The Railway Labor Act was adopted in 1926 to provide for speedy administrative resolution of labor-management disputes. Section 1 of the RLA describes employers who are subject to the act's regulations: The term ''carrier'' includes any express company, sleeping car company, carrier by railroad subject to the Interstate Commerce Act.

So, they found, then, that it was an express carrier, and then in 1936, I am reading also from the finding:

The RLA was amended to include air carriers within its regulatory ambit.

That is exactly what was reaffirmed here in 1993:

Federal Express Corporation has been found to be a common carrier as defined under 45 U.S.C. 151, 1st, and section 1(e)(1) of the Act.

Now they have been found both ways. We are not trying to start anything new.

For 25, 30 years now this thing has been governing all the cases, bringing it right up to date with respect to that Philadelphia case. There is no question that the National Mediation Board ruled, they ruled with respect to the Railway Labor Act. No reference was relayed on with respect to express language.

On November 22—and, procedurally, the NLRB is now making a final ruling there. So this is not any last-minute thing by Mr. LIPINSKI, saying it was brought up at the last minute. He was prepared. He said, ''This will kill the bill. We will filibuster it,'' and everything else. They have political clout. But I think truth ought to have some political clout.

When an honest mistake is made, when no Senator and no Congressman ever even suggested it, now, in the aura of dignity, they say, ''Hearings, hearings, where are the hearings?'' Well, where in the world were the hearings that brought about this deletion that we are trying to correct? That is exactly the point. They did not have hearings. No one understood it. No one proposed it. They made an honest mistake.

I reserve the remainder of my time.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

TRIBUTE TO RETIRING SENATORS

Mr. SHELBY. Mr. President, this, we hope, will be the last day of this Congress, and I would be remiss if I did not have some remarks about some of my colleagues, on both sides of the aisle, who are retiring.

The first one I would like to mention is my colleague from Alabama, Senator HOWELL HEFLIN. He came to the Senate, when I came to the House, in January 1979. He had a distinguished record as a lawyer and then as chief justice of the Alabama Supreme Court. He was very involved in the reform of our judicial system in Alabama.

In the Senate, he has served with distinction and honor. He chaired the Ethics Committee for a long time. He was also very active, and has been throughout his career, as a member of the Judiciary Committee and as a member of the Agriculture Committee.

But there are a number of other colleagues, other than Senator HEFLIN, whom we will miss.

Senator SIMPSON of Wyoming, former whip, our assistant minority leader, a man of untold ability, wit, and intelligence.

Senator SIMON of Illinois, a man of, I believe, unquestioned integrity.

Senator DAVID PRYOR of Arkansas, who was on the floor just a few moments ago, a former Congressman, former Governor of Arkansas, and now ending his third term as a Member of the U.S. Senate where he, too, has distinguished himself.

Senator CLAIBORNE PELL of Rhode Island, one of our senior Senators, chairman of the Foreign Relations Committee, very active for many, many years in the area of foreign relations and international relations. He also has made his mark in the field of education. We all know about the Pell grants and other things that he has spearheaded in America.

My colleague Senator SAM NUNN of Georgia. We will certainly miss Senator NUNN, because I always thought he brought a very reasoned position to foreign relations and to the Armed Services that we all deal with from time to time. I thought he was an outstanding—and this goes without saying—chairman of the Armed Services Committee where I had the privilege to serve with him on that committee for 8 years.

Senator NANCY LANDON KASSEBAUM, a Republican from Kansas, currently the chairman of the Education and Labor Committee, a distinguished Senator in her own right. We will certainly miss her. Look at just her recent leadership, working with the Senator from Massachusetts, Senator KENNEDY, in the insurance field in which we have made tremendous reforms, thanks to her.

Senator BENNETT JOHNSTON of Louisiana, former chairman of the Energy and Natural Resources Committee. We are certainly going to miss him. He has had a distinguished career here, 24 years in the U.S. Senate.

Senator MARK HATFIELD of Oregon, the current chairman of the Appropriations Committee that I now serve on. He has served with untold distinction, too, on that committee and has been involved in recent days and nights in the negotiations with the White House on this budget resolution that we are getting ready to deal with in just a few hours.

Senator JIM EXON of Nebraska, a former Governor of Nebraska, three-term Senator from Nebraska. I had the privilege of serving with him on the Armed Services Committee where he, too, served with honor and distinction.

Senator WILLIAM S. COHEN, a Republican from Maine, a former outstanding Member of the U.S. House of Representatives before he was elected to the Senate. This is someone we will miss, not only his wit, his intelligence, his thoughtfulness, but also his writing ability at times helps us all.

Senator HANK BROWN, a Republican from Colorado. I had the honor to serve with him in the U.S. House of Representatives. What has saddened me, along with a lot of others, is, he will leave this body with such a bright and promising career after only 6 years.

Senator BILL BRADLEY of New Jersey, 18 years in the Senate, who has spent days and nights and weeks and months up here, I think not in vain, most of the time dealing with a commonsense income tax program for all Americans.

Mr. President, we will miss all these people because individually and collectively they have added a lot to this body. I wish them well in their future endeavors.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. I yield 15 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AGE DISCRIMINATION

Mr. JEFFORDS. Mr. President, it will take weeks before we find out everything that has been included in the omnibus appropriations bill, but already we know it contains provisions that were not included in the appropriations bills of either body.

One of these provisions is section 119 of the Department of Defense Appropriations conference report, which contains amendments to the Age Discrimination in Employment Act.

This section would reinstate and substantially broaden a temporary exemption from the provisions of the ADEA given to public safety departments from 1986 through 1993.

Proponents of this language argue, and would probably like to believe, that this section does not amount to codification of discrimination. But here's how Webster's defines discrimination:

''To make a difference in treatment or favor on a class or categorical basis in disregard of individual merit.''

That is a pretty clear statement. It is also a pretty good summary of the section in question. It says, in essence, that no one who is older than 55 can effectively serve as a police officer or firefighter, regardless of whether they are fit or unfit.

But you don't need to take my word for it, and you don't need to take Webster's. The Leadership Conference on Civil Rights, this country's preeminent civil rights organization, opposes this legislation as discriminatory.

Let me read from the Leadership Conference on Civil Rights' letter on the bill that formed the basis of section 119:

> This bill sanctions—indeed encourages—state and local governments to discriminate against their older workers. . . . Such conduct, which denies an individual a job based upon stereotypical and unproven assumptions about a class of workers, is precisely what Congress has prohibited in federal laws protecting employees' civil rights, e.g., Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act and other statutes.

This is the same view held by the Equal Employment Opportunity Commission, which is charged with enforcing the ADEA. In its comment on this bill in an earlier Congress, the EEOC stated that:

> ''If signed into law, [the bill] would undercut years of EEOC litigation in which we routinely challenged the use of arbitrary age limitations by police and fire departments. Further, the proposed amendment to permit state and local governments to require the retirement of firefighters and law enforcement officers as early as age 55 is inconsistent with a substantial body of case law under the ADEA that prohibited mandatory retirement of law enforcement officers and firefighters on the basis of an arbitrary age cutoff.

The EEOC is of course not the final word in adjudicating these matters. But the courts have generally agreed. In fact, the Supreme Court in 1985 rejected a mandatory retirement age for firefighters in the case Johnson versus Baltimore because Baltimore had failed to establish age as a bona fide occupational qualification, or BFOQ.

This brings up the point that employers can use a mandatory retirement age under the law today if they can prove it is a BFOQ, that is, the employer is compelled to rely upon age because all or substantially all of the class would be unable to perform the work safely or because it is highly impractical to deal with employees individually.

So we are left with two possibilities. Either public employers can prove age is a necessary proxy under the law and the Supreme Court precedents, in which case this bill is unnecessary, or they cannot, in which case the argument for this bill, that age is a necessary proxy, is unfounded.

Civil rights are messy. Look at all the voting rights cases still being played out across the country today, some 6 years after the last census. The EEOC and the courts are swamped with cases of all kinds.

From time to time there has been debate on the exact standards we should use in judging these cases, or what kind of damages should be available to plaintiffs.

But today marks the first time in my two decades in Congress that we have stood on the verge of turning back the clock and rolling back civil rights protections for an entire class of individuals.

Yes, individuals. Because our civil rights laws are not supposed to be about codifying group characteristics but about preserving individual liberties. Since Asian-Americans have a lesser risk of heart attacks than whites or blacks, should they be given preference in hiring as police or firefighters? Since women have a lower risk than men, should they be preferred?

Of course not, since doing so would be rank discrimination. But by what leap of logic can we conclude that applying this same approach to age is not discriminatory? Of course there is none.

Proponents of this bill claim that they don't want to discriminate, but that, in effect, the devil makes them do it. The devil in this case is allegedly a lack of tests that can determine individual fitness for duty.

That would be a powerful and attractive argument but for one fact. It isn't true.

This bill itself speaks to why it is not true. Unlike the temporary exemption enacted in 1986, which merely grandfathered the retirement policies in effect 3 years earlier, this bill would permit any police or fire department in the country to put in place mandatory retirement, whether or not it has even had such a policy over the last decade.

The fact is, a lot of departments have not relied on mandatory retirement. Researchers from the EEOC study sent out a survey to over 400 departments across the country. It was not a scientific sample, but did produce a wide cross-section of respondents. Of the hundreds of departments that responded, 55 percent had maximum age entry limits or forced retirement policies, but more importantly, 45 percent did not. Some of these departments face challenges every bit as rigorous as any other. The Los Angeles County Fire Department, for example, does not have a mandatory retirement age, but relies on fitness testing to determine whether individuals can still do the work. That testing has survived judicial scrutiny and can be replicated or modified and put in place in every other city in the country. Reno, NV, a smaller city, has made the transition and is quite happy with it. Its system is based on the testing put together by the Cooper Institute for Aerobics Research, the same company that designed testing for Boston, New York, and jurisdictions across the country. The Massachusetts Police Association, with 17,000 members, also supports performance based retirement, as does the Police Executives Research Forum.

The fact that this testing exists should not come as a great shock. Testing is used to screen applicants in virtually every department in the country. It is used widely to certify individuals as ready for return from disability. And as I have mentioned, it is used to certify continued fitness for duty as well. It is simply untrue that testing does not exist.

This testing has both costs as well as benefits. Obviously setting up such a system, and requiring periodic screening, takes some time and money. And it cannot be easy to confront a longtime colleague with the news that he is no longer fit to serve.

But these costs are minimal compared to the benefits of avoiding a patently discriminatory approach. And if the real purpose behind this legislation were the safety of officers and the public, there is little doubt we should engage in health screening rather than arbitrary retirement.

Why? Well, let's look at the facts. Proponents of this legislation make a lot of arguments about the potential for catastrophic health accidents amongst older firefighters or police. That sounds reasonable, as we know firefighters and police work in very hazardous environments.

But as it turns out, the rate of fatal injuries is as much as 6 times greater in industries such as logging, fishing and construction. A taxicab driver is twice as likely to be killed on the job as a firefighter. Yet all those industries operate without mandatory retirement.

Firefighting is a high risk occupation, with a fatality rate 4 times the national average. But what is the best way to combat this risk?

In 1994, the last year for which data are available, there were 42 deaths for all reasons among career firefighters, while the total number of these paid, permanent positions was 265,000. Thus, the total death rate for all reasons was .0001, or 1/100 of 1 per cent. Of these deaths, a little more than half, or 26, were at the fire scene.

Most of the deaths have nothing to do with this debate. They are the result of suffocation or trauma, accidents that happen without regard to age. At the same time, there were 13 heart attacks, and 1 stroke. But contrary to the claims of proponents of this bill, none of these heart attacks occurred in firefighters over the age of 60, and the incidence for firefighters in the age 56 to 60 cohort was the same as in the 31 to 35 age cohort. In fact, the heart attacks were spread fairly evenly over all age cohorts.

Out of the thousands of firefighters over the age of 55, there were two deaths due to heart attack. This is less than the death rate for heart disease in the population as a whole, which is 357 per 100,000 for Americans aged 55 to 64.

But most importantly, most of the heart attacks among firefighters occurred in people with known heart conditions. According to the National Fire Protection Association, which gathered and studied the data:

> . . . a large proportion of the heart attack victims (approximately 8 of 13 paid firefighters) were known to have had heart conditions that should have precluded them from engaging in active firefighting duties.

If this bill were designed to improve public and occupational safety, it would attack the biggest problem, people with heart conditions that continue to fight fires. It does absolutely nothing to combat this problem. In fact, it probably makes it worse.

Fire departments now lack the authority to rely on mandatory retirement as a bad proxy for fitness. If they are going to act responsibly, they have instituted or will institute screening that should prevent people with known heart conditions from staying on the job. Such screening could have prevented 60 percent of the firefighter heart attacks in the last year for which we have data.

This bill, on the other hand, would make matters worse. Those departments that now monitor health would lose a major reason for maintaining their fitness programs, and other departments would have less reason to institute them.

This is exactly what happened in departments after the 1986 amendments, and it will happen again if section 119 is adopted.

If we want to prevent heart attacks and strokes, the effective avenues are not mysterious and do not include age discrimination. We should set up fitness programs and attack known risk factors like smoking and obesity and cardiovascular fitness.

We should reward individuals who maintain their fitness for duty rather sending them the message that it does not matter what kind of shape they are in, that they can just limp along until their mandatory retirement age.

I wish my colleagues could have heard the testimony we did in the Labor Committee from one of those individuals, Detective Bill Smith. Detective Smith is 55 going on 40. He weighs almost exactly what he did when he entered the Indiana State Police years ago, and when he testified that he remains physically and mentally fit, there was not a doubter in the audience.

Detective Smith is the State's senior hostage negotiator, and has years of training and experience that we will lose if we pass this bill.

In fact, one of the witnesses on the other side of the debate made clear that he would be proud to serve with Detective Smith, and that he didn't think that this legislation was about exceptional individuals such as the detective.

That is not an uncommon sentiment. But of course it goes to the very heart of this debate, whether we are interested in protecting the rights of those few officers who want to continue to work and are fit enough to do so.

Proponents of this legislation seem unconcerned about the individual rights at stake in this debate. Instead, they want to fire Detective Smith and thousands of other dedicated officers across the country in the interest of administrative convenience.

But it gets worse. Since 1986, state and local police and fire departments knew that mandatory retirement would become unlawful at the end of 1993. Apparently some jurisdictions maintained mandatory retirement policies, because this bill would reach back and extinguish the legal claims of individuals who were unlawfully fired over the past 3 years.

This is an extraordinary step. Under the ADEA, an individual is entitled to recover double back wages where the violation is willful, which I should think would be the case here for anyone terminated after the exemption expired.

Thus, we could be denying tens or even hundreds of thousands of dollars in back wages rightfully owed to individuals by jurisdictions that have flouted the law over the past 3 years.

We struggled mightily with the issue of retroactivity when Congress considered the Civil Rights Restoration Act a few years ago. There, the issues were fairly subtle, the courts narrowly divided, the changes by degree. Here, there is no subtlety whatsoever, there is no room for interpretation. Mandatory retirement became illegal in January, 1994—period. For any of my Republican colleagues concerned about retroactive taxation, this provision amounts to as much as a 200-percent retroactive tax on the wages due American workers.

And as for my Democratic colleagues, I would draw their attention to the Senate Democratic Action Agenda they unveiled with much fanfare some time ago. It promised action on three fronts: paycheck security, health security, and retirement security. Any of my colleagues who are truly concerned about that agenda will oppose this legislation, because it represents a retreat on all three fronts. Paycheck security. This bill is a legislative pink slip for thousands of hard working, dedicated and able Americans. No security there.

Health security. Public police and fire departments have almost universal coverage. What kind of jobs 55-year-olds will land, if any, is anybody's guess. Health coverage goes from a sure thing to a roll of the dice. Not much security there.

Retirement security. Detective Smith, if he could work a few more years, would add more than $6,000 a year to his pension. He doesn't need more laws from Washington to promote his security, he just needs us to let him do his job. Little security there.

As a footnote, one of the things the Democrats want to do is pass a tax deduction for education costs. That's great. One of the reasons Detective Smith wants to stay on the job is to help pay for his daughter's college education.

Proponents of this legislation argue that Detective Smith is simply an unfortunate casualty for the greater good, collateral damage in the words of the military.

But the tragedy is that the greater good does not require putting Detective Smith out on the street. The greatest good comes from treating him as an individual, from strengthening our public safety departments through a rational rather than an expedient personnel process.

I think the adoption of this provision is shameful. Mandatory retirement is age discrimination. If public employers could not convince the EEOC or the courts otherwise, they should not convince us.

But apparently they have. It is a sad day in the history of civil rights in this country. We have turned the clock backward.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Rhode Island.

Mr. PELL.

Mr. President, last Saturday afternoon, I joined some 15,000 of my fellow Rhode Islanders in a huge rally to welcome President Clinton to Providence. It was in Providence that the President announced his support for the omnibus appropriations bill that will soon be considered by this body. And it was in Providence that we heard the best news for education funding that we have heard in almost 2 years.

Approval of the legislation before us will increase Federal education funding by more than 12 percent over last year. Because of the President's leadership and particularly because of his commitment to education, this increase stands in stark contrast to the dire predictions of drastic cuts in education programs that marked the beginning of this Congress. It is a dramatic and encouraging end to this session of Congress.

Next year we will have the largest Pell grant in history. The maximum grant will be $2,700, an increase of $230 in one year. The number of low and middle income students receiving Pell grants will increase by 150,000. And the total number of students receiving Pell grants next year will reach 3.8 million.

We have also strengthened our commitment to education reform by increasing appropriations for the Goals 2000 program by almost 29 percent and upping funds for professional development by more than 11 percent.

We have provided a 16 percent increase in funding for Safe and Drug Free Schools. Less than 2 years ago we were fighting to keep this program from suffering a 40 percent cut.

The title I program will be increased by some $470 million next year, and two-thirds of that increase will go to our most needy and deserving schools.

Mr. President, in area after area in education we have good news and solid progress. This is an education budget we can cheer. It deserves our strong support.

We owe an enormous debt of gratitude to President Clinton and his administration for the strong leadership they have shown on behalf of education. And, we owe an equally enormous debt of gratitude to those from

this body who played such an important part in helping fashion this agreement and bring forth such an encouraging education budget. In particular, I personally want to thank Senator HATFIELD, Senator BYRD, Senator SPECTER, AND SENATOR HARKIN for the vital role they have played in this dramatic achievement.

Mr. President, I hope the Senate will act with dispatch in approving this legislation

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I again express great appreciation for the statement that was made by our friend and colleague, Senator PELL, who reviewed for the Senate the various provisions in this agreement related to education. I think all of us are once again enormously impressed, as I know the people that he represents are, by his extraordinary commitment to enhancing the quality of education for young people all across this country. He diminishes his own strength by not mentioning his own very important participation and involvement over the period of recent years in maintaining a strong priority in education which is really reflected in this budget.

As a member of that committee, I commend him for all he has done over a very long and distinguished career in the area of education, and I think his tireless desire to ensure that we have a bipartisan effort in the area of education has been always a trademark of his leadership as well. So I think all of us who will read the history of this discussion about development of the continuing resolution know full well that in the area of education he played a very significant and major role, and I know everybody in the Senate understands it and appreciates it.

Mr. President, exactly 2 years ago, the late Barbara Jordan, Chair of the Commission on Immigration Reform, submitted to Congress a comprehensive set of recommendations to address the illegal immigration crisis in America. At that time, Barbara Jordan said, ''Our message is simple. The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in legal immigration.''

The bill that the Republican leadership tried to ram hastily through the Congress was weak in addressing illegal immigration and reflected the antiworker, antifamily, anti-immigrant, antirefugee, and anti-environment agenda of the Republican right wing and was an extreme Republican assault on the American worker and on working families. It did more harm to the country than good.

But after extraordinary negotiation last week involving the White House, the Republican leadership, key Members of Congress, those features of the Republican bill that came out of their conference that assaulted legal immigrants and made it impossible for working Americans to reunite their families here are now gone. Gone, too, is the unacceptable Gallegly amendment which would have allowed States to expel immigrant children from public schools and dump them on the streets. This unwise amendment would do nothing to stem the tide of immigration. It was vigorously opposed by police groups and educators because of the harm it would do to our communities. Congress is right to reject this provision.

Although the worst provisions in this bill on legal immigrants are gone, it is still not the hard-hitting crackdown on illegal immigration it ought to be. Republicans rejected our efforts to include strong provisions to punish unscrupulous employers who hire illegal immigrant workers and then exploit them with cheap labor and unsafe workplace conditions knowing they will not protest such conditions.

This bill winks at this shameful sweatshop practice. Americans will continue to lose their jobs as long as unscrupulous employers can get away with hiring and abusing illegal workers. Clearly, stronger legislation is needed if we are serious about dealing effectively with illegal immigration. And I intend to renew this battle again next year.

In addition, the provisions in this bill related to refugees and due process of law represent an improvement over the recently enacted antiterrorism law. But they still do not go far enough in restoring judicial revue and giving persecuted refugees a fair opportunity to seek asylum in America.

Most of the credit for what is before us today as part of this continuing resolution goes to our respected friend and colleague, Senator Al SIMPSON. We will miss his able leadership, vision and courage on the complex and challenging issues of immigration.

As I have said on many different occasions, immigration is not a high-profile issue in the State of Wyoming. They are not inundated with illegal immigration. There are important historical strains of legal migration in Wyoming, but certainly it is not a State that is confronted with these types of issues. But the fact that Senator SIMPSON over a very long and distinguished career in the Senate was willing to take the time, make the effort and had the energy to master the very complex policies that are affected by immigration and refugee policies and asylum reflects great national service. He was always there to make sure that no matter where the political winds were blowing, we kept our eye on the ball on matters of immigration, illegal immigration, and refugees. He and I did not always agree, but we found common ground, and everyone on that committee always found that Senator SIMPSON was willing to listen and to find the broadest of coalitions in the best interests of our country. And again the provisions that are included in this legislation to a great extent reflect the long effort on his part to make sure that we were addressing these matters in a responsible way.

I know there are provisions that were excluded that he would have favored to have included but nonetheless I would like to think that the more positive aspects of the provisions that we have included can be traced in origin back over a long period of time to the work of Senator SIMPSON, the Jordan Commission, the Hesburgh Commission, and other efforts of the committee.

Senator SIMPSON took the Jordan Commission's recommendations, conducted extensive hearings on them in our subcommittee, visited each Senator individually to obtain their views on what needs to be done, and conducted a fair and open process of debate on the bill in the subcommittee. When the full Judiciary Committee considered the bill last spring, he and Senator HATCH gave all members a full opportunity to present their views. Over 150 amendments were debated over 8 days and all members of the committee feel that the result was a much better bill.

In a similar spirit of bipartisanship, the Senate debated the bill for 2 weeks in April and May and after full and fair debate and votes on numerous amendments the result was an outstanding tribute to the leadership of Senator SIMPSON. The bill passed 97 to 3, a remarkable capstone to the commitment of this extraordinary Senator over almost 2 decades to ensure that our immigrant heritage is carried forward. As a result of his efforts, the Nation will look ahead to the next century better able to draw on the positive contributions of immigration to our country, while equipped with more effective tools to combat the unlawful immigration that is so harmful to our country.

The subsequent course of this legislation was less satisfactory for those of us who care so deeply about preserving our immigrant heritage while cracking down on illegal immigration. After extraordinary bipartisanship in passing the legislation in both the House and Senate, Democrats were suddenly shut out. Republicans sought to convert the legislation into a partisan political document to aid the Dole Presidential campaign in California.

As a result, unusual steps were necessary to reinject bipartisanship in this important legislation. The events of the past few days and the agreement achieved early Saturday morning have produced a far better bill for the Nation than the Republican conference report on which the Senate was scheduled to vote today.

President Clinton provided the strong leadership needed to persuade Republican leaders to back away from their extreme positions and come to the table to work out genuine bipartisan legislation for the good of the country.

The agreement addresses illegal immigrant head on. It reverses the serious mistakes by the Republican leadership to use illegal immigration as a pretext to attack legal immigrants.

Entirely different considerations apply to legal immigrants. They come in under our laws, serve in our Armed Forces, pay taxes, raise their families, enhance our democracy, and contribute to our communities. The original Senate bill had rightly rejected harsh attacks on legal immigrants, and so does this agreement. That is a major victory.

First, this agreement drops harmful provisions that would have made the recent welfare reforms even harsher for legal immigrants. Having banned SSI, food stamps, Medicaid, cash assistance, and other services for legal immigrants in the welfare bill, the Republican immigration bill would have expanded the restrictions to include Head Start, job training, and English classes. This was wrong, and this agreement corrects this grave mistake.

The Republican bill would have shifted the rules in midstream for legal immigrants already in America and their sponsors. The bipartisan compromise, on the other hand, retains the formulation in the new welfare law, which applies primarily to future immigrants. Without this compromise, the Nation's hospitals, clinics, and community based organizations would have been overwhelmed, and would have lost millions of dollars in Federal help.

Second, the comprehensive welfare reforms made legal immigrants ineligible for many types of assistance. The Republican bill penalized the few legal immigrants who still qualify for assistance by threatening them with deportation if they actually used the assistance.

If there are immigrants who abuse welfare—or use it illegally—they should be deported. In fact, current laws permit this step, and we should enforce them.

But it is wrong to add to the harsh new welfare reforms by saying to legal immigrants who qualify for child care assistance that if they actually use it, they can be deported. No parent should face that choice—of leaving their children home alone while the parent works or risking deportation by obtaining child care. It was right to eliminate these deportation provisions under the new bipartisan agreement.

Finally, it was wrong for Republicans to insist on putting family sponsorship off limits to lower income working American families. Under the Republican bill, 40 percent of American citizens would have been denied the right to bring in their families. The Republicans try to claim that their party is the party of family values, but this bill was a flagrant denial of such values. Under the Republican proposal, for the first time in the Nation's long immigrant history, low-income working American citizens would have been denied the opportunity to have this spouses and young children join them in America.

Republicans argue that most Americans who sponsor family members are, in fact, former immigrants, who knew when they immigrated that they would be leaving families behind. The fact is, according to the General Accounting Office, 64 percent of those sponsoring their families in any given year are native-born American citizens who were never immigrants themselves.

Republicans also argue that if we do not set high income standards for sponsors, then low-income sponsors will be pushed onto welfare because they have to support themselves and the sponsored immigrant as well.

To guard against this possibility, the bipartisan agreement establishes an income test for sponsorship at 125 percent of the poverty level. The agreement requires sponsors to sign an enforceable sponsorship contract that requires sponsors to care for those they bring in. And it requires sponsors to prove they can meet the requirement by submitting their tax returns for the past 3 years.

This is the approach which the Senate adopted in May and which was actively supported by many Republicans, including Senator ABRAHAM, Senator DEWINE and others. In fact, in June, Jack Kemp urged congressional leaders to adopt this sponsorship formula. He wrote, ''The Senate bill reasonably requires that sponsors have income equal to 125 percent of the Federal poverty level,'' and he called on Congress to oppose sponsorship formulas that imposed stiffer burdens on sponsorship.

The 125 percent requirement ensures that very few sponsors will be pushed onto welfare. Virtually all welfare programs require 100 percent of poverty or less in order for applicants to qualify. Those with incomes above 125 percent of the poverty level qualify for very few programs. And where they do, they normally qualify for only a few dollars of help.

The price tag that the Republican bill placed on family unity was unnecessary, harsh, and punitive. It was intended as a backdoor reduction in legal, family immigration. The Republican wealth test for sponsorship was 140 percent of the poverty level for those sponsoring their spouses or young children and 200 percent for those sponsoring their parents, adult children, or brothers and sisters. The Republican plan was anti-family. It said to working Americans that their jobs were not good enough to qualify them for sponsorship. This draconian, class-based proposal would have caused unfair hardship for working American families, and was rightly rejected as part of this bipartisan agreement.

In addition, this agreement contains three other worthwhile improvements. It provides assistance to immigrants who are victims of domestic violence. It continues assistance under the Ryan White Act for immigrants with HIV infection or battling AIDS. It allows nonprofit organizations, such as Catholic Charities, church social service programs, or community-based organizations to continue to assist communities with Government funds, without having to check the citizenship and green cards of everyone who walks in their doors.

Rather than making harsh welfare reforms even harsher for legal immigrants, this bipartisan agreement provides modest but needed improvements over those reforms for battered immigrants and for charities and other nonprofit organizations that are a lifeline to immigrant communities.

As President Kennedy wrote in his book, ''A Nation of Immigrants'':

> Immigration policy should be generous; it should be fair, it should be flexible. With such a policy we can turn to the world, and to our own past, with clean hands and a clear conscience. Such a policy would be but a reaffirmation of old principles. It would be an expression of our agreement with George Washington that ''The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions; whom we shall welcome to a participation of all our rights and privileges, if by decency and propriety of conduct they appear to merit the enjoyment.''

This bipartisan agreement is largely consistent with that goal. It takes a number of worthwhile steps to deal with the problems of illegal immigration, although much more significant steps could have been taken and should have been taken to deal with this serious problem. Equally important, this bill keeps the Nation's doors open, with reasonable limitation, for those who come here as legal immigrants and contribute to a stronger and better America, as they have done throughout the two centuries of our history. I commend all of those who have helped to develop this proposal and have it included in the underlying document.

I urge my colleagues to support this legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from South Dakota and 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

FEDERAL AVIATION REAUTHORIZATION

Mr. PRESSLER. Mr. President, it is critically important we finish the Federal aviation reauthorization legislation before the Senate adjourns. This legislation is vital to air service in my home State of South Dakota. For example, in my State of South Dakota, the FAA bill we are struggling to bring to closure doubles the size of the Essential Air Service Program to $50 million. This is particularly important to Brookings, Mitchell, and Yankton, SD. The Essential Air Service Program provides the only air service link these