classifications reflects their current relative levels, as well as the fact that a professional with a baccalaureate degree in a particular field may contribute more to the economy than a professional with an advanced degree in a different field, one in less demand.

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The lawful permanent resident status obtained under the preferences subject to labor certification would be conditional (like the status obtained as the result of marriage). The conditional status would become full lawful permanent resident status after 2 years if the alien were still employed by the petitioning employer and had received the required wage (105% of prevailing wage). This section of the bill contains many provisions describing the procedure to be followed to upgrade the conditional status. Such provisions are modeled on INA section 216 (intended to combat marriage fraud).

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Review of numerical limits by Congress

Sec. 115. Congressional review of numerical limitations.

This would require that after the present backlog of spouses and children of permanent resident aliens had declined to 10,000, or 5 years after enactment, whichever came later, the Judiciary Committees of the House and Senate each hold a hearing on the subject of whether the annual numerical limitations on family-sponsored or employment-based immigrant classifications should be changed. If, within 30 days of such a hearing, a bill pertaining solely to such a change was reported, that bill would be considered by the House and Senate under expedited procedures described in this section.

Nonimmigrants

Sec. 201. Changes in H and L classifications.

This would, first, prohibit "dual intent" (present intent to work temporarily, but with the

ultimate intent to immigrate permanently). After the change, an H-1B (temporary foreign worker in a "specialty occupation") or L (intra-company transferee) visa could not be issued unless the applicant had a residence in a foreign country which he had no intention of abandoning, which is the rule for all other nonimmigrant visas.

Second, the maximum stay under these visas would be reduced to three years -- from six years (for H-1B and H-2B) or from either five or seven years (for L).

Sec. 202. Changes in H-1B classification.

This would require a petitioning employer to pay an annual fee in order to employ an H-1B temporary foreign worker. The fee would be used for the same purposes as the fee under bill section 104.

The section would also require petitioning employers to make several additional attestations before entry of an H-1B worker could be approved: the employer must agree (1) to pay the H-1B worker at least 100% of the actual compensation paid by the employer for such workers or 105% of the prevailing compensation (whichever was higher); (2) not to replace U.S. workers with H-1B workers unless each replacement worker were paid at least 105 percent of the mean of the compensation paid to the replaced workers; (3) to take "timely, significant, and effective steps" to end dependence on foreign workers; and (4) if it is a job contractor, to require its clients to make the same attestations as direct employers. The employer would also have to attest that it had attempted to recruit a U.S. worker, offering at least its current actual compensation for the job, or 105 percent of the prevailing compensation in the area, whichever was higher.

The section would also provide that "prevailing compensation" for an occupational classification, such as researcher, could not be considered to vary depending on the characteristics of the employer, except to the extent there is a difference in either (a) working conditions (for example the presence or absence of conditions that could make the job so attractive or unattractive relative to similar jobs for other employers that wages would be affected), or (b) the functional requirements of the job.

Finally, the section would require that all H-1B workers have two years experience in their specialty outside the U.S. after obtaining their most recently received degree.

Sec. 203. Changes in L classification.

This would provide the same definition of "multinational firm" contained in bill section 103 for purposes of the new employment-based immigrant classification for certain multinational executives and managers.

Sec. 204. Pilot program on information and tracking system relating to nonimmigrant foreign students.

This would establish a pilot program to collect from colleges and universities certain information relating to nonimmigrant students and make it available in electronic form to

selected U.S. consulates and INS officers. Such information would include whether an alien is enrolled, or has been accepted for enrollment, in a U.S. college or university; current U.S. address; and whether the alien is a full-time or part-time student and is making normal progress toward the degree.

NOTE ON TOTAL NUMBERS

Under the bill, the numerical limits are: 85,000 for family preferences and 90,000 for employment preferences. The current level of spouses and children of citizens, plus parents 65 or older, is approximately 215,000. These numbers together total 390,000. Adding the backlog reduction of 150,000 brings the total to 540,000 (not including refugees).

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104TH CONGRESS
1ST SESSION

S. 1394

To amend the Immigration and Nationality Act to reform the legal immigration of immigrants and nonimmigrants to the United States.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1995

Mr. SIMPSON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to reform the legal immigration of immigrants and nonimmigrants to the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Immigration Reform Act of 1995”.

6 (b) **REFERENCES IN ACT.**—Except as specifically
7 provided in this Act, whenever in this Act an amendment
8 or repeal is expressed as an amendment or repeal of a
9 provision, the reference shall be deemed to be made to the
10 Immigration and Nationality Act (8 U.S.C. 1101 et seq.).