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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, as we begin this new week, help us discover the power of resting in You and receiving the assurance and encouragement of Your amazing grace. You know our needs and are prepared to meet those needs with exactly the right gifts of Your Spirit. Thank You for being present, imbuing us with inspiration to lift our spirits, hovering over us with hope to press on. All through this week, there will be magnificent moments when we will overcome the temptation of trying to make it on our own strength and, instead, yield to the inflow of Your wisdom, insight, vision, and guidance. Our souls are meant to be containers and transmitters of Your power. Thank You in advance for an extraordinary week in which we are carried by Your presence rather than being bogged down trying to carry problems ourselves. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will be in a period of morning business until noon. Following morning business, under a previous order, the Senate will begin consideration of S. 1723, the Abraham of Michigan immigration legislation. Any votes ordered with respect to the Abraham bill will be postponed to occur beginning at 5:45 this evening. We have modified the time of the vote just a little to accommodate some Senators who will be coming in close to that time. So it will be 5:45 instead of the earlier indication of 5:30. It could involve one, two, or three votes, depending on how the amendments go during the day.

Following those votes, the Senate will begin consideration of S. 1415, the tobacco bill. Members should expect busy sessions every day this week as the Senate considers this important issue.

Also this week, the Senate may consider the ISTEA transportation conference report. I understand that the conferees have basically reached an agreement on the broad parameters, broad issues of the ISTEA transportation bill. They are running the numbers to make sure they have numbers that reflect what their agreements were. We hope to have a vote on that Thursday, or Friday at the latest. We may also consider the Coverdell A+ savings account conference report, if available.

The cooperation of all Senators will be necessary so that the Senate can complete its work prior to the Memorial Day recess. There will be ample opportunity for Senators to be heard this week, and there will be ample opportunity for Senators on either side of the aisle on the issues involved to be frustrated or to lose their temper perhaps. But I hope everybody will remain calm and be thoughtful in their debate. I believe we can proceed and get to a conclusion that will be acceptable to, hopefully, a large number of Senators in a bipartisan way.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from North Dakota, Mr. DORGAN, is recognized to speak for up to 15 minutes.

THE TOBACCO LEGISLATION

Mr. DORGAN. Mr. President, I thank the majority leader, Senator LOTT, for bringing the tobacco legislation to the floor of the Senate this week. He had indicated previously that he would do so, and he has kept that commitment. I think it will be helpful in this country to debate that issue this week on the floor of the Senate.

UNDERCUTTING OUR FAMILY FARMERS

Mr. DORGAN. Mr. President, I come to the floor today to talk about an issue dealing with agriculture. Later this week, sometime this weekend, a boat will pull up at a dock in California loaded with 1.4 million bushels of European barley. This barley was sold into this country with a subsidy of well over $1 a bushel. It is now being hauled from the European Union to the shores of the United States, deeply subsidized, unfair trade, undercutting our family farmers. It is an outrage, and it should not happen. We suggested that the sale be terminated when it was announced, but it was not. I suggest today that perhaps somebody ought to refuse to unload the barley when it reaches the shores of California.

Let me describe for a few moments why this is just a symbol of a very serious problem in the farm belt. I want to show a series of charts because I want the American people and my colleagues

to understand that we are confronted with the question of whether we want any family farmers in this country's future. We are seeing family farmers going broke in record numbers. In my State, there was a 55-percent increase in auction sales over last year. They are calling auctioneers out of retirement to handle the auction sales, because there are so many sales of family farmers having to quit.

Now, farming isn't just a business. These are families living on the farm. There is a yard light that illuminates the place that represents the dreams of a family that wants to farm. These farms represent the economic blood vessels that pump life into our small towns. It is a way of life that is very important to this country.

There is a real difference between family farmers and the agri-factories that farm from California to the State of Maine with large mechanized corporate farming. The family farm makes a difference in our society. It is the seedbed of family values that has nurtured and rolled itself from the family farms to small towns, to America's cities. If America decides it doesn't care about whether there are family farmers, it will have lost something valuable.

I received a letter from a farmer just the other day. Its just one of many such letters from other farmers. I am getting many calls and considerable mail from farmers. This particular letter says, ''It has come to my attention now as a farmer that the United States is preparing to let an entire industry''—that is, family farmers—''die. If an airline strikes, the President intervenes; if UPS strikes, the President intervenes; if a railroad suggests a strike, the President is up in arms. But when farm commodity prices fall and family farmers are in peril, nobody seems to say much.''

Let me describe the circumstances of our North Dakota farmers. I met with a group of North Dakota producers this past Saturday with my colleague, Senator CONRAD, in Fargo, ND. We visited, once again, about the problems and what can be done about them. Here is what they face. Our three largest crops—spring wheat, durum wheat, and barley—had a 41-percent reduction, a 21-percent reduction, and 41-percent reduction in gross income from reduced yield and price. Ask yourself, if you were in business and you have a 40-percent reduction in your gross sales and a reduction in your price, what is going to happen to your business?

These are family farmers. They don't have deep pockets. So here is what has happened, as a result, to net farm income. Take all the farmers out there in North Dakota and evaluate what happened to the net farm income. Net farm income in 1996 was $764 million, divided among 30,000 farmers. In 1997 net farm income was down 98 percent, down to $15 million in net farm income. Divided among all those farmers, that is less than $500 net income per farm. But this doesn't tell the whole story, because almost all of that net farm income goes to the state's largest farmers, and almost all of the middle- and lower-income farmers are seeing huge losses. Let me show my colleagues what has happened to the price of wheat.

One can make the case, or not make the case, that this has something to do with what Congress did. It probably has some small amount to do with what Congress did in passing a new farm bill, and maybe it has something to do with a lot of other things happening in the world.

Let's look at the price of the wheat. We passed a new farm bill back in April 1996. You see what happened to the prices received by farmers for wheat since May 1996. It has gone down, down, down, way down. It is now at the lowest level in five years. That is what farmers live on. The price determines whether they are going to make a living and stay on the farm. The price of wheat has gone down 44 percent. It is down, down, way down.

Let me show you what has happened to farmers' costs of production. Seed, fertilizer, fuel. They are all up, up, up, way up, month after month, year after year.

Let me show a chart, if I might, that talks about some of these specific trends. If you are a farmer, you need to have a tractor to plow. We don't do it with mules anymore; we do it with tractors. What has happened to the price of tractors? Farmers can tell you in an instant. The price goes up, up, straight up. The price of a combine is also up, up, straight up. How about the price of anhydrous ammonia, the fertilizer needed to provide the nutrients to these crops? You can see what has happened. There has been a huge spike in the last few years. The price of fuel is up. In the last five years, there has been a 70-percent increase in the cost of the inputs that many farmers have to buy to put a crop in the ground.

This isn't like other businesses. When you are a family farmer, you can't pass these costs along. People do not think much about family farmers, unfortunately. They get their butter from a carton; they get their milk from a bottle, or a carton; food from a can, or perhaps a box. But it all comes from the farm. It all comes from someone who gets up early to do the chores, and then gasses up the tractor, and goes out and plants the field.

Will Rogers some 60 years ago said, ''If all the cows in the country failed to show up at the barn one morning to be milked, why, that would be a problem.'' He said, ''If all the lawyers and accountants in America failed to show up for work one morning, we wouldn't miss a lunch.'' He was describing what is really important. Where does all of this come from? It comes from the ingenuity and risks taken by families who decide they want to farm as a way of life.

The price of a loaf of bread has almost no money in it for farmers. Here is the price of a loaf of bread. Here is what the farmer gets. Just about the heel, if that much.

So wheat 2 years ago was $5.50 a bushel, and now it is $3.20 or $3.30. Has anybody seen the price of a loaf of bread come down? I don't think so. What is happening is, the people who make the bread are making record profits. The people who haul the grain on the railroad tracks are making record profits. The people who put it in a plant and then perhaps puff it and then sell it on the grocery store shelf as Puffed Wheat are making a profit because it is more profitable to puff it than it is to grow it.

I wonder if there is not something wrong with this picture for America. The snap, crackle, and pop, the puff, and the crisp all have more value than the wheat. The package, the advertising, and the transportation have more value than the wheat.

This country can't decide on a policy that says family farming has merit and it is important to this country?

Finally, bread profits soar at the same time that wheat prices come down and family farmers go broke. Something is wrong with that picture.

This chart shows it on the same page. Bread costs continue to rise, and the price of wheat continues to fall.

I went to a small school. There were nine students in my class. They taught math at my school, maybe not higher math, but I can add and subtract. I understand what adds up and what doesn't. This doesn't add up. It does not add up if you care about whether this country has a future for family farmers. Farming is not just a business.

There are a lot of reasons that we are in trouble on the farm. Farmers are told by Congress that, we are not going to have a safety net for you anymore, and that we are going to pull that safety net out from underneath our farmers.

Farmer are unlike most other business. They take huge risks: First, they risk that when they plant a seed, it may not grow. So the cost of that seed might represent a loss in the farmers' pockets. Second, if the seed grows, it may be in June or July that a hailstorm will come and destroy the crop. Or the bugs will come and eat the crop; or crop disease, scab or vomitoxin, will come and destroy the crop.

Maybe none of those things happen. Maybe you plant a seed and it grows and none of those natural disasters occur. Then you combine the crop to get it off the field and take it to the grain elevator, only to discover that it costs you $5 a bushel to produce it and you get just $3.35 a bushel to sell it. The result is that your family is going to have to move from the farm. That yard light is going to go out. Someone will farm that land. It will be a big operator, or a big corporate farm. They will just fold it into their bigger corporate farm, and there will be tractors that will plow for miles. But that yard

light will be out forever, and that small town will continue to die. The county will shrink. The rural life style will wither.

A wonderful author from my home State, who was a world-renowned author, died a couple of years ago. He made a prediction in his book. He stated it more eloquently than I can . He said that this country resulted from an agrarian lifestyle which created the family values that nurtured America and refreshed America. He reminded us that the family values that refreshed America continually came from the family farm, where neighbors understood that you have to help each other because the people can't do it alone. Without our family farms, those family values that rolled from rural America to our cities will be lost.

It is not to say that farmers are better than anybody else or have more value. It is just that farming is different. It is a family occupation. Yet, it has enormous risks. For years in this country we decided that we were going to try to provide some help to offset those risks. They do it in every other country.

We are the only superpower. We are the only nuclear superpower, military superpower, left. We are certainly an economic superpower. Almost any other country with any economic clout decides that, as part of its budget, it makes sure it continues to have a network of family farms. Therefore, it provides some price supports against all of these risks that family farmers face. But not us. We decided farmers should compete in the open market despite the fact that there isn't an open market.

As I said when I started, the ship that is going to dock in California at the end of this week will haul 1.4 million bushels of European Union barley subsidized to the tune of more than $1.10 cents a bushel. There is no American farmer that can compete with that. It is simply unfair.

But that is just the tip of the iceberg. In every direction you look in international trade, our farmers are injured. The California dock is not the only place. Go to the Canadian border, where we are flooded with unfairly traded Canadian imports. Go to the Mexican border and see what NAFTA has done with respect to the unfairness of agricultural trade. Go to China and ask why we can't get sufficient amounts of wheat or pork into China. Go to Japan and ask why it costs $30 a pound to buy a T-bone steak in Japan because you cannot get enough American beef in Japan.

We are rife with trade problems that injure the American farmer every single day. And our trade policy is apparently to sit on our hands and do nothing about it.

It seems to me that we can't enforce trade agreements. But first of all, we need to negotiate good agreements. Let me mention Will Rogers once again. Some 60 years ago, Will Rogers also said that, ''The United States has never lost a war and never won in a conference.''

First, we ought to get trade negotiators to go out and negotiate good agreements for this country. They ought to be hard-nosed economic trade agreements and not some soft-headed foreign policy negotiations about what we ought to do to help other countries.

I am not against helping other countries, but first I am for helping family farmers. We need trade policies that do not injure them. We need to help them. If they had any gumption, they would be at that dock out in California this week meeting the ship and suggesting that the ship should never be unloaded on American shores because it is symptomatic of everything that is wrong with our trade policy.

Second, we ought to decide that it matters to have a support price for family farmers. No, it would not be a giveaway nor a subsidy to farmers. The subsidy in American food policy is that we have the highest quality food anywhere in the world for the lowest price anywhere in the world. We have a cheap food policy that provides a subsidy to the consumer. This is at the expense of family farmers who can't make a living because what they grow they have to sell at well below the cost of what it took them to grow it. That adds up to a deficit, and that adds up to serious trouble.

In my judgment we ought to use every tool that is available to us as a country. Could the export enhancement program help? Maybe. Is it being used now? No. Why have we decided to disarm ourselves? The European Union uses their export subsidies to sell their grain from their family farmers into North African markets and they have 10 times the subsidies we have ever considered using. So, why does our country say, if they are going to take our African markets away from us, that is just fine, and we can't do anything about it? Would we disarm in any other way? Why would we disarm on trade competition? Why would we not say, on behalf of American producers, that we will stand up for you? This country believes in you. This country cares about you. Why on Earth will this country not decide that it will stand up for its producers?

We, in my judgment, must begin as a Congress now to evaluate whether the path we are on from the previous farm bill passed a couple of years ago is the right path or the wrong path. It was called the Freedom to Farm bill. Part of it was just fine. Part of it was to take government out of the decision of what crops a farmer was going to grow. I supported that part. But part of it was a devastating blow to farmers. It said, by the way, we are going to pull the rug out from under you in price supports, and we are going to say to you, compete in the free market when in fact there is no free market.

It asks our farmers—the Johnson's, the Larsen's, the Olson's, because I come from that part of the country where we have a lot of folks with those names—it asks those farmers to compete not just against French farmers, not just against German farmers or Italian farmers. It asks them to compete against all those governments as well that deeply subsidize their sales into foreign countries.

I ask the question today of Congress and also this administration whether they are willing to stand up and ask some tough questions about agricultural policy in this country. Do family farmers matter? Do you care? When you fly across the Dakotas and Nebraska and Kansas and the breadbasket of our country at night and look out the window of an airplane, do you care whether you see yard lights? Do you care about our farmers out there who are trying to make a living with great risk? Do you care whether they really have an opportunity to make it? Do you think they provide worth to our economy? Or is this just an economy now which says bigger is better, concentration has virtue, and that mergers and combinations have merit, because they have the financial clout and the capability to suggest that an economic system that rewards size and rewards bigness is the best system. I don't necessarily believe that.

Oh, I think the market system is a wonderful system, but I also believe that in this country agricultural producers have never experienced a free market and will never experience a free market unless substantial changes are made not just in this country but other countries as well.

I want to make one additional point. We now have a number of countries in this world in which our farmers can't market because we have embargoed them through sanctions. We have said we don't want to do business with Cuba; we don't like Fidel Castro. So wherever Cuba is going to buy wheat, it is not going to be from the American farmer. In Libya, we don't like Qadhafi. So where is it going to get its grain. It is not going to be from this country. Iraq, well, in the last year or so, we have shipped them a bit, but not much. Most of Iraq's grain comes from elsewhere because everyone knows the problems with Iraq.

I can go through a list of countries in which the American farmer pays a price because we have decided to embargo them. I happen to believe that you ought never under any circumstances decide to cut off shipments of food. Nobody is going to shoot food back at you. It seems to me it makes good sense in this country as a matter of public policy to decide that food shipments and food sales ought to be the last thing you would ever sever. We have a lot of hungry people in the world. It makes no sense to me to see a country with as bountiful an opportunity and as bountiful a harvest as we often get decide that somehow this grain doesn't have value. Gosh, I think this grain is more valuable than nuclear weapons. I think this grain is

more valuable than most of what people produce. This is a hungry world and a growing hungry world.

It breaks my heart to see family farmers write to me day after day and come to me in North Dakota as they did this weekend and call day after day and tell me that their dream is ending.

A woman called a couple of weeks ago, and she began crying on the phone. She and her husband, just out of high school, began to farm. They have never done anything else. And they scraped and struggled and rented some land and then bought a little bit of land. She said, ''We don't go to town on Saturday nights. We don't buy frills. We scrape by and we have always scraped by. We do nothing that is extravagant.''

She said, ''But, we finally have come to the end of the road. We are now in our mid-thirties. We have farmed for nearly 15 years and we have no other skills, but we just can't continue to make it unless farm prices improve. Our banker won't give us a loan. We can't put in the spring crop.''

When you hear those stories, it breaks your heart because we are losing something valuable.

I would conclude today by simply saying this: My colleague, Senator CONRAD and I, have spoken on the floor I guess a half dozen times on this subject. We want people to understand that this issue matters. This makes a difference to our country. There is a big difference between the right public policies and the wrong public policies. One offers people hope and one despair. One will help move us forward in trying to nurture and protect and help family farms in our future and one will move us backward towards farm failures and desolation and despair on the family farm.

Let me end as I began. North Dakota State University did a study and showed us that just in the last year there have been almost $400 million in losses in net farm income. That is $400 million just from those three crops: spring wheat, durum, and barley. The problem is that in that circumstance I have described in our State, family farmers just can't make it.

Something has to change. We need better trade policy, better price supports, commodity loan rates that give farmers a chance to market when it is advantageous to them, not just to the miller or the grocery manufacturer. We must fight for changes in policies. I know my colleague, Senator CONRAD, and others will be talking about this issue, but it is critically important. I will come to the floor again and again to talk about what we must do to solve this problem.

Recently, Dale Thorenson, a farmer from Newburg, ND wrote an opinion letter for the New York Times. He had received a gift subscription to the New York Times from his father-in-law, and thought that as a new subscriber he should write an article about the conditions facing farmers in North Dakota. I don't know if it has been printed yet in the New York Times, but it did get printed in the Grand Forks Herald. I hope the Times does print it because he eloquently captures the economic and policy dilemma that now surrounds our nation's family farmers.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Grand Forks Herald, May 10, 1998]

THE FARM CRISIS THAT NOBODY WANTS TO HEAR ABOUT

AS THE NATION PROSPERS, FARMERS IN THE NORTHERN PLAINS FLOUNDER

(By Dale A. Thorenson)

NEWBURG, N.D.—On April 3, the Dow Jones Industrial Average broke above 9,000—a new high-water mark in what seems to be an unending spiral upward. At the present rate of growth, a 12,000 Dow will be seen by the end of the year. Highly unlikely . . . but who is willing to step in front of this freight train?

Ten days later, on April 13, the price of the nearby contract of wheat at the Chicago Board of Trade broke the $3 mark—only this price was heading in the opposite direction of the Dow. The $3 offered for a bushel of wheat on April 13 was a far cry from the $7.16 mark reached just two years prior—a time when the new Freedom to Farm legislation was being enacted in our nation's capital.

The sponsors of Freedom to Farm promised this legislation would revolutionize the farming industry. Gone were the planted acreage mandates from the federal government. The farmer was given the flexibility to plant what the market wanted—hence the name Freedom to Farm was coined.

In return for this flexibility, the farmer signed a seven-year contract to receive declining support payments decoupled from production—severance pay, for lack of a better explanation—as he was weaned from federal subsidies. The farmer was told the rest of the world also would end subsidies and this new world market free from government intervention would cause unending growth in exports as markets expanded because of increased demand. The conventional wisdom of the time assumed the United States farmer—given this level playing field—would dominate world agriculture.

GOOD INTENTIONS GONE AWRY

Well, Freedom to Farm has revolutionized farming, but not in the way intended. And the playing field is far from being level. This farm program—called by many as Freedom to Farm—enacted in conjunction with historically high commodity prices, has turned out to be a sham. In what could almost be described as an ill-advised acceptance of a bribe, the farmer pocketed a first-year subsidy payment and a decent price for his crop. It has been downhill since—at least in wheat-producing regions of the Great Plains. But make no mistake about it. The corn and soybean farmers of the Midwest will get their turn on the rack. The $3,000-per-acre land costs of the Corn Belt will not be competitive with the new land being developed in South America at a cost of $50 per acre.

As if on cue, the costs of producing a crop—fertilizer, chemicals, machinery required—increased dramatically. The ''bribe'' went directly into the hands of the petrochemical companies who make the vast array of inputs needed for production agriculture. And, as the $3 price suggests, a downward spiral in wheat prices commenced.

One of the many important details left out of this so-called Freedom to Farm legislation was an iron-clad assurance from the European Union that they would agree to reduce their farm subsidies simultaneously. Supposedly, the EU was to phase out subsidies over the same time period. But the simple fact is that their phase-out is from a much higher level—and as speedy as a tortoise on a cold day. Also, unlike the intentions of the United States, the EU's subsidies will not end entirely.

Specifically, the 300 million or so people of the EU spent $47 billion to $48 billion on their farm program this past year. This is in comparison to the United States expenditures of a little more than $5 billion. In the matter of export enhancements—a procedure where the seller pays the buyer to buy the product—the EU spent about $7 billion to $8 billion. The United States anted up about $150 million, or about 50 times less. The negotiator from the EU who sold this bill of goods to the United States policy-makers could easily get a job selling furnaces in hell.

SHORTCHANGED IN WHEAT COUNTRY

As bad as this is, the wheat farmers of the Great Plains states were shorted in another way in comparison to the corn and soybean farmers in the Midwest. The federal loan rate for wheat was capped in the Freedom to Farm bill at $2.58, about 52 percent of the United States Department of Agriculture's most recent five-year average cost of production projection for a bushel of wheat—which was pegged at $5. In contrast, the federal loan rate for corn and soybeans stands at 72 percent and 89 percent, respectively, of USDA's recent cost of production estimate.

The United States produces about 9 billion bushels of corn and 2.5 billion bushels of soybeans annually. Annual production of wheat has been about 2.7 billion bushels in recent years. Uncapping the loan rate for wheat and raising it to the percentage of production costs enjoyed by the corn and soybean producers—$3.75—culd potentially cost the U.S. Treasury up to $3 billion annually if the EU continued to insist on their predatory marketing tactics. But not doing so puts the U.S. wheat farmer in the position of competing not only with his contemporary in Europe, but also with the government treasuries in Europe. There should be little doubt as to who will survive this grain war if the situation remains the same.

North Dakota and northern Minnesota farmers especially have been hard hit with economic misfortune even beyond the disastrous collapse of wheat prices. This region is now going on five years of a serious wheat disease outbreak called Fusarium head blight brought on by abnormally wet periods during the flowering stage of the crop. Couple this dilemma with the harsh winter blizzards of 1996 to 1997, which then produced the well-publicized flood of the century in the Red River Valley, highlighted by the almost complete inundation of Grand Forks and East Grand Forks. Another pitfall is the proximity of this region to the Canadian wheat producing area, called the Prairie Provinces—Manitoba, Saskatchewan and Alberta. The North American Free Trade Agreement has allowed Canada to dump its excess wheat in the United States while maintaining the support for its farmers at the same time. Guess where in the United States Canada dumps this wheat?

The March 30 issue of Agweek, one of North Dakota's weekly agricultural news journals published by the Grand Forks Hearld—the paper whose ''Come Hell and High Water'' headline last April made it world-famous—listed approximately 180 farm auctions. Those were not poor operators or retirement sales, but good farmers—many of

these farms were fairly large operations—in their prime who have simply given up. These farmers had survived the bloodbath in agriculture of the 1980s but were unable to survive Freedom to Farm. They will never be replaced.

This country, with all its abundance and prosperity, needs to come to the realization that a wheat farmer needs to receive more than a few pennies of the $1.50 a consumer pays for a loaf of bread. Europe, having starved twice in this century during two world wars, understands that and intends to keep its agricultural industry intact.

TRIVIAL PURSUIT

All the fuss lately about President Clinton's sex life or what a certain special prosecutor is thinking as he picks up his morning paper is really quite trivial in comparison with the many national and international problems now at hand. It is for this reason the public considers the current situation in Washington much ado about nothing and not because of the bemoaned fact that a new low in moral standards has been established.

In particular interest to more than a few Great Plains wheat farmers is if this country will stand up and fight for them. Or does the United States consider these farmers expendable in order to maintain this nation's longstanding policy of cheap food—even if in the end the reverse will surely happen?

A couple final questions on this subject this country needs to ask itself: If the agricultural sector of this country is deemed expendable and not worthy of preserving, will the United States one day become as reliant on food for foreign countries as it is for oil? If so, does the United States really want to take this risk?

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota, Mr. CONRAD, is recognized to speak for up to 15 minutes.

Mr. CONRAD. I thank the Chair. I thank my colleague from North Dakota, Senator DORGAN.

Senator DORGAN and I participated in meetings this weekend with representatives of major farm organizations and people who are watching the farm economy, those who are charged with doing the statistics and the analysis from the university, also the head of the farm service agency who has been made part of a crisis response team by the Secretary of Agriculture to deal with the cash flow crisis that is occurring in North Dakota and other farm States as well.

Last week, I made a series of speeches on what I called the stealth disaster that is affecting North Dakota. Last year, many may recall that we were faced with more visible disasters—flooding and fires of unprecedented nature in the Grand Forks and Red River Valley area. This year, we have another disaster, but it is getting almost no attention. It is a stealth disaster. It is a stealth disaster because it is flying below the radar screen. It is not getting the kind of attention these other disasters did. And part of the reason is it is not so visible. It is not a story that you can easily put on television, but it is a disaster nonetheless.

As I showed last week, farm income in North Dakota declined from 1996 to 1997 by one measure by 98 percent. Those are statistics available to us from the Labor and Commerce Departments. By another measure, a study just done for Senator DORGAN and myself by North Dakota State University, farm income declined in that period by 59 percent. By either measure, these are dramatic and precipitous declines that are leading to a cash flow crisis that is engulfing the producers of our State. We anticipate losing perhaps as many as 10 percent of the farmers in North Dakota this year. We have lenders who are telling us, for the first time in history there is farmland in the richest part of North Dakota, which is the richest farmland in the world, that will not be farmed this year. That is a stunning development.

Growing up in North Dakota, we were always told that the Red River Valley of North Dakota used to be the bottom of a lake, it used to be the bottom of Lake Agassiz. Because it was the bottom of a lake, the lake deposited this extraordinary land, loam that is 6 to 8 feet deep. As I was growing up, we were told there had never been a crop failure in the history of North Dakota in the Red River Valley.

In the last 5 years, we have had 5 years of dramatically reduced production because of overly wet conditions and an outbreak of a disease called scab that took a third to a half of the crop last year in much of North Dakota. Scab is a fungus, and it is absolutely devastating. What we have learned is that the farm policy that is in place in this country cannot cope with this combination of disasters—disease and adverse weather coupled with very low prices. That is a triple whammy that is putting thousands and thousands of farmers out of business.

I thought it might be helpful to compare our agriculture policy in this country with our chief competitors', the Europeans, to see what they are doing versus what we are doing. Senator DORGAN made reference to what I have said—repeatedly last week on the floor—that it is one thing to say to our farmers, you go out and compete against the French farmer and the German farmer and we will see who wins, who is the best producer, who is the most efficient. We are willing to take on that fight any time, any place. But what we are being asked to do is not only compete against the French farmer and the German farmer, we are telling our producers to go and compete against the French Government and the German Government as well. That is not a fair fight. You can't ask a farmer out in North Dakota to take on that French farmer and that German farmer and while he is at it take on the combined resources of the French Government and the German Government. But that is exactly what we are doing.

This chart shows, for 1997, total agricultural expenditures, the United States versus the European Union. The European Union is in red; the United States is in blue. You can see, in 1997 they spent almost $46 billion supporting their producers. We spent $5 billion. That is not a fair fight. When we look to their spending on exports, the United States versus the European Union—again, the European Union is in red; the United States is in blue. This is to support exports. The Europeans spent almost $8 billion. We spent $56 million. That is a ratio of 138 to 1. That is not a fair fight. We are sending our troops into the battle and they are armed with BB guns and the other side is firing live ammunition. How are you going to win this kind of fight? We would never do this in a military confrontation. We would never allow ourselves to be in a situation in which the other side had the predominance of resources. But that is what we have done in a trade conflict, and it makes no sense.

Unfortunately, the pattern continues because, if you look at the expenditures of the two sides for market development, you see the Europeans spending $350 million a year; the United States, $225 million. Again, they are simply outgunning us at every turn in these battles for agricultural markets. They are winning these markets the old-fashioned way—they are buying them. And make no mistake, they have a strategy and they have a plan and their strategy and plan is to dominate world agricultural trade.

Let's look and see how successful they are with this strategy and plan. This chart shows what has happened to wheat exports from the European Union over an extended period of time, starting back in 1960, and going through 1996, the last year for which we have full information from the Europeans. Look at this trend and pattern. They have gone from being major importers of wheat to major exporters of wheat. And their improvement has really occurred, the most dramatic part, in the last 20 years. This did not happen by happenstance. This happened as a result of a concerted plan, a concerted strategy. Because the Europeans have been hungry twice, they never intend to be hungry again, and they recognize the critical importance of dominating world agricultural trade. That is the pattern, in terms of what they have done.

What have we done? From 1982 to 1996, this is what has happened to wheat exports from the United States. We are going nowhere. Worse than that, we are in steep decline. From 1995 to 1996, we have seen a very dramatic reduction in U.S. wheat exports. If you go back to 1995, that was not exactly a stellar performance in the last 16 years of history. So, while the Europeans are on the march, they are on the move, the United States is in retreat.

It doesn't happen just with wheat. This is the outlook with barley. From 1982 to 1996, net barley exports from the European Union—not quite the same pattern. They suffered a very steep loss in 1992 to 1994, but since then they are coming back and coming back strongly. During that same period, the United

States has seen dramatic slippage. In 1992 to 1996, we have actually gone below the line. We have become an importer. In fact, we have just had a case where subsidized exports from the European Union have come into the United States for the first time. We are asleep at the switch. What is happening in this country?

We are going to have the same thing happen to us in agriculture that happened in electronics and automobiles and all the rest. We are going to wake up someday and we are going to find out that we have gone from being the major agricultural player in this world to being a second-class citizen, because we have been asleep at the switch. This is not the whole story. It is a part of the story, but there is much more to tell. If we look at trade policy, we see that too often the United States negotiates agriculture away for other sectors of the economy. We saw it in the Canadian Free Trade Agreement that now allows Canada to pump millions of bushels of unfairly traded Canadian grain into this country, weakening our markets, weakening our prices, and costing us substantially. That is happening today because of a loophole in the Canadian Free Trade Agreement where our people simply got outtraded.

We saw the same thing develop with NAFTA. In NAFTA, you recall, we negotiated a 10-percent reduction in tariffs by the Mexicans. They then turned around and devalued their currency by 50 percent. The net result, we went from a $2 billion trade surplus with Mexico to a $16 billion trade deficit. And some call that a success. If that is a success, I would hate to see failure. I wonder what would happen if we saw failure in our trade negotiations, based on what has been happening with the Canadian Free Trade Agreement—so-called free trade; the so-called NAFTA agreement, again so-called free trade agreement—and what has happened now with the European Union.

It is unbelievable, that they are sending into the United States from Europe—barley. It is so heavily subsidized in their country that it undercuts our producers right here at home. It is not because they are more efficient. It is not because they are more productive. It is because their country is buying these markets. They are spending $47 billion to support their producers when we are spending $5 billion. On exports, they are spending $8 billion a year when we are spending $56 million. And we wonder why we are losing the fight? If we were in any military confrontation we would understand very quickly that we are just outgunned.

Mr. President, it is time for the United States to fight back. We have to put the resources into this battle to win it. That is what we do in a military fight. That is what we ought to do in this trade confrontation. We ought to send a message to our friends in Europe that they are done having a free ride. We are in this fight and we are in it to win.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas, Mr. HUTCHINSON, is recognized to speak for up to 30 minutes. The Senator from Arkansas.

Mr. HUTCHINSON. Thank you, Mr. President.

NEW EVIDENCE OF PLA MONEY GOING TO THE DNC

Mr. HUTCHINSON. Mr. President, last week the Senate, by adopting two of the remaining eight House-passed China provisions, I believe took an important first step in reversing this Nation's failed, flawed and counterproductive policy of so-called ''constructive engagement'' with the People's Republic of China.

The first amendment we adopted last week, an amendment to the Defense Department authorization bill, requires the Department of Defense to monitor enterprises which are owned by the People's Liberation Army and gives the President increased authority to take action against these companies should circumstances warrant. It does not mandate the President to act, but it would give him enhanced authority to act should the evidence warrant it.

The second amendment we adopted gives the U.S. Customs Service increased funding and authority to stop the importation of goods produced in Chinese slave labor camps. The importation of goods produced by slave labor has been prohibited in this country for half a century, and yet the practice is continuing, unfortunately, and thus, this enhanced monitoring and enhanced authority for the Customs Service is essential.

These were two very, very important amendments, I believe, but there are six bills still remaining in the Foreign Relations Committee. I believe the Foreign Relations Committee will be taking those bills up tomorrow. I hope they will. But the votes that we cast last week could not possibly have been more timely. Their importance is best seen by new information uncovered last Friday by the New York Times, one day after we cast those two important votes on the floor of the U.S. Senate.

That story, covered by the New York Times, and now by every major newspaper in the country, revealed that Johnny Chung, the central figure in the Justice Department's campaign finance investigation, has now told investigators that a large part of the nearly $100,000 that he gave to the DNC and to other Democratic causes in the summer of 1996 came from the People's Liberation Army of the People's Republic of China.

Let me say that again. A large part of the $100,000—in fact, $80,000 of it—went to the DNC, and that money came from the Chinese Red army. This was the front-page story in the New York Times on Friday, May 15. Then inside the newspaper the headline is: ''Fundraiser is Said to Tell of Donations from China Military to Democrats.''

This is a very, very serious allegation that Mr. Chung has made in his cooperation with the Justice Department alleging that this money came not just from Chinese sources, but came from the Chinese Red military. Worse yet, this was no low-level PLA effort. It wasn't low-level figures in the People's Liberation Army, but according to Chung, these monies were provided by a Chinese lieutenant colonel and aerospace executive whose father, General Liu, was at the time China's top military commander and a member of the leadership of China's Communist Party.

This reaches to the very top echelon of the Chinese Government and to the very top levels of the PLA command system. Their very top leadership apparently hatched, planned, and carried out this so-called ''China plan.''

Let us not forget, Mr. President, that this whole investigation was started after an interception of a telephone communication suggesting that the People's Republic of China was considering a covert plan to influence United States elections. It would now appear that this so-called ''China plan'' was actually carried out by the top leadership of the PLA and the Communist Party.

Why would China and the PLA want to influence American elections? What motive would they have to pick and choose winners and losers in our own Presidential sweepstakes? The answer appears to be given in this very same New York Times article:

> At the time (of these payments from the PLA), President Clinton was making it easier for American civilian communications satellites to be launched by Chinese rockets, a key issue for the PLA and for Liu's company, which sells missiles for the military and also has a troubled space subsidiary.

There was a very, very vested interest by Lieutenant Colonel Liu in ensuring that Chinese rockets would be able to launch American satellites. Thus, while the DNC and the Democratic Party was being flooded with money from the head of the PLA, the head of the Democratic Party, President Clinton, was making it easier for the PLA to receive advanced technological support for its missile and space programs. The only question left to be answered seems to be, was it a quid pro quo?

To put the harmful effects of this ''missiles for money'' trade into context, or more appropriate, the ''PLA Gate,'' it is important to note that until last year, China lacked the intelligence or technologies necessary to manufacture boosters that could reliably strike such long distances. This made China a weaker adversary.

In fact, in a debate that I had on the campus of the University of Mississippi at Oxford, a Firing Line debate that was carried nationwide by public television, Dr. Kissinger made this statement:

I also do not believe that it is possible to argue that China can represent a military threat to the United States for the next 20 years.

I remember very vividly Secretary Kissinger making that statement. He almost ridiculed and disdainfully dismissed those who said that China could pose a military threat to the United States at any time in the next two decades. That is a direct quote from the Firing Line transcript.

My how time flies, because now we find, less than a year later, that all but five of the Chinese nuclear missiles are aimed and directed at the United States and, in fact, they do pose a threat. According to this article in the Washington Times, China targets nukes at the United States, according to a CIA report that was recently released. China now appears to pose a very real threat to the United States. This article noted that 13 of China's 18 long-range strategic missiles with ranges exceeding 8,000 miles and have single nuclear warheads are aimed at the United States. These missiles are in addition to China's growing arsenal of other weapons that can now reach the United States, many of which are mentioned in this article regarding the CIA report.

How could one of this country's leading China experts and most respected foreign policy adviser have been so far off when Secretary Kissinger said it would take two decades? Like those of us in the Senate, Dr. Kissinger may not have known that two U.S. companies, Loral Space and Communications and Hughes Electronic, illegally gave China space expertise during cooperation on a commercial satellite launch which could be used to develop an accurate launch and guidance system for ICBMs.

I am sure Dr. Kissinger would not have foreseen that this administration, in the middle of investigating this illegal transfer, would allow Loral to launch another satellite on a Chinese rocket and provide them the same expertise at issue in the criminal case. Nor is it likely that Dr. Kissinger would know that Motorola, under a waiver from this administration, has also been involved in ''upgrading'' China's missile capability, this according to the chairman of the House Science Subcommittee on Space and Technology.

The New York Times ran a follow-up article today providing some insight into this administration's policy on China and the transfer of sensitive technology. According to the article that appeared today in the New York Times, United States and China industry groups urged that satellite technology be taken off the list of banned exports, known as the munitions list.

The State Department sided with the Defense Department and the intelligence agencies, and the President's key advisers and noted that satellite technology holds secrets that hold ''significant military and intelligence'' information and thus should remain banned for export.

That was the position of key advisers to the President. That was the position of the Department of State and the Defense Department. The Clinton administration, though, sided with business groups and transferred this decision away from the State Department and left the decision up to the Commerce Department, which was then headed by his close friend, Ron Brown. In the end, satellite technology was removed from the munitions list. China was free to negotiate with U.S. businesses to obtain assistance with its space program.

The People's Liberation Army is engaged in a massive military buildup which has involved a doubling since 1992 of announced official figures for military spending by the People's Republic of China. This is incredible. It is amazing that we would at this time be circumventing our own ban on technology transfers and the launching of American satellites and the sharing of that valuable, valuable missile technology at the very time we see this massive military buildup.

The PLA is working to coproduce the SU–27 fighter with Russia. It is in the process of purchasing several substantial weapons systems from the Republic of Russia, including the 633 model of the Kilo-class submarine and the SS-N–22 Sunburn missile system specifically designed to incapacitate United States aircraft carriers and Aegis cruisers.

Mr. President, this increasingly aggressive military, the PLA, which cracked down on its own citizens in Tiananmen Square, killing over 2,000 Chinese students, that we are aware of, which held threatening war games off the coast of Taiwan, closing two of its largest ports, which has taken over disputed islands once claimed by the Philippines, which now has all but five of its long-range nuclear missiles pointed at the citizens of the United States, is being coddled, pampered and pandered to and appeased by this administration.

The gross irony here is that while the administration continues to allow the transfer of technology to China and the PLA, the People's Liberation Army, U.S. consumers are unwittingly funding China's military by purchasing items sold by PLA-owned enterprises operating in the United States.

The PLA operates literally thousands and thousands of businesses. It is unlike any other military in the world. It is not just funded from the general revenue of the Chinese budget, the Chinese Government budget. It rather is funded partially through enterprises and business operations by the military itself. It is estimated that the PLA earns between $2 billion and $4 billion annually through the many enterprises that it operates that deal in nonmilitary commodities, and that these enterprises profit handsomely from their activities right here in the United States of America.

A report released earlier this year indicated that vast quantities of goods, as varied as toys, ski gloves, garlic, iron weight sets, men's pants, car radiators, glassware, swimsuits, and much more, are being sold to U.S. consumers by PLA-owned firms and almost always without the knowledge of the American consumer.

Mr. President, this country was shocked last week by India's explosion into the nuclear family. We were all dismayed that a new threat to world security loomed on the horizon in India's completed nuclear tests. Why? Why would a country suffering from rampant poverty and class instability choose to spend its limited and valuable resources on a new nuclear weapon's program? The answer, I believe, lies in the failed policies of this administration.

It was just over 35 years ago that China last invaded India in an attempt to take over disputed territory. Since that time, there has been an uneasy and often hostile relationship between India and China, its larger neighbor to the north.

In addition to China's own military buildup, China was assisting other enemies of India in the development of their own nuclear and military capabilities, particularly the nation of Pakistan. In fact, the People's Liberation Army transferred technology relevant to the refinement of weapons-grade nuclear material, including the transfer of ring magnets, to the nation of Pakistan.

Mr. President, as this country moves closer to China, as we continue to assist its military machine, as we continue to turn a blind eye to China's transfer of technology to Pakistan, why would we be surprised that India would move to arm itself with nuclear weapons? Why are we surprised that a country that is surrounded by a much larger and better armed neighbor, that that nation would develop a defense similar to our own policy of ''mutually assured destruction,'' a policy that prevailed during the cold war? Mr. President, it was U.S. policy that led to these tragic, sad developments in that entire arena in the world.

With all but five of China's long-range nuclear missiles pointed at the citizens of the United States, it is obvious that the increasingly aggressive People's Liberation Army views the United States as its most serious adversary.

It is a sad paradox that U.S. consumers are unwittingly funding the military that has their hand on the nuclear buttons which threaten our very existence and that our leadership is accepting money in return for relaxed controls on the transfer of military technology, or at least that is the allegation that has been made. That is the source and the subject of the investigation that is ongoing.

Not only is China an increasing threat internationally, but within their borders they continue to oppress their own people. The latest State Department report on human rights, to which I have referred repeatedly, says

and shows that China is still a major offender of internationally recognized human rights. You pick the category, whether it is coerced abortion, the so-called one-child policy, whether it is slave labor and the refusal to allow international inspection teams to go in and look at these slave labor camps, whether it is the repression of all free expression or criticism of the Government, or whether it is other forms of human rights abuses like the repression of freedom to worship by religious minorities in China, you pick the category, and you will find that there is an absolute intolerance of freedom and that these ongoing abuses show us that they have not made progress under the current policy.

According to a recent report in the Washington Post entitled, ''U.S.-China Talks Make Little Progress on Summit Agenda,'' we find that the United States is getting very few concessions from China relating to the inspection of the technology that we share with them. We are getting very few concessions on limiting the proliferation of technology to third parties like Iran. We are getting very few concessions on human rights conditions, particularly in the nation of Tibet.

So as we make our agenda, as we make the plans for the President's trip to China, what are we getting? Out of the negotiations that have been going on, what kind of concessions do we find from the Chinese Government? There have been four major high-profile prisoners who have been released. There are thousands that remain incarcerated, thousands who remain languishing in Chinese laogai camps, yet we are expected to say there is progress in human rights because four high-profile individuals have been released.

So, Mr. President, with your administration currently under investigation by your own Justice Department relating to this ''missiles for money'' transfer, it is inconceivable to me how you can go forward with your planned June 24th trip to China. The cloud now brewing over your administration's relationship with the leadership of the People's Republic of China makes suspect any agreements that may be reached or any statements that may be made during this summit.

Mr. President, until this cloud of criminal and ethical investigations has blown over and been resolved, I urge you to delay your planned trip in June, and to postpone it. It is imperative that this country present a unified foreign policy. It is imperative that we be united in our international relationships, and particularly our relationship with this, the most populous nation on the globe.

But in order to have that kind of unity, one that is free of partisanship, one that is untainted by allegations of illegal dealing, it is imperative that this planned trip in June be postponed. It is hard for me to imagine with such a cloud over our relationship with China, with such allegations of an organized, planned, if you will, conspiracy by the Chinese Government to influence the outcome of American elections, how any good could come from this trip to China at this stage. The atmosphere surrounding this summit has now been polluted.

Mr. President, here again is what we know. We know that the CIA intercepted a call which hinted at a plan by China to influence our elections. And may I say, my colleague, Senator THOMPSON, should feel vindicated. And those who ridiculed his allegation in this regard should apologize to him personally, I believe. The American people owe him a debt of gratitude for his untiring efforts to reveal this nefarious plan.

We know that the CIA intercepted that call. We know that Johnny Chung has testified that the PLA, through one of their top leaders, General Liu, provided $80,000 to the DNC and $20,000 to other Democratic causes.

We know that at the same time as these moneys were being given to the DNC, the same time those contributions were being made, Loral and Hughes provided key missile technology to China and the PLA—under a waiver granted by the Clinton administration.

We know that the State Department has said that this technology transfer ''harmed our national security.''

We know this, that an executive at Motorola also claims they are assisting China's missile program under a waiver from the Clinton administration.

We further know that the Clinton administration shifted the key decision-making authority on satellite and missile technology from the State Department to the Commerce Department, which was a much more China-friendly agency or Department.

We know this, that China transferred key military nuclear technology to Pakistan and to other rogue states like Iran, all without any action or denunciation by this administration.

We know that all but five of China's long-range nuclear missiles are pointed at the United States.

We know that the PLA continues to profit from selling consumer goods in the United States. And we know that the PLA continues to profit from slave labor.

We know that human rights continue to be abused in China and that this administration has soft-pedaled very serious human rights concerns.

This is an ugly list, detailing a tangled relationship that now appears to have forever damaged our national security, a relationship that now may have escalated the risk of nuclear war on the Asian continent and that will forever make it more difficult to keep the nuclear genie in a secure bottle.

This relationship must be investigated. I believe appropriate Senate committees will be doing that investigation. We know that the Justice Department is continuing this investigation, but all questions relating to how this relationship progressed must be answered, and the President should delay and postpone his planned trip to China until those answers are forthcoming. The American people deserve to have those answers.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as in morning business for up to 15 minutes.

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

TOBACCO LEGISLATION

Mr. GREGG. Mr. President, possibly later today we will begin on this floor the debate and voting on the language relating to the tobacco settlement. This is obviously a fairly significant piece of legislation. It has the potential to represent one of the most complex pieces of legislation ever considered by this body—at least certainly in my time in Government. It also represents, potentially, one of the largest tax increases that this Congress will consider assessing. It represents a dramatic step in a number of different areas of law in which this Congress has toyed with but has never really fully participated.

I want to talk about one specific area of that issue, which is the area of granting to a manufacturer of a product in this country product liability protection, or immunity, as the term has become known. There are a lot of products made in this Nation today, a lot of products made for the purpose of improving the lives of people, a lot of products made for enjoyment, products that are made to get us through a day, and products like tobacco. Most of these products—in fact, the vast majority of these products—have no special protection should they be produced in a manner that harms someone. And if an individual in our country is harmed by the use of a product, they have recourse through our court system. It is a very integral part of the free marketplace that an individual who buys a product have the ability to go into court and address the safety of that product as it affected that individual.

Why is that critical? Because a long time ago we rejected the concept of caveat emptor in this country—that if you sell somebody a product, the person who buys the product assumes all the risk. In order to discipline the marketplace, in order to make sure we had a safe marketplace where things being sold in our country in the capitalist system would have some discipline in the quality of those items, we have developed a large amount of case law that allows an individual who thinks they have been impacted or can prove they have been impacted by, or harmed by, a product sold to them has a right to go into court and proceed to get recovery for that harm, if they can prove it.

It is one of the really core elements that makes our marketplace work. It is one of the core elements that makes

our Nation function as a dynamic economic engine. When we start addressing that issue of what rights an individual has in relationship to purchasing a product, we have to be very sensitive to the importance of maintaining the capacity of an individual to get redress in the court system. I say that in reference to the tobacco bill coming at us in an action that I think is absolutely inexplicable from the standpoint of maintaining a disciplined marketplace and from the standpoint of protecting individuals, which grants to the tobacco companies of this country—and internationally for that matter—protection from lawsuits where they have harmed individuals.

Why is this so outrageous, such an act of incomprehensibility from my standpoint? Because the product we are talking about here—tobacco—has three characteristics.

First, we know that it kills people, and the tobacco companies that produced it knew and know that it kills people.

Second, we know that it is an addictive product, and the tobacco companies that produced it knew it was addictive and, in fact, structured the product in such a way by putting a certain amount of nicotine into it, that they produced an even more addictive product than had they simply gone forward with pure tobacco.

Third, the tobacco companies intentionally, purposefully, with the idea that they would create a larger marketplace, targeted the sale of their product on children.

So we have a product that kills people, and the manufacturer of that product knew it; we have a product that was addictive, and the manufacturer of that product created it so that it would be addictive and knew it was; and we have a product where the companies that produced that product targeted children to try to produce a larger marketplace and a lifetime user once they get that child addicted—knowing that it would kill the children as they grew older. Knowing that.

And we have picked this product, with those three incredible characteristics that are applied to the tobacco industry, to be the first product to receive major protection—or we may pick this product. Hopefully, we won't. The bill coming before us chooses this product to be the first product to receive major product liability protection—to say to the companies that have produced this product that kills people, is addictive, and was targeted on kids: you will not have to pay the full cost of the harm you have created because the U.S. Congress is going to protect you, the tobacco industry, from the liability that the marketplace would force on you were we to go directly to the capitalist system which has dominated our country for over 200 years.

It is an absolute outrage that we are considering pursuing this course of action as a Congress.

Equally significant, I think, is the fact that we are doing this in a manner where we are claiming that we are actually harming the tobacco companies. This argument is being made in the marketplace of ideas around here that this tobacco bill is somehow, in some way, an attack on big tobacco, when with the immunity language in it, it is just the opposite—it is a protective blanket. It is an iron curtain of protection for big tobacco. And it is ironic that we put this immunity language on the table at the same time the tobacco companies have said they no longer will participate in the development of this settlement.

This immunity language was originally designed because we said if we didn't have immunity—or somebody said it; I didn't say it—it was said that if immunity did not exist for the tobacco industry, the tobacco industry would not come to the table and limit its advertising directed specifically at children. Now the tobacco industry has said: The heck with you guys. We don't like the bill, we are walking out, and we will have no more to do with this. So you don't limit us in any way on our advertising. And still we go forward with a bill that gives them immunity.

And for the immunity, what do we get? A tobacco industry that has walked away from the table. To begin with, we made a deal with the devil—or somebody made a deal with the devil. Now the devil has walked away from the table, and we find that this Congress is thinking about following the devil on its knees and saying: Please, Mr. Devil, take immunity, take it; we want to throw it at you even if you won't give us anything for it.

It is beyond comprehension that we are considering pursuing this course of action, but we appear to be considering that. I just wanted to highlight that at this point because I think the debate has gotten a little topsy-turvy. It is a little topsy-turvy when a bill is giving, for the first time in the history of our Nation, and in the jurisprudence history of our Nation, product liability protection of immense value to an industry that has produced a product that is inherently deadly and is addictive and is targeted on kids—the first time we are going to do that, and that bill is, for some reason, perceived as being antitobacco. It is not antitobacco. It is actually very protobacco.

Let's remember something else here as we think about this. We don't give this type of protection out easily around here. It took 6 years, I think it was—maybe longer—for us to give just a narrow little amount of protection to the airplane manufacturing industry for small planes because our airplane industry had been wiped out for small planes and nobody could buy a small plane made in the United States back in the mid-1980s. The whole industry had been wiped out by product liability litigation. So we put a little sliver of protection in order to resurrect that industry.

That industry does not produce an inherently deadly product that is addictive and that is targeted on kids. It took us 6 years to produce that little sliver of production. That is the only product liability protection passed by this Congress since I have been here. We don't give product liability protection to the doctor who develops and creates a new valve for somebody's heart which gives that person an extra amount of life, or a new hip design that allows a person to have the freedom to walk again. We don't give any protection to those individuals. If those valves don't work and regrettably a patient is harmed, there is a lawsuit, and there is recovery. We don't give any protection to innumerable, hundreds, thousands, tens of thousands of products that are lifesaving products that are produced for the purposes of bettering the life of an American citizen, or citizens around this world, whether it is a drug product, whether it is a medical device product, or whether it just happens to be an automobile. We don't give any product liability protection. But the first product liability protection we are going to give, if we pass this bill, will be to an industry that is producing and that has produced a product that for years—maybe generations even—it knew was deadly, it knew was addictive, and at least in the last 10 or 20 years it has targeted on kids for sale. It is beyond comprehension that we would consider doing that.

As we move forward in this bill, I certainly hope that we will reconsider that proposal, because what are we getting for that immunity protection? Absolutely nothing. The tobacco companies walked away from the table. We have gotten nothing. And I hope that we would reconsider that.

There will be a lot of talk about the fact, well, there is protection. It isn't really protection because there is a $6 billion, $8 billion—we don't know. We haven't seen the final language. The language is being written right now. It is being shifted around—I note for the press that might be listening, if there is any listening—shifting the language all around this bill, because it will be very difficult to target the immunity language in this bill. They are intentionally trying to make it procedurally very difficult to go after this language. But they keep shifting the numbers around, too. But the number is almost irrelevant because you are dealing with an industry that has the capacity to produce the profit to pick up the number. You would have to put out a fairly astronomical level to have any significant impact on the profitability over the long term of this industry.

You are giving this industry, as long as you give them immunity, the right to go out in the marketplace and sell this product and target it on kids. That is what you are doing. You are giving them the right to sell a product that

kills kids, kills people, is addictive, and is targeted on kids. It is just absolutely inexcusable that we would consider doing this.

I certainly hope to be able to offer amendments that strip this out of the bill. It will be difficult because there are a lot of parliamentary games going on around here right now. But it would be my hope that we could accomplish that.

Mr. President, I yield such time as I may have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AMERICAN COMPETITIVENESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1723, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1723) to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

The Senate proceeded to consider of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. I ask unanimous consent to speak in morning business.

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

Mrs. FEINSTEIN. Mr. President, I thank the Chair.

(The remarks of Mrs. FEINSTEIN pertaining to the submission of S. Con. Res. 97 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. 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. ABRAHAM. Mr. President, as we begin debate on S. 1723, I would like to begin by yielding to the Senator from California for purposes of making a unanimous consent request.

The PRESIDING OFFICER. Under the previous order, there will be now 2 hours of general debate on the bill equally divided and controlled.

The Senator from California.

Mrs. FEINSTEIN. I thank the Chair. I thank the Senator.

PRIVILEGE OF THE FLOOR

Mrs. FEINSTEIN. I ask unanimous consent that Sandra Shipshock, a State Department fellow with Senator KENNEDY's staff, be given floor privileges for consideration of this bill.

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

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

(At the request of Mr. ABRAHAM, the following statement was ordered to be printed in the RECORD.)

● Mr. HATCH. Mr. President, the Senate is today considering The American Competitiveness Act of 1998, a modest, balanced, and critical change in our immigration laws.

The bill does three very important things: (1) it raises the limit on the annual number of temporary visas allowed for highly skilled foreign born professionals for a five-year period; (2) it increases enforcement and penalties to ensure the program works as intended; and (3) it increases the opportunities for American students and workers to fill the shortage of skilled high tech workers.

As we approach the 21st century, Mr. President, we face a critical challenge with respect to our workforce. The challenge concerns whether and how America's businesses and America's educational institutions are preparing the potential workforce for the 21st century.

It is estimated that about ten percent of this country's current information technology jobs are vacant and that this critical shortage of programmers, systems analysts, and computer engineers will increase significantly in the next decade.

In few places is this shortage more acute than in my own state of Utah where the high tech industry grew by 12 percent in 1996 and where our 1,900 high tech companies plan to add almost 20,000 jobs annually in the next three years. The primary potential impediment to our state's growth is the shortage of skilled workers.

Frankly, as I see it, we are only facing a real crisis if we fail to respond. For now I view it as an opportunity and a challenge; perhaps the greatest challenge of the next century. This challenge is to match the needs of high tech employers with the preparedness of and opportunities for the American worker.

Meeting this challenge effectively will demand the attention and commitment of businesses large and small; of our educational system at every level; of government, principally at the state and local level; and of parents and students as well. All of these entities must be working in partnership.

Just weeks ago, Mr. President, a new comprehensive international study listed American high school seniors as among the industrial world's least prepared in mathematics and science. Further, in advanced subjects like physics and advanced math not one of the countries involved scored lower than the U.S. If we ever needed a wake-up call, this is it.

It is in everyone's individual interests, as well as in the overall interests of this country, to enter the next century with a well-trained workforce that will help keep American companies competitive in the global economy.

Admittedly, as the grandparent of 17 young children who will be entering the workforce in the next century, I am enthusiastic that technology has opened so many tremendous opportunities. It remains clear that human capital is still the greatest asset this country has. Without human know-how, the most sophisticated of computers is just a dumb machine.

Given that, there is no reason for any individual in our society who is willing to work should be left behind—not women, minorities, or the disabled. Responding aggressively and intelligently to the need to educate, train, and retrain the potential pool of high tech workers in the next century is the kind of affirmative action that can ensure that all individuals have the opportunity to work hard and prosper in the next century.

It is, however, an unfortunate reality that this kind of long term solution is insufficient to meet our most immediate needs. Thus, this legislation focuses on a limited short-term measure to raise the annual cap, currently at 65,000, for temporary visas for highly skilled workers. Notably, the cap for this year was reached last week!

Mr. President, as I understand it, critics of this legislation have focused on two arguments. First, some argue that there is no real shortage in high tech workers. While this will be addressed in more detail in due course, let me just say that I think any member with doubts over which bureaucratic study to believe ought to check the help wanted ads in their Sunday home town papers. I think those long list of job vacancies for computer and engineering jobs tell the story.

Further, critics argue that in exchange for this modest, five year increase in temporary visas, we need vast new bureaucratic requirements to protect American workers.

Mr. President, we will debate this question in more detail later, but let me respond briefly now.

First, I think the record is pretty clear that the temporary use of a limited amount of foreign talent—many of whom have attended U.S. universities and graduate schools—creates more, not fewer jobs for Americans. It also insures that American employers do not move to other countries with more and cheaper labor.

Second, there are already important limits in the law to make sure this program is not abused and that these visas

are not used to hire cheaper labor. This bill enhances both the limits and restrictions on the use of these visas.

But at some point, Mr. President, you can go so overboard that a program becomes a bureaucratic nightmare of regulation and it is just not worth it, particularly for small and medium sized employers. I think that some of the alternatives proposed here—in response to a five year increase in temporary visas by about 25,000 a year—cross that line.

Finally, as we debate these so-called ''labor protection'' provisions, I think we need a little perspective here on what aspect of our immigration policy really puts American jobs at risk. (A) We have hundreds of thousands of illegal immigrants entering this country every year on top of the estimated 5 million illegal immigrants already here. (B) This Administration has a terrible record of failing to identify and deport criminal aliens who are released from prison and remain in this country. (C) We have a horrible situation of an inestimable number of smuggled immigrants being used as slaves and indentured servants.

I think that these areas ought to be our principal focus if we want to protect jobs for American workers, not finding more bureaucratic hurdles for a small and limited program with a history and record of little abuse.

I want to close for now, Mr. President, by recognizing the hard work and leadership of the Chairman of the Judiciary Committee's subcommittee on Immigration, Senator ABRAHAM.

I urge my colleagues to pass this important bill.●

Mr. ABRAHAM. Mr. President, Senator HATCH had hoped to be present for the launching of this legislation, and when last week it appeared, on either Wednesday or Thursday, that was going to take place, he was going to be in the manager's chair, at least initially, to begin the debate. He is not able to be here today, so we wanted to make sure his statement was included at the appropriate spot in the RECORD, which we have just done.

Mr. President, we are here to discuss a piece of legislation, the American Competitiveness Act, which passed the Senate Judiciary Committee a few weeks ago by a 12-to-6 vote, a piece of legislation which is extraordinarily important, I think, to our country at this time if we wish to remain strong and competitive and wish to have an economy that continues to grow with the success we have seen in recent months.

Basically, we are learning as we examine the economy that a very substantial reason for the recent economic growth stems from the tremendous success we have had in the development of our high-technology industries. Frankly, we are growing in those areas so fast that our labor force cannot even keep up with the speed of that growth. Indeed, studies conducted by a variety of organizations have suggested that we currently have a gap between the number of jobs in the information-technology and high-technology areas and the number of workers needed to fill them.

A study by Virginia Tech University has indicated that there are an estimated 340,000 current vacancies in information-technology jobs in America today. A study by the U.S. Department of Commerce indicates a projected growth of information-technology and high-tech jobs over the next decade of approximately 130,000 per year, and yet that very same study suggests we will only be producing something in the vicinity of 25 percent of the graduates needed to fill these jobs over that timeframe. Clearly, that suggests we have to get busy to make sure that our educational system, our job training system, and so on, meet these challenges.

We also know that this isn't just a bunch of statistics. You need only pick up the want ads of a newspaper or trade journal today and browse them and you will see, as these various newspapers I have here today suggest, the spectacular number of jobs available in these areas—high-tech jobs going unfilled, companies not able to find the skilled workers needed to fill them.

At the same time, the extent to which companies are being forced to improvise in order to meet this challenge is also interesting as well. Recently, in fact, in the Washington Post, we read of the story of various young people in high school in Fairfax County, VA, who are being tapped to fill some of these positions. In fact, I ask unanimous consent to have printed in the RECORD at this time one such story.

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

[From the Washington Post, Mar. 1, 1998]

TEENS WITH TECH TALENT RISE TO TOP; NOT EVEN OUT OF HIGH SCHOOL, COMPUTER JOCKS RAKE IN BIG BUCKS

(By Eric L. Wee)

Life is good. That's what Doug Marcey will tell you as he sits in his basement on this Friday morning.

While others fight their way to the office, he's writing computer code in his jeans and bare feet in front of two blazing 21-inch monitors. The job pays well. For his work three days a week, a software company forks over $50,000 a year, enough to rent his three-bedroom town house in Fairfax County. Not a bad life.

Especially considering that Doug Marcey is only 17.

Computer companies in Washington and elsewhere, facing a shortage of tech talent, increasingly are turning to teenagers such as Doug to help fill out their employment rosters. Computer jocks as young as 14 are working as programmers, graphics artists and Web page designers, some of them drawing very adult salaries, using skills acquired in high school classes and during hours of surfing the Internet.

The rich job market even has some of the teenagers facing the sort of decisions that gifted athletes make: Do I stay in school or turn pro and make some big money?

''I got tired of high school,'' said Doug, who last fall chose not to return for his senior year at Fairfax's Thomas Jefferson High School for Science and Technology.

''It got too boring. I took all the computer courses I could and basically learned all that I could,'' said Doug, a 6-foot-4-inch baby-faced teenager in new Armani glasses who figures he'll still get a college diploma. ''I was realizing that I could go out and work. . . . The cool thing about computers is that I can make lots of money doing what I really like doing.''

So three days a week, Doug does everything from Web site work to helping make the company's programs more enticing to customers. The rest of the time, he takes classes at George Mason University. He's considering working full time, which would bump his salary to $70,000.

David Rosenfeld hired Doug at Nu Thena Systems Inc., a McLean company that creates software programs to let places such as Boeing Co. and the Jet Propulsion Laboratory model and test ideas on computers.

Rosenfeld figured if he didn't snap up Doug, someone else would. Indeed, Doug said he got a half-dozen offers after his junior year.

''There aren't that many programmers out there that are really creative,'' Rosenfeld said. ''There are plenty who will do what you tell them to do, but there aren't many who can see a new way to do things. That's another tier of people, and I thought Doug was one of them. If you can get your hands on someone like that, you never let them go.''

Washington area computer executives say that it's unclear how many teenagers are getting full- and part-time work from the area's high-tech companies but that they're sure it's becoming more common. The Washington Post interviewed nine such teenagers.

Nationally, the U.S. Department of Labor says, 22,000 teenagers ages 16 to 19 worked in the computer and data-processing industry last year, more than four times the number three years earlier.

Mario Morino, one of the Washington area's early successful technology entrepreneurs who now runs a Herndon-based technology think tank, said the nationwide shortage of high-tech workers has made those teenagers more attractive to companies. But even without the labor drought, Morino said, the youths would be enticing because of their incredible skills.

Employers say teenagers have an advantage in the cyber job market because they're often up on the newest technologies. While adult workers have time commitments such as families, teenagers can spend hours on the Internet, downloading and experimenting with the latest programs.

Federal work regulations don't allow anyone younger than 14 to work for pay. And 14- and 15-year-olds can put in only 18 hours a week during the school year. Those restrictions disappear at 16. The rules are there in part, Labor Department officials say, to make sure that work doesn't interfere with studies.

That's a concern of Donald Hyatt, director of Thomas Jefferson High School's computer laboratory. He said he constantly gets requests from companies for prospective employees and doesn't have enough students to fill all the summer internships offered. Every one of his seniors, he said, could leave school and make a large salary.

But he tries to convince them that they won't develop to their full potential that way. College offers opportunities to learn from top programmers, he argues, not to mention the value of getting a solid, broad-based education. And when it comes time for cyclical layoffs, he adds, those without college degrees often will be the first to go.

Seth Berger, a sophomore at Langley High School, isn't so sure. He said his computer work has taught him much more than any class. Seth looks like any other 16-year-old.

He wears faded jeans and Nike Airs. He says ''cool'' often, and when he smiles, his braces show. But Seth is the computer graphics core of a company called Creative Edge Software Inc.—maker of a new martial arts computer game called ''The Untouchable.''

Travis Riggs, Seth's boss, said that soon after he was hired last year at age 15, it become clear that Seth was the company's best computer graphics specialist. Seth will get a percentage of the net profits from the game, which he said could add up to more than $50,000. Riggs has hired him for a second game and made him the sole computer graphics artist, bumping his cut to a six-figure sum if the game does well.

''I don't know if I'm going to go to college, especially since I can make money like this,'' Seth said. ''If college costs 25 grand, for me it's going to cost $25,000, plus that I could be making. I'm going to go to college and spend [the equivalent of] $80,000 a year, to learn stuff I already know? That doesn't make sense to me when I look at it that way.''

His mother, retired physician Amy Dwork-Berger, said she and her husband have accepted that Seth probably won't attend college. She sees him as an extremely bright person who would be frustrated by college's regimentation. And she sees his success in computer work as a positive influence on his life.

''It's been marvelous,'' she said. ''College isn't the only way to learn. Seth doesn't fit the mold, and to make the most of his potential, you have to let him do what he needs to do. . . . He's happy. He's good at it. What more could a parent want?

Bruce Hurwitz takes a somewhat different view for his son, Gus, 17, who worked last summer for Netrix, a Herndon computer networking company. Gus also sells a program over the Internet that lets people access their computers remotely or set up Web pages. That now brings in from $750 to $2,500 a month.

Gus said that last year he was seriously considering not returning for his senior year, in part because computer work seemed more challenging. But he decided to stick with school and college plans after talking it over with his parents.

His father, a data communications executive for a French company, said he has worked to explain to Gus that college is a valuable time for exploring new, varied interests. And he warns his son that he won't always be the young hotshot, because new technologies will surface down the road.

''I'm nervous that he's 17 about to go on 40,'' he said. ''I want him to be a child and enjoy himself. I want him to be exposed to the liberal arts and other things. I don't want him to be just a computer guy.''

But as a computer guy, Gus is clearly exceptional. He tackled some of the company's most difficult tasks at the bargain rate of $9 an hour. Netrix's senior engineers ''had their jaws to the ground'' in amazement as Gus showed them new ways of doing things.

Randy Hare, Gus's former boss, estimates that Gus is as qualified as a typical senior-level system administrator in his thirties making $80,000 a year.

Although employers rave about such young computer aces, they say hiring teenagers can complicate workplace dynamics.

Datametrics Systems Corp., in Fairfax, got a taste of that when it hired Brent Metz, now 17, for the last two summers. The company, which sells a program that examines large computer systems for inefficiencies, gave Brent a project predicted that it would take him six to eight weeks. He finished it in a week and a half.

''I think there were a couple of [adult programmers] who felt threatened,'' said Grady Ogburn, a manager at Datametrics. ''Up to that point, their programming efforts were shrouded in mystery. * * * They're experienced programmers taking x number of weeks to accomplish tasks, and everybody thinks that's a reasonable amount of time. Now here's this 16-year-old bringing all those estimates into question.''

Brent's salary soon shot to $20 an hour, and Ogburn believed he was worth double that. Now Brent is starting his own Web page design company.

Although the junior employees generally blend in, employers say, you can't get away from the fact that they are, well, young.

Seth Berger's employer often has someone spend nearly an hour traveling to pick him up after school and bring him to the Dulles area office, because he can't drive yet.

A California software company that hired a 10-year-old for the summer two years ago had to get used to seeing its new software evaluator play with the copy machine on his breaks. They also had to accept the grammatical errors in his reports—understandable because he learned to write only a few years before.

But most say the young people's raw enthusiasm can be like a shot of adrenaline for other company employees. And Rosenfeld, like other bosses, said he'll give some jobs to 17-year-old Doug Marcey rather than an adult programmer because Doug doesn't yet know ''what's impossible.'' Adults might give up, he said, but Doug will keep pushing.

Elliott Frutkin also believes in young talent. Last summer, he dug through 200 resumés but still couldn't find the right person to create graphics for his Georgetown startup Web page company, Ideal Computer Strategies. Finally he found the person he was looking for: the company's 14-year-old unpaid intern, Josh Foes.

Frutin said Josh, unlike others, could do advanced graphics work and understood how to translate the customers' concepts onto the computer. His pay jumped to $10 an hour and later to $25 an hour for urgent projects.

Josh, now 15, said it's changed the way he thinks about money. He recalls a friend who worked at a toy store saying he made more than $100 after putting in a long week. ''That's the kind of thing I could make in a day, not working very hard,'' Josh said.

Now Frutkin does everything he can to entice Josh back, including offering to pay him an hourly rate equal to at least $35,000 a year.

''In today's market, it's impossible to find someone with those skills,'' Frutkin said. ''The next ad I run may be in a high school newspaper rather than The Washington Post.''

Mr. ABRAHAM. This story basically says, ''Teens with tech talent rise to the top. Not even out of high school, computer jocks rake in big bucks.'' And it talks about how high school students working just part time are making $50,000 here in the Virginia suburbs filling some of these high-tech jobs for which it is difficult to locate sufficiently skilled personnel.

The unemployment rate, of course, as we all saw in the most recent numbers, is at a 30-year low, and that is great news. We want to see the unemployment rate go lower. But the fact that it is so low buttresses what these various statistics I have just described suggest; namely, that we are at a point now where we are having a hard time filling these high-tech jobs. And if we don't fill them and if the expansion can't continue, I fear we will start to see the unemployment rate going in the other direction, because we will not be able to sustain the economic growth we have and because, as a consequence of that, we will also start to see American companies forced to look elsewhere for the employees they need.

But the bottom line is this. There is a gap, and what we need to do, in my judgment, to address it is to provide both a short-term solution and a long-term solution as well. The long-term solution is very dependent on better targeting and more efficient operation of our job training programs and an educational system, a K–12 educational system, that gets more young people headed in the direction of filling these jobs as well as a higher education system that properly trains them to take these jobs.

The legislation which we have for consideration today, as I will indicate a little later on, aims to address the long-term solution that we are seeking. But until the education system can adjust, until the job training programs can be reconfigured, we need to do something in the short term, and that is also what S. 1723 is about.

What we need in the interim is to attract and find, be able to bring to this country from anywhere on the globe where they might reside, the highest skilled workers we can find to fill these jobs until we can produce enough workers here in this country to fill them. And that is the goal of this legislation.

There is a program under the existing immigration laws that allows people to come into this country on a temporary basis to fill high-skilled jobs. This is a program which is called the H–1B visa program. Since its inception about 8 years ago, the H–1B program has had a cap of 65,000 visas per year that may be made available for highly skilled people to come to this country to fill the types of jobs we are talking about here today. Until the 1997 fiscal year, however, we had never reached the 65,000 cap. It was not assumed we would reach it when the program was originally created. It was set at a fairly high level—at least it seemed to be the case at the time. But in 1997 the cap was hit, Mr. President. It was hit approximately early in July of 1997. What that meant was that at that point and from that point forward until the end of the fiscal year, companies in desperate need of high-tech workers, unable to find them in the United States, were also unable to bring them here from another country.

We estimated at that time in the Immigration Subcommittee that the cap would be hit even earlier in the 1998 fiscal year, and our estimate was correct. The cap was hit 1 week ago Friday. It was hit, in other words, at the very beginning of May in this fiscal year. It is our projection that if we do not increase this cap, it will be hit even earlier in the 1999 fiscal year, perhaps as early as February.

What it means for this year is very simple. Companies in the United

States, high-tech companies that need skilled workers and cannot locate them here in the United States at this time—because in spite of all these want ads, there just aren't people adequately skilled to meet these specialized jobs—are not going to be able to bring another individual here until next October.

What that means in terms of its implications on the economy is very significant. There are a lot of ramifications to not increasing the cap. First, as I have alluded to already, there will be the potential to impair our economic growth. If we can't fill these jobs, the companies are forced to defer and delay the initiation of new projects and new product lines and a variety of other similar types of programs, then clearly it will have an impact and effect on economic growth. It means key projects will be put on hold. And we have a list. Since this cap was hit the other day, Mr. President, I have heard from an array of companies indicating that they envision in this year being forced to either take people off payroll or not to hire prospective candidates because they will not be able to get the talent they need to fill these key spots.

I ask unanimous consent to have printed in the RECORD the full list.

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

ORGANIZATIONS ENDORSING THE AMERICAN COMPETITIVENESS ACT (S. 1723)

BUSINESS ORGANIZATIONS

American Business for Legal Immigration.
American Council of International Personnel.
American Electronics Association.
American Immigration Lawyers Association.
The Business Roundtable.
Business Software Alliance.
Computing Technology Industries Association.
Electronics Industry Association.
Information Technology Association of America.
National Association of Manufacturers.
National Technical Services Association.
Semiconductor Industry Association.
TechNet.
U.S. Chamber of Commerce.
Motion Picture Association of America, Inc.
PHARMA.

ETHNIC ORGANIZATIONS

Advocates for the Rights of Korean Americans.
American Arab Anti-Discrimination Committee.
American Association of Physicians of Indian Origin.
American Latvian Association in the United States.
Congress of Romanian Americans.
The Indus Entrepreneurs.
Joint Baltic American National Committee.
Korean Americans Association.
Lithuanian American Council.
National Albanian American Council.
National Asian Pacific American Legal Consortium.
The Polish American Congress.
Portuguese-American Leadership Council.
Slovak League of America.
U.S. Hispanic Chamber of Commerce.
U.S. Pan Asian American Chamber of Commerce.
National Federation of Filipino American Associations.
Emerald Isle Immigration Center.
India Abroad Center for Political Awareness.
B'Nai B'Rith International.
National Immigration Forum.
Immigration and Refugee Services of America.

UNIVERSITY ORGANIZATIONS

American Association of Community Colleges.
American Association of State Colleges and Universities.
American Council on Education.
Association of American Universities.
College and University Personnel Association.
Council of Graduate Schools.
Madonna University.
Michigan State University.
Michigan Technological University.
NAFSA: Association of International Educators.
National Association of Independent Colleges and Universities.
National Association of State Universities and Land Grant Colleges.
University of Michigan.

MICHIGAN ORGANIZATIONS

Bay de Noc Community College.
Citation Corporation-Automotive Sales & Engineering Division.
Compuware Corporation.
ITT Industries.
Energy Conversion Devices, Inc.
Michigan Manufacturers Association.
Swiftech Computing, Inc.
ERIM International, Inc.
Lansing Regional Chamber of Commerce.
Meijer Corporation.
Northern Initiatives.
Phillips Service Industries, Inc.
The Right Place Program-Grand Rapids.
Sensors, Inc.
Software Services Corporation.
Suomi College.
Superb Manufacturing, Inc.

LEADING SCIENTIFIC AND MEDICAL RESEARCH ORGANIZATIONS

American Society for Biochemistry.
American Society for Cell Biology.
Association of Independent Research Institutes.
Biophysical Society.
Genetics Society of America.

OTHER ORGANIZATIONS

Americans For Tax Reform.
Empower America.

EDITORIAL ENDORSEMENTS

The Washington Post.
Washington Times.
Miami Herald.
Detroit News.
Ann Arbor News.
Seattle Times.
The Courier-Journal, Louisville, KY.
The Atlanta Journal.
Chicago Tribune.
The Columbia Dispatch.
Fairfax Journal, Fairfax, VA.
Crain's Detroit Business.

Mr. ABRAHAM. Let me just mention a few of the companies we have heard from already: Intel, IBM, Hewlett-Packard, Ford Motor Company, Eli Lilly. The list goes on and on, and it spans a variety of areas from medical research to information technology. And as those projects go on hold, it means not only that the company will not be growing as fast as we would like to see, it also means that we will not be filling as many new job opportunities with people WHO currently are hoping that those companies will begin their new product lines. It is estimated by the Hudson Institute that if we don't increase this cap, we could see a significant impact on economic growth. They have even projected it to be as much as $200 billion in lost output. That almost works out to nearly $1,000 for every man, woman and child in the United States.

But the ramifications actually go beyond simply not being able to fill those positions until next October. There are other implications as well. For example, if we can't hire these talented people and bring them here now, foreign competitors can and will fill that gap, and we will lose people to other countries who will then be the ones developing the technologies that we are talking about. At the same time, if we don't even reach the cap and if American companies can't bring the talent here to fill their needs, it increases the possibility—in fact it is a very real possibility—that they will begin to move some of the operations we are talking about overseas. That means we don't just lose that one job which we are attempting to fill through a temporary worker. It means existing jobs in the United States could be lost if product lines of divisions, if new projects, are initiated in another country.

Obviously, we don't want to lose American jobs simply because we can't get certain specific skilled workers to this country to begin these kinds of operations. The types of operations we are talking about are also very significant. We are not just talking about a new widget being developed. We are talking about dealing with enormous important problems confronting our country at this time. We have all heard in recent weeks from Senator BENNETT, our colleague from Utah, who is the Senate's foremost expert on the problems we confront with the year 2K situation. Now, we have a Senate task force to examine those issues specifically with what the intent is for us in the Senate, but what we clearly know is there is not one sector of our economy that is not going to be impacted by the year 2K problems.

I have heard from numerous companies and numerous individuals trying to meet the year 2K challenges, who said it is absolutely vital that we increase the H–1B visa program at this time so we can bring in sufficient talent to deal with the year 2K problems between now and the end of 1999. Yet, as I say, we have hit the cap.

I will be talking about this in greater detail as we go along this afternoon, but let me talk specifically about what our legislation would do to meet these challenges, both the short-term problem we have, such as the year 2K problem, and the long-term problem we are trying to address, the challenge of having enough American workers to meet the dramatic increases in job creation

in the information technology sector of the economy.

Our legislation would do the following: First, it would temporarily increase from 65,000 to 95,000 the cap on H–1B visas. That means an increase of 30,000 per year.

In addition, we have created as a safety valve—so we would have at least the possibility of congressional oversight and examination if we hit that 95,000 cap sooner than anticipated—a safety valve which would permit us to use up to 20,000 visas from the H–2B program, if such visas were available and unused by that program in the previous year. As I say, our legislation has a 5-year sunset to it. In short, we tried to make this a short-term rather than a long-term focus piece of legislation in the hope that in that 5-year period we can develop through job training programs and our educational system the talent we need right here at home. So it would be a 5-year program. Those increases we have mentioned would be for 5 years.

In addition, starting in the 1999 fiscal year, we would separate out of the H–1B program health care workers, and create a new category, the H1–C program with a limit of 10,000 annual visas for health care employees. We do that because a number of people have expressed concerns about the high-tech program, the skilled worker program. That addresses concerns that if we make this significant increase in the numbers, too many of those will end up being used in areas which do not necessarily, right now, seem to have the need that the high-tech information technology sector requires. So what we have decided to do in the legislation is essentially to create a new category of 10,000 visas that would be the limit annually for health care workers. That would reach 85,000 for the information technology and other high-skilled categories.

In addition, our legislation calls upon the INS to provide us with more information with regard to the H–1B program. One of the frustrations that we have all had, and I know the Senator from California and I have talked about this in the subcommittee when we discussed this program, is that we don't actually know how many workers are coming in, into various categories, because the records are not that explicit. We have records of who applies for these H–1B visas, but we do not and are unable to get a count on how they actually are distributed. We need that information if we are going to do the kind of long-term focus that I think necessary to properly oversee this whole program.

To that end, and in addition to getting numbers—thanks to an initiative that Senator KYL, a member of our subcommittee, has proposed—we include in the legislation the conducting of a study by the National Science Foundation to try to more accurately gauge our high-tech, skilled worker needs.

During the deliberations on this legislation in the committee when we had our hearings and so on, a lot of different issues were raised as to what the real long-term needs will be. Senator KYL, I think, has wisely proposed because our program is a 5-year program with a sunset that we, in a shorter period of time, study the actual situation, what the real needs are today, what are likely to be long term, to determine whether the projections in such things as the Commerce Department study bear out.

Finally, as I said, our legislation is aimed at being both a short-term as well as a long-term fix. The short-term fix is to increase the number of H–1B visas. The long-term fix is to provide various mechanisms by which American workers can be trained to fill these jobs. Thus, a key part of our legislation is a scholarship authorization which authorizes funds for scholarships in science and math for needy students. We have worked very closely with the Senate Labor and Human Resources Committee on this part of the legislation. We will be talking about it, I think, a little bit later. We have worked with Senators COLLINS and REED who have been involved in the higher education reauthorization bill to try to make sure our language tracks the language in that legislation. And we believe that, by focusing more resources on science and math and computer science training, we can have an excellent chance of meeting some of the long-term needs that have been referenced in my remarks today.

That is essentially what the legislation attempts to do. It also attempts to provide protection, protection for American workers to make certain the H–1B program is not abused. Already in the existing program I believe there is a very firm set of protections that stand as safeguards for American workers. Essentially, what those protections are is a requirement that anyone who brings somebody to this country under the H–1B visa program must pay that individual the higher of the prevailing wage or the salary in their company paid to people of like experience and skill. We think that is a pretty effective approach and it has proven to be effective. In the entire history of the H–1B program there have been only eight willful violations determined to have existed. But it was our view that if we were going to increase the numbers we should also increase the vigilance with which we look at this program and the penalties against anyone who might seek to take advantage of it.

So in addition to the aforementioned components of the legislation, our bill does the following: It increases from $1,000 to $5,000 per violation the fines to be imposed on any company that fails to meet that standard I indicated of requiring an H–1B individual to be paid the higher of the prevailing wage in the industry or the actual salaries paid in that company for this type of position.

Furthermore, in an attempt to make certain that no one in any way attempts to lay off an American worker to bring in an H–1B employee, we impose a $25,000 fine per violation and a 2-year debarment from the program where anyone violates the prevailing wage rule and it is determined has laid off somebody to fill the position with an H–1B worker.

In short, I think we have taken the steps necessary to guarantee that abuses in this program will not occur. And, as I said, at least in its history so far, very few have occurred. The legislation enjoys broad support, support here on the floor of the Senate on a bipartisan basis, support throughout the business community. It has been endorsed by the United States Chamber of Commerce, the National Association of Manufacturers, Tech Net—a high-tech trade organization—the Information Technology Association of America, the Motion Picture Association of America, and numerous other organizations.

It, likewise, enjoys broad support of the academic community, because many of these H–1B workers actually come to the country and assume jobs in academia teaching American kids the skills needed to fill these high-tech jobs. As a consequence, the legislation is endorsed by the Association of American Universities, the National Association of State Universities and Land Grant Colleges, and the American Council on Education.

It is similarly supported by a broad array of heritage groups, including the National Asian Pacific-American Legal Immigration Consortium, National Immigration Forum, the U.S. Hispanic Chamber of Commerce, the Polish-American Congress, B'nai B'rith, and a variety of others.

I will summarize later why this legislation must be passed, but I think in this opening statement I have laid out the key essentials. Right now, against the backdrop of very low unemployment in this country, we have a shortage of skilled workers. We need to address that on both the short- and long-term basis. Our legislation tries to do both.

In the short-term sense, we increase the cap on H–1B workers to come to this country. We need that or else we are going to see American jobs lost, not gained. This is not a zero sum situation, Mr. President. Without change in this cap, without doing it soon, we will start to see a very significant impact, I believe, in our high-tech industries.

Mr. President, I yield the floor. We expect to have additional speakers on our side as the afternoon goes on.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, very shortly, Senator KENNEDY, the ranking member of the Immigration

Subcommittee of the Judiciary Committee, will be presenting an amendment which I will strongly support. It is very similar to the amendment which was offered in committee, proposed both by the Senator from Massachusetts and myself representing California. I voted for it then, and I will vote for it now.

I did in committee also vote for the Abraham bill, because Senator ABRAHAM is correct, there is a problem. The high-tech industry is consistently turning to foreign nationals to fill low-level computer-related jobs.

In my State of California, this is a very big deal. High tech currently provides about 814,000 jobs in California. That is 18½ percent of the total California employment. So it is a substantial industry. When this industry says to their Senator, ''We can't hire high school or college graduates to fill our needs,'' I obviously have to be very concerned.

I have become very saddened by our high-tech CEOs who repeatedly tell me they cannot find qualified workers. As a matter of fact, during the hearings in the Judiciary Subcommittee, we even heard one CEO say that they advertised a brand new, I think it was a Ford Mustang for any individual who would take one of these computer-related jobs.

Senator ABRAHAM is correct, the industry will reach the cap of 65,000 by May of this year. As Senator ABRAHAM stated, this presents a very serious problem.

Let's talk for a moment about this 65,000 cap and the way it is now. The 1996 Labor Department report shows that only 41 percent of the H–1Bs presently are computer-related professions. Another 26 percent are physical therapists and health professionals. It is not only computer-related people who are presently coming into this country on a H–1B visa, 26 percent of them are physical therapists, which is kind of canny to me to think we can't find American health therapists for these jobs? The IG's report also shows that some H–1B employers have contracted their employees out to other companies functioning as job shops, companies that hire predominantly or exclusively H–1B's and contract them out. Current law does not prohibit this practice of running these job shops, despite the concern that these job shops are paying the H–1B's less than the prevailing wage and have a negative impact on the American worker's ability to keep his or her job.

The 1996 Labor Department report also indicates that 48 percent of employment-based, permanent immigration is admitted through the H–1B program, and this is a major point I want to make. The H–1B program is not necessarily just a temporary worker program. Fifty percent of these workers achieve permanent status and remain in this country essentially forever. This is a big problem.

From the CRS report on this issue, dated May 13, 1998, I read the following:

> In practical terms, the H–1B visa links the foreign student to legal permanent residence. Anecdotal accounts—

And I think Senator ABRAHAM mentioned correctly that we really don't know; the recordkeeping in this program is very bad—

> Anecdotal accounts tell of foreign students who are hired by U.S. firms as they are completing their programs. The employers obtain H–1B visas for the recent graduates, and if the employees meet expectations, the employers may also petition for the non-immigrants to become legal permanent residents, through one of the employment-based immigration categories. Some policymakers consider this a natural and positive chain of events, arguing that it would be foolish to educate these talented young people, only to make them leave to work for foreign competitors. Others consider this a pathway program.

This is really my point and my concern about the Abraham legislation. The Abraham legislation essentially is a 5-year program, and over 5 years, it would permit 555,000 new foreign nationals to come into this country, 50 percent of whom would remain. This is the 555,000 that is specially targeted for high tech by the Abraham legislation. However, the Abraham legislation also provides an additional 10,000 workers per year for non-high-tech jobs. That is a total of 50,000 over 5 years. So when you add that together over 5 years, this is an additional 605,000 foreign workers coming into this country, taking jobs which many of us believe should be filled by American young people, American high school and college graduates. This is over a 77-percent increase in numbers, Mr. President.

The amendment that Senator KENNEDY will offer is essentially a 3-year program which is a total of only 270,000 workers coming in targeted for high tech over the 3 years. The program would sunset after 3 years, and we would have an opportunity to take a good look at that program at the end of that period of time, hopefully have better records by then and hopefully be better aware of what the needs are after that period of time.

I mentioned that there are about 815,000 high-tech workers in this country in California alone. So this is really a huge new immigration program over 5 years. Nobody should think to the contrary. It will let in over 600,000 foreign nationals, one-half of whom, by our own past statistics, will remain in this country as legal aliens able to work in this country. In other words, they will have green cards, and they will continue to go from temporary worker to permanent worker, thereby taking up a job which an American young person could occupy.

Now, this troubles me. It really troubles me. And the reason it troubles me is because these workers are not necessarily superstars. The superstars come in. These are lower level computer programmers. They really are $50,000-a-year job occupants.

As a matter of fact, there is a chart that essentially shows the salaries. Seventy-five percent of the workers who have been coming in under this program are at salaries from $25,000 to $50,000. So these are not, in the main, the jobs of $100,000 or more. These are exactly the jobs that graduates of the new age, graduates into the global economy from our schools all over the United States should be taking to develop a sinecure in an industry that is only going to bloom in the future.

So I am troubled by the Abraham bill's numbers. Again, they are 605,000 over 5 years. And 550,000 would go for high-tech workers as opposed to the amendment that Senator KENNEDY will shortly make, which would be a 3-year program, 270,000 jobs.

Mr. President, I yield the floor at the present time.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, thank you.

I would like to put a couple of points into perspective, first of all, which relate to the statements of the Senator from California with regard to the numbers. I indicated in my opening statement we have a very significant problem just understanding exactly what the numbers are.

For instance, the issue with respect to physical therapists taking 26 percent of these positions—we do not know that is the percentage of applications that have come to INS. And our legislation attempts to do two things to address it.

First, it attempts to force INS to tell us not what the application numbers are but who actually gets the H–1B positions. We need to know that to shape this program more effectively.

Second, with respect to health care workers and physical therapists, and so on, our legislation actually attempts to put a cap on that category of 10,000, so that, in fact, 26 or 30 percent of whatever of the H–1B visas cannot go into that category. The legislation that the Senator from California alludes to, that would not put that cap in place, means that literally all of the positions could go to these categories that I think most of us would agree do not need to be filled with H–1B workers. In fact, our legislation, the bill before us, attempts to move us in a direction to attempt to address that problem.

Next, with respect to the actual numbers themselves, the statistics of the Senator from California are not accurate. Currently, if we do nothing legislatively, 325,000 people will come in over the next 5 years under the H–1B program. Our legislation increases that amount by 30,000 per year to 475,000. And the amount that was referenced with respect to health care workers comes out of that 95,000. It is not in addition to the 95,000; it is 10,000 under the 95,000 per year cap. So the numbers that were just referenced simply are not correct.

Lastly, I would like to just comment this is not a bill about foreign exchange students, but I just say this: We

already have in place a system by which individuals can get permanent green cards annually. Approximately 140,000 such cards are available each year. We do not use all of those. So whether or not people coming in under the H–1B program end up becoming permanent employees has not forced that number higher. We do not even use the 140,000. But to the extent that we do use permanent green cards for anyone, it seems to me, at least, that it makes more sense for the people who receive them to be people who came to the United States, were trained in our colleges, then worked in our companies and paid taxes. It seems to me they are more valid permanent green card recipients than individuals who did none of the above.

Why should we train people at our colleges to take on these very important 21st century jobs and then see them leave and go work for foreign competitors? Again, it would make some sense to bring that issue up if we were going to be limiting the number of permanent green cards available on an annual basis, but this legislation does not attempt to do this, nor was that part of anyone's proposal.

So I think, in sum, that the earlier statements I made remain accurate and certainly are on point to deal with the worker shortage we confront right now.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

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

Mr. ASHCROFT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. The amendment that the Senator from Massachusetts will propose will not have a 3-year limit on it at this time. That was our bill we had in committee. Rather, it will require that employers look for American workers first before they hire foreign workers and that they have not laid off American workers 6 months prior or 3 months after they put in an application.

So I am happy to be able to make that clarification. And I believe Senator KENNEDY will be here momentarily.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. I yield 5 minutes to the Senator from Missouri to speak on the bill.

Mr. ASHCROFT. I ask unanimous consent at the conclusion of the 5 minutes speaking on this bill that I be able to continue for 10 minutes as in morning business to address other issues.

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

Mr. ASHCROFT. Thank you, Mr. President.

I want to begin by thanking Senator ABRAHAM of Michigan for his attention to this very important issue. It seems to me that this is a fundamental issue that relates to the success and survival of this culture in the next century.

The long-term impact of a Government-imposed shortage of high-tech workers is clear. If workers cannot come to these jobs, then the jobs will have to go to the workers.

We have an option here, an option of whether or not we bring workers to these jobs and have the industry in the United States or these companies decide to take these jobs to wherever the workers are otherwise.

Let us not fool ourselves. There are several countries that have the resources to begin a strong technology sector. I believe it would behoove us to make sure that the technology sector continues to exist in the United States of America.

Some of my colleagues seem to view this bill too narrowly. They view it as an immigration issue and an immigration issue alone. My colleagues are not to be blamed for wanting to make certain that Government policies respect the needs and interests of American workers. This legislation, however, does not threaten American workers in any way. No one is being replaced.

We are not dealing with a situation in which legal immigrants are coming to the United States to compete with low-income, native-born workers or, worse yet, coming to live off the Federal dole. That is not the situation here.

The shortage of workers in this industry is well documented. Filling these jobs with skilled workers, whether born here or overseas, is in America's best interests. We have a chance to either import the workers or export the jobs. It seems to me that clearly we would want to bring in these critical workers who can sustain this industry and help us sustain it as an American industry.

Indeed, it would be a grave mistake, in my judgment, to send even any portion of this dynamic and critical sector abroad in search of workers. It would send the wrong signal. It would be the wrong strategy. The economic and national security benefits of keeping this industry in the United States are substantial. They should not be overlooked. This industry will continue to flourish. But if the U.S. Government needlessly restricts one of the key inputs—that is, the necessary labor for growing—it will flourish somewhere else. We don't need for this industry to flourish on someone else's shores. We want this industry to flourish on our own.

I understand some of our colleagues will seek to amend the legislation. These amendments have noble sounding purposes and titles, but they are wolves in sheep's clothing. Excluding those that the subcommittee chairman has agreed to accept, these amendments are designed to kill the bill and should be defeated for that reason. Isn't it ironic that some Members are unwilling to help an industry do exactly what we want every industry in this country to do, and that is to become the best in the world. Some people want to keep our industry from attaining that standard.

We make the same mistake over and over again in Congress. We already are forcing the encryption industry to relocate to foreign shores through antiquated export restrictions, and now Members entertain amendments that will make difficult the United States success in the entire technology sector by restricting the import of needed skilled workers.

Perhaps the most disturbing amendments are those that would let loose a swarm of Federal bureaucrats into the high-tech industry to investigate hiring practices. Is this the role that we want Government to play in any industry—to create another set of regulatory hurdles that stifle growth and productivity? The energy of this recovery, the energy of our economy, has been provided by the high-tech industry, and it has been able to do so absent Government interference and control. I believe it would be an inappropriate decision, it would be a tremendous insult, and, frankly, an injury to this industry if we were to move Government in massively, as some of these amendments will propose.

As I have said before, we can allow workers to come to these jobs in America, or we can force those who want these jobs done to take the production facilities and the jobs that go with them someplace else. It seems that would be insanity. It does not take a highly trained computer expert to figure out what we want. We want to keep the jobs here. If we have the jobs here, and we can get the people, then keep the jobs here rather than export the jobs to where the workers may happen to be.

The technology sector of our country has had tremendous success by almost any measure—in productivity, in capital, in growth and in sales.

However, this thriving sector is running into a problem that even the best engineers cannot design around—a lack of individuals with the necessary skills to power the growth of American ''high-tech'' industries. The common approach of Silicon Valley of ''Just Fix It'' doesn't work in this instance—the engineers cannot overcome design flaws or test for efficiencies because the problem is imposed not by outdated technology but by the outdated laws of the federal government. The high tech sector has come to the federal government to ask for assistance in an area that is in the control of the federal government—the granting of visas to highly skilled technical workers.

I rise today to applaud an industry that is so dynamic that it has depleted the tremendous human resources available in this country so swiftly. We, as a nation, should take great pride in our technology sector, and even greater pride that this robust sector of our economy continues to thrive.

One frightening trend that has begun to emerge in this Congress is the consideration of laws that would directly involve the federal government in the operations of the technology sector. Any number of bills introduced with the best of intentions would have ignored budding and dynamic technology and instead imposed a quick legislative fix that would have remained in the code for years. This push for instant gratification and instant solutions will lead to disastrous results in the dynamic area of high technology. Instead, Members of Congress must start making the tough decisions on how to allow our technology sector to continue to be an engine of growth for our economy, continue to provide greater efficiencies for business, guarantee lifestyle enhancements to all people, and continue to position the United States as the world's technology leader. We need to focus less on imposing new government obstacles to tomorrow's technologies and more on removing government as an obstacle to growth in this dynamic sector.

This brings me to Senator ABRAHAM's legislation, the American Competitiveness Act. I am proud to be a cosponsor of this important legislation because it removes a government-imposed limit on the growth of the technology sector. We should all support the Abraham legislation as a means to facilitate the continued growth and success of an industry that is so important to our nation.

In closing, Mr. President, I must call attention to another troubling aspect of this debate, the glaring omission of leadership from the Clinton Administration. I am frustrated by this Administration's continuing talk of support for the industry of Silicon Valley. As I cast about in search of that support I find precious little. So I just ask—where is the Administration support for this important legislation? Where is the support for a well thought-out encryption policy, for the elimination of arbitrarily imposed taxation of the Internet—which currently remains international in scope but subject to tax by any municipality, or for leadership in confronting what may be the most dangerous threat to our economy, The Year 2000 bug? Mr. President, where was the Administration just two weeks ago when we were fighting to take a truly damaging provision on digital signatures out of the IRS bill?

I urge the Administration live up to its words and help us create jobs and growth in the technology sector. It is time for the Administration to stop talking the talk and begin walking the walk.

I urge my colleagues to support this legislation. I commend the subcommittee chairman, Senator ABRAHAM, for his outstanding work in this respect. It is not merely an immigration bill; this is a bill that relates to the success of the high-tech industry, an industry in which America continues to be the No. 1 power.

What is the situation regarding time?

The PRESIDING OFFICER. The Senator has 10 minutes to speak as in morning business.

Mr. ASHCROFT. I thank you for informing me of that.

TOBACCO SETTLEMENT LEGISLATION

Mr. ASHCROFT. I rise in opposition to the massive tax increases that are contained in the so-called tobacco settlement. I want the Senate to know that I will fight to kill any tobacco bill that contains a tax increase of the magnitude being considered, $868 billion.

The proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money on Federal programs. It a shame that bad decisions made by free people in Washington, DC, become the basis for a monumental task. The decision to smoke isn't a good decision, but it is something that people are free to do. And we are using it as the basis for an incredible and substantial tax.

Let me just say that this tobacco settlement is the largest proposed increase in Government and bureaucracy since the proposed health care scheme, which both this Senate and the American people had the good judgment to reject.

It would be a travesty for Congress to use tobacco as a smokescreen for imposing this massive tax increase on the people of America and to cover an expansion of the ''nanny'' state.

This massive tax increase would be levied against those who are least capable of paying for it. According to the Congressional Research Service, ''Tobacco taxes * * * are perhaps the most regressive tax levied.''

Here we have a tax that falls most heavily on poor people. About 60 percent of this tax would fall on families earning $30,000 or less. Let me go to this chart. People earning under $30,000 would pay 59.4 percent of this tax; people paying $115,000 or more, 3.7 percent of this tax. This is nothing more or less than a massive tax increase, the incidence of which falls most heavily on poor families earning $30,000 or less. I think many times these are young families—mom and dad, maybe a couple of kids—stretching to make ends meet on $30,000 or less, and the lion's share, the overwhelming lion's share, is coming out of the pockets of individuals making less than $30,000 a year.

According to the Congressional Research Service, households earning less than $10,000 would feel the bite of the tax most of all. Smokers making less than $10,000 would pay in excess of 5 percent of their income in additional taxes. This is a massive tax increase on the poor. If Washington gets its way, cigarette excise taxes will rise by $1.50 a pack. For someone who smokes two packs a day and whose spouse perhaps smokes one pack as well, this amounts to a tax increase of $1,642.50 annually. And that tax increase for three packs a day on the family would be the same, whether the family was very poor or the family was very wealthy. To find out the magnitude of this tax, if you take $1,642 a year out of the income of poor Americans, you are really impairing significantly their ability to provide for their families.

It is immoral for this Government to tell poor families, you cannot provide for yourselves; we are going to take the money from you and force you to come to the Government to ask us to provide for you. Moreover, the new taxes paid by someone smoking two packs daily would exceed the per capita tax relief contained in the Senate budget resolution by a factor of 50.

The Senate budget resolution proposed tax relief for America. For the average smoker, smoking two packs a day, they would have a tax burden added to them 50 times as great as the tax relief that we proposed in the budget. I think that is unconscionable. It is obvious that the most addictive thing in Washington is not nicotine, the most addictive thing is taxing and spending.

In the 15 years prior to 1995, Congress has passed 13 major tax increases. A list of those tax increases includes the Crude Oil Windfall Profit Tax of 1980, the Omnibus Reconciliation Act of 1980, Tax Equity and Fiscal Responsibility Act of 1982, Social Security Amendments of 1983. Last year's Taxpayer Relief Act was the first meaningful tax cut since 1981.

The tobacco tax increase will more than erase—more than erase—all of the benefit to the American people of the tax cut passed last year. The tobacco tax increase also exceeds by a factor of 3 the relief projected in the budget resolution passed by the Senate last month, even as it applies to the entire population, not just to smokers.

The Congressional Budget Office expects the budget surplus will swell to between $43 billion and $63 billion this year. Why is that? Taxpayers are working longer, they are working harder, they are paying more taxes. You don't have the swelling of revenue to the Federal Government because people aren't paying taxes; you have it precisely because they are paying taxes. Taxes are going up. And we should be debating how to return money to the taxpayers, not how to siphon more out of their pockets—especially out of hard-working Americans at lower-income levels. The proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money on new Federal programs. I will fight to kill any tobacco tax bill that contains a tax increase of the magnitude being considered. It is an affront to the dignity of Americans and

it is immoral to take this kind of money away from poor families, which will force them into dependence on government in some circumstances, rather than allow them to have the money they earn to spend on their families.

To paraphrase President Reagan, the whole controversy comes down to this: Are you entitled to the fruits of your own labor, or does Government have some presumptive right to tax and tax and tax?

I urge my colleagues to oppose this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMERICAN COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

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

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

Mr. KENNEDY. Mr. President, I know we have the time allocation. Could the Chair tell me how much remains on our side?

The PRESIDING OFFICER. The Senator's side has 47 minutes remaining.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, as of May 7 the immigration quota for skilled temporary foreign workers was full. The 65,000 visas available each year under the H–1B visa category have been claimed. For the remainder of the fiscal year—almost 5 months—no more visas are available. The quota filled rapidly this year because U.S. high-tech computer companies are bringing in foreign programmers in record numbers. America's high-tech industry is undergoing extraordinary growth, and the demand is high for more workers, so they have turned to the immigration laws to bring them in from abroad. A temporary increase in the immigration quota is justified. We all want to ensure that our high-tech industries get the workers they need to remain healthy and competitive.

I have always felt that with regard to our immigration laws we ought to, first of all, recognize the importance of families and family reunification; and then, secondly, if they are going to bring in those who have special skills, which is going to expand the American economy, a case could be made for those individuals. They could make that—particularly in the years of 1980 and as we came into 1990, we are facing the unemployment that we are facing, we did recognize the importance of these special skills that will result in expanding the American economy and expanded employment. That does make sense.

The demand for more foreign workers is an embarrassing indictment of our failure to provide adequate training for American workers. These are good high-tech jobs in the modern economy. Over the next decade, it is estimated that high-tech computer companies will need 1.3 million additional employees, and American workers deserve help in obtaining the skills to compete for them.

It is not enough just to raise the immigration quota. Any bill that passes this Congress should, I believe, have two additional things. First, it must assure American workers that they will get the training opportunities they need to compete for these good jobs. It makes no sense to throw in the towel by increasing the immigration quota, even temporarily, without also investing substantially in the training of U.S. workers. We must not give away these good jobs forever. We must invest in our workers, and that means putting real money on the table for training American workers.

The bill that came out of our committee, I believe, failed. It was a good-faith effort to try to do so, but I believe it failed in making that kind of commitment. We have been working with the chairman of the committee to address that particular issue. There is no reason in the world why we should not provide these kinds of skills for American workers. That is really what this debate here this afternoon is all about. We recognize that we may very well have a need to increase this category in order to bring in some of those that have particular skills that might be important in terms of our American industry, and we can have a chance to go over the record on that particular issue. I think, quite frankly, it is a mixed issue. Nonetheless, given the evaluation of the information that is out there, I think we should take a temporary step. But beyond that, there is no reason why we should not develop the kinds of training programs and the kinds of initiatives to make sure, to the extent possible, that we are going to provide the skills to American workers so they can have the jobs, and not just have a more open-ended immigration policy in these categories for foreign-trained workers. That really is an important part of this debate.

A second very important part of this debate is how we are going to treat the American workers. We find that at least we will have a chance, probably, to go into this in some detail, and that there is at least a record out there that a number of these individuals come into this country, and they know that if they have their job terminated, they are effectively deported; they can't retain their green card. There is some evidence that these individuals have displaced American workers who were holding those jobs.

Then, subsequently, there has been an adverse impact on the wages of those workers who are virtually handcuffed, so-to-speak, and trying to complain about it, because if they complain, they are shipped back overseas. We want to make sure that, one, as a great Nation that has the capacity to train our workers, we are going to provide skills for those workers. For every worker that goes into the job market today, they are going to have seven different jobs. Under the excellence bill, which was passed just over a week ago by the leadership of Senators DEWINE, JEFFORDS, and WELLSTONE, we have tried to bring our training programs up to the demands of the turn of the century, so that Americans are going to have a continuing possibility for upgrading their skills. They are going to need that.

We as a nation should make sure that those kinds of opportunities for self-improvement are going to be available to working families in this country. That is very, very important, I believe.

The Senate went on record a week ago with a very strong bipartisan vote to do just that. We don't want to carve out an area. We don't want to say we will train Americans for some jobs but we are not going to train them for the computer jobs in this Nation. That makes no sense. That virtually turns our back on what we committed to American working families just a week ago. We shouldn't carve this area out and say, ''We are not going to provide that.'' That is why we have been working with our friend and colleague, the Senator from Michigan, to try to address that. I think we have seen some important movement on this issue. I certainly appreciate his understanding of that importance. We are trying to work out an approach on that. That is going to meet some of the concerns that he and others have.

But a second important point is that we don't want to say to American workers who are working in the computer industry now, to have their boss come up to them and say, ''You are fired because we have someone else who will replace you at the same wage.'' That is legal in America today. Any of these large companies can bring in the temporary workers having met some rather fundamental kinds of requirements and just displace Americans. I think that is wrong. I think that is absolutely and fundamentally wrong. We will have an amendment to try to address that issue.

Second, we want to make sure that there is going to be at least an effort, some effort. All we are talking about in this case is an attestation; we are saying to the employer that you attest that you have made an effort to try to hire an American worker. What we are saying is we are not setting up any type of rule or regulation. We are saying whatever the industry requires, whatever the pattern is in the particular industry. So if a particular industry is just publishing something on the Internet, e-mail, whatever, that is sufficient in terms of meeting that requirement. Whatever the industry does, we say that is fine. All the company has to do is just say OK, we have done that. That is all. That is the total

amount of paperwork. But what we are trying to do is say that we are going to give some priority to American workers. The company is just going to have to follow whatever the industry does in recruiting, is going to have to do so with regard to these workers. I think that is very important. We don't want to displace American workers, and we want to make sure than an American worker who has those kinds of skills is going to be able to get that job. Those aren't, I don't think, very radical kinds of concepts if we are talking about what we are interested in—looking after American workers' families.

What are these jobs? When you come down to it, we will probably come back to revisit this issue a little later in the debate. But, according to Department of Labor figures, from 1997 on the H–1B jobs, on the certification of what these jobs are, and what they pay, this chart is an indication of what the pay is for these particular jobs. If you look at this particular chart, Mr. President, you will see that 76 percent of these jobs are from $25,000 to $50,000 a year. These are good jobs. It is difficult for me to believe that we cannot develop training and education programs so that American workers can get those particular jobs. Those are good jobs for working families. We are not prepared to say that we are going to turn our back on Americans for these kinds of jobs.

Another 16 percent go from $50,000 to $75,000. Those are good jobs, too. What you are talking about here is that more than 5 percent of those are below $75,000.

Then you have these in the smaller group, approximately 5 percent, that are in excess of that $75,000. Those are represented by those, I think, that we call the ''Best and the Brightest'' in this category. We said they don't have to go and have an attestation or requirement in terms of seeking alternatives for those individuals who are going to universities or doing research. They don't have to go through even these very preliminary steps. What we are trying to do is to say for the basic jobs that are in these categories that fall roughly in $75,000 or less that they should not displace American workers and that American workers ought to get the first crack at it. That is basically what the amendment I will be offering later this afternoon calls for, and what we, I believe, should bring to our attention.

Mr. President, it matters to U.S. high-tech companies that want more visas. But it also matters to workers who are laid off by unscrupulous employers and replaced by foreign workers. It matters to middle-aged computer programmers who work hard to keep up their skills but are laid off in favor of younger workers who will work longer hours at cheaper pay. And it matters to working families who would love to get one of these jobs and make $30,000, $40,000, or $50,000 a year. Many of the workers who come in under the H–1B visa program are obviously talented. We should put out the welcome mat for accomplished people who have unique skills to improve our economy and create jobs, but accomplished workers represent only a fraction of the foreign workers who come to the United States under the H–1B program.

I have indicated that more than 75,000 would be about 5 percent. We might even stretch it to up to 20 percent. Most of those who are coming into this program are lower-level computer programmers. Many are physical therapists, occupational therapists, nurses, and 80 percent are paid less than $50,000, as I referred to. These are good jobs, and the working families of America should get the first crack at them.

The bill before us does little or nothing to enhance the accountability and enforcement of the H–1B visa program. Some say the current program is satisfactory. They cite the low number of violators found by the Labor Department as evidence that the terms of the program are widely observed. But the reason so few violations are discovered is that the Labor Department's hands are tied. The Department cannot intervene unless a complaint is filed. And few workers dare complain. As I mentioned before, if they complain, they are shipped overseas and they are gone. No matter how poorly they are being trained and how overworked they are being worked, if they complain about that part and get fired, they lose their green card, and it is back to their country of origin. That has to be, and it is, an important factor. The fact that we have not had the complaints is because to do so would jeopardize their immigration status. So they either accept the abuses or change employers. But they don't complain.

We know there are serious problems. This is the issue. Two years ago, the Labor Department's inspector general completed the largest study of the program. That is the basic program, the fundamental, the temporary worker program, which is the issue that we are talking about here today. They reviewed some 720 cases in 12 States. The results were appalling. In 75 percent of the cases, the inspector general could not even tell from the employer's records whether the employer paid the H–1B foreign worker the proper wage. If those are good documents on what they paid, 19 percent of the employers paid less than the wage that they had promised on their applications.

Any bill that the Congress sends to the President must remedy this problem. The Labor Department should have the same authority to enforce the rules under this program as they have to enforce workplace standards and the minimum wage, and they should have the same authority that the Immigration and Naturalization Service has to ensure that employers do not hire illegal immigrant workers. That means giving the Labor Department authority to enforce the rule where there is reasonable cause to believe that they have been broken.

We permit the enforcement. If we do not have enforcement, we have abuses. Your rights are diminished if you do not have the ability to have a remedy. That is just basic fact. We don't have to spend the time on the floor to really debate that issue. Unless we are going to have that kind of protection, you are going to have the kind of abuses that have taken place and continue to take place.

Stephen Schultz is an engineer who was laid off from his job in Modesto, CA.

He was then asked to come back to his company on a temporary basis in order to train his foreign replacement. There was nothing Mr. Schultz could do about it. He was laid off and replaced by a foreign worker. To add insult to injury, he was asked to train his foreign replacement. Can you imagine that, Mr. President. Here is the person who is laid off. The company hires someone from overseas, brings them over here, puts them in that job and then hires the worker that had been working there, I believe in this case 5 to 7 years he had been working there, to train that worker to fill that person's job. That was happening. That was happening. Now, that is absolutely and fundamentally wrong, and we do not want to permit, as we are seeing in the expansion of this program, those kinds of practices.

I commend Senator ABRAHAM for recognizing the problem, but unfortunately the antilayoff provisions in the bill, I believe, are inadequate. They apply only in a very limited circumstance. The employers who lay off U.S. workers and replace them with foreign workers can be penalized under this bill only if they break the law first. Only if they break the law first. Under this bill, you can lay off American workers and replace them with foreign workers as long as you don't underpay them or use them as strikebreakers or commit some other violation first. We should require employers to state that they have been unable to find qualified workers in this country before they apply for workers from abroad.

Now, a high-tech facility in New Mexico announced a hiring freeze and refused to accept job applications, but at the same time they brought in 53 foreign workers under the H–1B visa program. Alan Ezer, a 45-year-old computer programmer with 10 years of experience in the field, has kept his skills up to date. He was willing to take a cut in pay to stay in the industry. After he was laid off, he sent out 150 résumés. He got one job interview and no job offers. Rose Marie Roo is an experienced computer programmer. When no one would hire her to do computer work, she and her husband opened a bed and breakfast in Florida. Peter Van Horn,

age 31, with a masters degree in computer science, lives in California. Employers won't hire him either. The list goes on and on.

Many of the Nation's high-tech firms are blatantly turning away qualified U.S. workers while appealing to Congress for more foreign workers. Not all but some. And those are the ones that need the attention. It is that kind of injustice these amendments which I will be introducing focus on. So this, too, must change. Employers should be required to state that they have made an effort to recruit in this country first. Some argue that if we impose these new requirements, the program will bog down in redtape. They say employers will have to wait too long to get their workers from abroad.

Our solution, as I mentioned, is very simple. Employers must simply state on one sheet of paper they have laid someone off and that they have been unable to locate workers in this country. That is all. If you are concerned about redtape, then look at what the bill does. It transfers the program to the most overwhelmed and most backlogged agency in the Federal Government, the Immigration and Naturalization Service. It takes a year for American citizens to bring spouses or children here. That is supposedly our highest immigration priority, uniting citizens with their families, but it takes years just to process the paperwork to bring these families together. After individuals actually qualify for citizenship, it takes 2 years or even longer for them to have the forms completed.

So we have an opportunity today to pass legislation that responds to the needs of the high-growth high-tech industry and our workers. We should increase the quota temporarily. We must provide our workers with the training they need to assure them that our immigration programs do not unfairly disadvantage them as they compete for the new jobs.

Now, Mr. President, I will make some comments with regard to both of these amendments and then we can have some discussion. I will offer them with the understanding of the chairman so that we can move this process.

Before going further, Mr. President, on the recruitment amendment, I know that Senator ABRAHAM has announced the endorsement of this bill by certain groups. I have here in my hand 150 letters from American workers who are opposed to the bill. They are computer programmers and computer engineers who want a shot at these jobs. These are American workers. We believe they ought to be listened to.

I might just selectively insert some of these letters, not to unduly burden the CONGRESSIONAL RECORD, but we have more than 150 and scores more back at the office. I will introduce a select group to be able to reflect the concern that these American workers have about this particular bill.

It is interesting, Mr. President, when we were looking at what the needs were and we heard a good deal of testimony from different groups that one of the things that was pointed out by the General Accounting Office was the salaries in these particular areas have not increased effectively over time. At least some of the economists in the General Accounting Office found that sort of interesting because, generally speaking, when there is a greater demand for these kinds of skills, the salaries all go up. If you want to recruit people, with supply and demand, the salaries are going to increase, but they did not find that increase in the salaries. They sort of stayed standard in terms of other skilled occupations. That is where they had drawn some concerns about the legislation.

Now, Mr. President, I would I ask unanimous consent that the time I now use be allocated to the recruitment amendment, if there is no objection.

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

Mr. KENNEDY. I will just reserve the other time for general debate, if I could. And then I could stop and put that in. But I think this is OK with the chairman, or if the Senator wants to make some comments.

Mr. ABRAHAM. Actually, I was about to yield to Senator BROWNBACK. I think he would like to speak when the Senator is finished.

Mr. KENNEDY. Yes. I will just make some brief comments here and then I will yield.

My amendment says that before employers can bring in foreign workers under the H–1B visa program, they must attest that they have tried to hire U.S. workers first.

These are good well-paying jobs created by the high tech American economy. My amendment assures that U.S. workers will get first crack at these jobs. If employers cannot find U.S. workers who are ready, able, and willing to do the job, then—and only then—should foreign workers be available. Employers should be required to recruit in Boston, Detroit, and Los Angeles before they recruit in other countries.

We hear a great deal about the impressive contributions of foreign workers to our economy. We should welcome outstanding workers who are exceptional in their fields and have impressive track records of accomplishment. In fact, my amendment rolls out the red carpet for such workers.

It exempts universities and non-profit research institutions from this requirement. The researchers they bring in from abroad under this program help to train college students for the future. There is no significant evidence of abuses in their recruitment.

But 80 percent of the applications received under the visa program are for jobs paying $50,000 or less. Half the applications are for computer programmers, most of them at lower levels. A quarter of the applications are for health care workers, particularly physical therapists. Other applications are for teachers, accountants, dietitians, piano tuners, drafters, realtors, construction workers, and many others.

Many of these workers are in the early stages of their careers. As the Republican views in the Committee report on this bill correctly note, ''many H–1Bs are foreign students recruited off U.S. college campuses.'' U.S. workers should have first priority for these jobs.

In fact, American college students are specializing in computer studies in growing numbers. According to the Computer Research Association, the number of college students majoring in computer science increased by 91 percent from 1995 to 1997. My amendment will assure that when they graduate, they will not have to worry that they must compete with foreign workers for U.S. jobs.

Some argue that this amendment creates unnecessary additional paperwork. In fact, the amendment requires only that employers attest—on a simple, one-page H–1B application form—that they have tried to recruit U.S. workers for the job and failed. They are required only to use recruitment procedures that are common for the industry.

If the standard practice among computer companies is to post the job on the internet for five days, that's all they have to do to satisfy this requirement.

The Labor Department does not investigate the application in advance of the foreign worker coming here. In fact, the Labor Department is required to act on the application within seven days. So all the employer would do, under my amendment, is complete the one-page form. Nothing more.

Most high tech companies should have no problem meeting this simple requirement. They say they recruit in the U.S. constantly and still have hundreds of openings.

All they have to do is check the box on the form, and send it in.

The problem is that many American workers have applied for high tech jobs, only to be turned away.

Peter Van Horn is a 31-year-old from Mountain View, California. He has a master's degree in computer science. He is an expert in computer graphics. But he can't get a job in his field.

Bard-Alan Finlan is a computer engineer in his 40s. He knows the latest computer languages. He's received one interview in a year and a half, and still no job.

Kurt Granzen is an electronics worker. He was laid off from a Silicon Valley firm after it started hiring H–1B workers. He has been unable to find a job in his field for the past four years, after hundreds of interviews.

These well-trained U.S. workers deserve to know that we will not allow employers to bring in foreign workers before they have a fair opportunity to fill these jobs.

I urge my colleagues to support this important amendment.

I see other colleagues who desire to speak so I will withhold at this time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield up to 5 minutes to the Senator from Kansas at this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate the Senator from Michigan yielding time to me to speak on this very important amendment. I have been listening to the earlier debate about the ability of U.S. workers to get these jobs versus workers coming in from overseas. I think the critical point that maybe is not being clearly put forward on this is what we are talking about here is being able to keep U.S. businesses in the United States, and, thus, access to these jobs dominantly by—indeed, in many cases exclusively—by U.S. workers. We are trying to keep the businesses here. Many of these businesses could easily and rapidly move overseas, particularly ones in developing computer software and programming. That is something they could rapidly and easily move overseas. We want those jobs here so our workers have access to them.

What we are talking about in the amendment put forward by the Senator from Michigan, Senator ABRAHAM, is a present crunch that we have getting some workers into some of these jobs. This seriously needed legislation will raise the visa cap for professional workers from the present maximum of 65,000 to an additional 30,000 visas for 1998 with a 5-year sunset for additional H–1B visas. A failure to act would be a blow to many American companies, which are striving to obtain these workers at this immediate need and juncture in a very highly competitive marketplace. Without the visa increase, they will be denied the ability to secure workers central to their immediate needs.

I agree, we need to offer benefits and help more and make sure that U.S. workers have the greatest access, and they should. What we have is an immediate problem, and we don't want these businesses moving overseas. The legislation seeks to address this problem.

There is an immediate, severe, technical worker shortage in America which can only be met by this legislation. It is reported by the INS that by early May the present cap of 65,000 will have already been reached—already reached. This means that American businesses will be entirely foreclosed for over half a year from obtaining some of the highly skilled professional workers that they need under this option for immediate need—immediate work and immediate help—rather than moving these businesses overseas to be able to access those workers.

This legislation will help to maintain America's competitive edge in the global marketplace. It will encourage—not hurt—American business growth and, thus, job creation in the United States, which is presently at an extraordinarily high level. It will enable technical businesses to retain the workers required to develop their products in a highly competitive market. It will empower companies to maintain timely production schedules.

Companies from throughout the country say that they must have this additional ability to hire needed workers to be able to remain in the United States. This is especially true for high-tech industries across America which specialize in computer-related products. This industry is extremely time sensitive, requiring speedy product development and production. For example, computer software is frequently developed in 6-month cycles. Failing to deliver within these time frames because of technical worker shortages can severely compromise a company's competitive edge. One observer of the current system said:

> Critical projects will be abandoned or put on hold—at the cost of many more American jobs. This can be disastrous for our industries with short product cycles that are trying to compete against fierce global competitors.

Who supports the legislation? Businesses, universities and ethnic organizations, all back this effort, as well as workers concerned that their companies might be forced to move offshore.

Speaking of that subject, the New York Times recently wrote this:

> If U.S. companies are told to put up ''No Vacancy'' signs, they are inevitably going to move more operations overseas, and that will spur more innovation, wealth creation, and jobs over there. By contrast, this legislation helps to encourage companies to stay within American shores and keep jobs here in America, and growth taking place here in America.

At this time of economic growth, our Government must be sensitive to respond to needs as they arise in the marketplace. This legislation is a sensible response to a legitimate problem, and represents that American Government is a partner to encouraging, not discouraging, growth, job creation, retention of jobs, and prosperity in America.

Mr. President, I yield the floor and commend Senator ABRAHAM for sponsoring this important legislation, needed for American jobs to be able to stay in America. I urge my colleagues to support it. I yield the time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself such time as I might use on my other amendment called the layoff amendment.

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

Mr. KENNEDY. Mr. President, under this amendment, employers cannot lay off American workers and then import foreign workers to fill the same jobs. Believe it or not, it is perfectly legal today for an employer to lay off qualified American workers and replace them with foreign workers under the H-IB program, and unscrupulous employers have taken advantage of this loophole in the law.

In recent weeks, we have seen announcements of layoffs from many of the biggest U.S. companies, and many of these companies have asked Congress to increase immigration quotas so they can bring in more workers from abroad. We owe it to those laid-off U.S. workers to make sure their employers do not bring in foreign workers to fill their jobs.

On April 13, the Wall Street Journal reported:

> The past couple of weeks have seen a steady drum beat of layoff announcements in industry sectors that until recently have complained about personnel shortages.

The article included a long list of high-tech computer companies laying off thousands of workers. For example, on April 13, Intel Corporation announced plans to cut 3,000 jobs. Earlier in the month, Compaq Computer announced that it plans to lay off 15,000 workers as part of its merger with Digital, and the list goes on. Not all of these lost jobs are the same jobs that would be filled with foreign workers under the H–1B visa program. But we must be certain that no employer turns around and brings in a H–1B worker to fill a job from which American workers were laid off.

Stephen Schultz of Modesto, CA, an engineer, was laid off in November of last year. While he was looking for a new job, his former company called him back to train the foreign worker they had brought in to replace him. Mr. Schultz filed a complaint with the Department of Labor, complaining that he had been laid off and displaced by the foreign worker, but this offensive practice is currently legal under the current law. There is nothing the Labor Department can do about it. And that is plain, fundamentally wrong. This amendment addresses that injustice.

My amendment would give those laid-off workers a fighting chance. It says, ''You have just been laid off. You are trying to feed your family. You are struggling to find a new job. So we will not compound your suffering by letting your former employer bring in a foreign worker to replace you.''

As I mentioned earlier, I commend Senator ABRAHAM for acknowledging the problem. But, as I mentioned, the layoff protections in the pending legislation, I think, do not do the job. They offer little help to working Americans who lose their jobs in today's changing labor market. But under this bill, employers don't have to promise that they have not—and will not—lay off U.S. workers as a condition of their participation in the program. Under this bill, the only time that an employer can be penalized for replacing U.S. workers with foreign workers is if the employer also violates other requirements of the H–1B program.

That is under the Abraham proposal. It is not bad enough for an employer to

lay off U.S. workers, but then they replace them with foreign workers. The employer has to underpay them to have some other violation of the law before the Labor Department can act. We believe that we should not displace American workers with foreign workers who are doing the same job—and we have language which effectively is the same in both bills; ours has a different triggering mechanism—we believe that we should not displace Americans with foreign workers who are doing the same job. That is what my amendment will do with regard to the layoff proposals.

Under the current bill, the engineer that I mentioned who was laid off in Modesto would have a case only if the employer who laid him off violated some other requirement of the program. He could be laid off, so to speak, as I understand the Abraham proposal, and they could hire another worker for his identical job, pay him less and, as in this particular case, if this person who was laid off wanted to, he could come back and train his replacement, and that American worker would virtually have no cause of action.

Under the current bill, an employer can lay off 1,000 American workers and bring in 1,000 H–1B workers to replace them as long as the employer pays them the same wage, and it is OK. Some argue that employers are unlikely to go through the effort to lay off an American to replace with a foreign worker. They cite studies to suggest foreign workers are actually paid higher wages than their American counterparts. If that is the case, then the employer should have no problem attesting, as a condition of their participation in the visa program, that they have not and will not lay off U.S. workers.

The fact is, employers do lay off American workers and replace them with foreign workers. That happens to be the information that we have. They want foreign workers because such workers are less likely to complain if their hours are extended and their working conditions are not as good. The Labor Department inspector general found that 75 percent of employers in the program could not even document that the wage they paid the foreign worker was the proper prevailing wage, and unscrupulous U.S. employers also want foreign workers because they are less likely to protest long hours and harsh working conditions. If they do, they know they may lose their jobs and have to leave the country.

An American software developer called my office recently and asked to remain anonymous for fear of reprisal by his employer. He spoke of how the high-tech firms are abusing their foreign workers. He said, ''I had a good talk with an H–1B worker. He told me he was so anxious to work in this country that he would accept any salary. Even a pitifully low salary by our standards was high in his country. He has been here for 6 months and working 80-plus hours a week. The company knows they can pick up a well-educated foreign worker who will work many more hours for half as much salary. I have seen this, en masse, first hand.''

The unscrupulous employers who engage in these flagrant abuses put honest employers at a severe competitive disadvantage.

Mr. President, what happens is, the American worker is displaced and that impacts that American worker. But if they get some foreign workers and then work them harder and longer, they have a competitive advantage over a company that just has American workers, and that threatens those American workers. The other company that has foreign workers is competing with the company that has American workers, and they are not meeting their responsibilities.

All we are trying to do is make sure that all play the game by the same rules by which so many companies are willing to play. We want to make sure we are not creating abuses, which have been recognized in the past, and we want to make sure that, since we are expanding this program, we are going to give American workers first shot; we are not going to displace American workers, and we are going to give them the first shot at those jobs. Also, we are going to work out a training program over the period of this legislation so that at the end of the 5 years, we will have in place a training mechanism so that these jobs—the 80 percent which go to families earning less than $75,000, good jobs—will be going to Americans because they are going to have the training to do so. That is effectively what we are saying, Mr. President.

We need to address the abuses. We need to protect the workers. We should outlaw the abuses to protect the vast majority of American employers who play by the rules. We are protecting the American businessmen who are playing by the rules. They are playing by the rules because they are paying a fair salary for these computer experts and they are respecting them for their working conditions and are out there competing fair and square, while someone who is unscrupulous brings in the foreign worker in these circumstances and, in too many circumstances, displaces the American worker and has that worker working longer hours and under more difficult conditions. You have one worker who has already lost his or her job, and if you get several workers, they are going to be able to compete on an uneven playing ground with the American firm.

All we are saying is, No. 1, you can't displace an American worker with a foreign worker; No. 2, you have to at least attest that you have made a reasonable effort to hire an American worker; and, No. 3, we are going to work out the training program so that at the end of this program, in a period of years, we are going to have sufficient training so that Americans are going to be qualified to get those jobs, which are good jobs. That is what this issue is really about, Mr. President.

I did not want to leave the impression, but in my earlier comments, on which my staff has corrected me, if the foreign worker is paid less than Abraham, then the Abraham layoff does kick in, assuming a worker complains.

My point is, under Abraham, they can lay someone off as long as they meet the other rules of the program. They can still lay off the American worker. They see a layoff as a freebie, a free ride for employers who want to bring in the foreign workers.

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

The PRESIDING OFFICER (Mr. ROBERTS). The time will run against the bill or the amendment. Will the Senator indicate his preference in regard to time?

Mr. KENNEDY. Time on the amendment. How much time remains on the amendment?

The PRESIDING OFFICER. The Senator has 11 minutes remaining on the layoff amendment.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. 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. ABRAHAM. Mr. President, I want to make a quick inquiry. Are we on an amendment at this point or are we on the bill generally?

The PRESIDING OFFICER. Technically, we are still on the bill.

AMENDMENT NO. 2412

(Purpose: To amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] for Mr. WARNER, for himself and Mr. ROBB, proposes an amendment numbered 2412.

Mr. ABRAHAM. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. ___. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

(3) by adding at the end the following new subparagraph:

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.''.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

Mr. ABRAHAM. Mr. President, this amendment, which I am offering on behalf of the Senator from Virginia, Senator WARNER, would seek to grant permanent legal status, resident status to individuals who are stationed in the United States in conjunction with their responsibilities as part of NATO. I believe the amendment has been cleared on both sides. And so I hope that we can move rapidly to pass the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have no objection to it and urge the support for it, as we do the same, as I understand, with regard to United Nations personnel. This would provide a sense of equity in both of those areas. It seems to make sense.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment No. 2412.

The amendment (No. 2412) was agreed to.

Mr. ABRAHAM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2413

(Purpose: To provide whistleblower protection to foreign H–1B workers who file successful complaints against employers for violations of the H–1B program)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2413.

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

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

The amendment is as follows:

On page 41, after line 16, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting '', or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph'' after ''a material fact in an application''; and

(2) by adding at the end the following new subparagraph:

''(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

''(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

''(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.''.

Mr. KENNEDY. Mr. President, currently the Labor Department can investigate violations under the H–1B program only if a complaint has been filed by an aggrieved party. The complaint can be filed by a temporary foreign H–1B worker, and affected American workers. Few complaints are filed because workers are afraid of retaliation. And the H–1B workers are afraid if they complain, they could lose their jobs and then have to leave the country. American workers are afraid they will be blackballed in the industry if they complain.

So this amendment offers them the whistle-blower protection, and it penalizes employers if they retaliate against a whistleblower. So whether the whistleblowers are H–1B workers or affected American workers, the employer cannot retaliate against them.

In addition, under my amendment workers who filed a successful complaint against an employer can switch jobs if they wish and still remain in the United States for the duration of their visa. They just have to let the INS know their new address.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I compliment the Senator from Massachusetts on this amendment. I think it addresses a large part of the concern that he previously registered with respect to the way the program functions.

As I will indicate as we continue this debate this afternoon, it is not the intent of either this Senator or those of us who cosponsor the American Competitiveness Act to put any American worker at a disadvantage. We believe the protections that are already in place in this legislation—both in the existing laws as well as in my bill—will protect American workers.

Basically, you cannot bring a foreign worker in for lower pay and replace an American worker with that individual. If you do, you are violating the law. The Senator from Massachusetts earlier raised the concern that no one will complain because the H–1B visa holder, the foreign worker, will be afraid of consequences if they do so.

In my judgment, this whistle-blower provision will allay any such concerns. I think it ties nicely into the protections which we have built into S. 1723, the protections that come in the form of very severe penalties for anyone who willfully violates the law with respect to bringing in an H–1B employee.

So for that reason I am comfortable with and supportive of this amendment. We worked closely with Senator KENNEDY's staff on the crafting of the amendment, and I think it has been done in a way that effectively supplements what is already in place.

But let me, as long as we are on this, just briefly talk about this whole system. In his earlier statement with respect to his amendment, the Senator from Massachusetts expressed concern that no one would bring a complaint, that the complaint-driven system that currently exists is one which masquerades many violations. I do not believe it does. I think that complaints are very likely to occur under the current system simply because competitors could bring the complaints.

The salaries with which foreign workers are paid must be posted, not only posted at the job site, but at secondary sites and at the Department of Labor. If somebody believes that someone is gaining an unfair advantage by bringing in cheaper labor, they can complain as well. It does not necessarily have to be the foreign worker who brings the complaint; it can be a coworker who is mad because they see the foreign worker is coming in and driving his friends out of a job, or it can be a competitor.

It is possible, I suppose, although we do not have any documental evidence to this, that someone might be intimidated about bringing such complaints. For that reason, I think the whistleblower provision is an effective way to address this one area that might be a loose end. I think it tightens up the process in such a way that we can have the confidence in a complaint-driven system necessary to maintain that system as it is working. And it is working effectively.

As I said earlier, as I will be saying in further debate on these amendments, in the entire history of this program there have only been eight willful violations in 8 years—one per year. And only one of those involved a situation where an employee was laid off.

We have heard descriptions of several of those, I think, already in the comments of the Senator from Massachusetts. Indeed, because there are so few, we have already heard about several of those instances on more than one occasion here today. They are wrong. They were punished. I think they should have been punished even more severely. I do not think they should bring a foreign worker in the United States, pay them a lower salary than you are paying an existing worker, and lay somebody off. I think if you do that, you ought to suffer stiff consequences, and our legislation administers those stiff consequences.

To the extent someone might have failed to raise a concern or a complaint because of fear of reprisal, I think Senator KENNEDY's amendment, which I am prepared to support at this time, closes that loophole as well and I think puts in place a system that can and should work effectively.

So, for that reason, I support the amendment. And I think we can move forward to adopt it here presently.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment No. 2413 offered by the Senator from Massachusetts.

The amendment (No. 2413) was agreed to.

Mr. HAGEL. Mr. President, I rise today to express my strong support for the American Competitiveness Act, of which I am a cosponsor.

The American Competitiveness Act is important to the American economy and to our Nation's high standing in a global economy. It will also have a positive and direct impact on promoting job creation and economic growth in Nebraska.

Mr. President, as the 21st Century quickly approaches, American companies, businesses and universities increasingly find themselves in a fiercely competitive global economy. Thus far, the United States has been able to succeed and benefit overwhelmingly from this increased ''globalization.''

However, our continued economic growth is being threatened by a shortage of highly skilled and internationally experienced workers, While companies around the U.S. have invested billions of dollars in educating and training employees, demand for qualified people continues to grow faster than the supply of available workers. This is particularly true in the area of information technology.

The shortage of workers with technical or computer-related skills is a real concern to Nebraska. My colleagues may not realize that Nebraska currently has an unemployment rate of 1.6%, which is the lowest rate in the country. While this is very good news, it also presents a challenge for many of Nebraska's employers.

Employers in Nebraska have told me over and over again that the state is unable to meet their increased demand for labor, particularly high-skilled labor. In fact, the Greater Omaha Chamber of Commerce estimates there are currently 1,500 to 2,000 job openings in the field of information technology in the Omaha area alone.

While the Chamber, other business community leaders, and the Nebraska state government, have been actively recruiting workers from within the State, across the country and around the world, they have not been able to produce enough skilled workers to keep pace with job growth.

The United States Senate can take an important step toward addressing this problem by passing the American Competitiveness Act. This legislation will immediately help America's companies and universities by raising the current ceiling on the number of foreign-born professionals we allow to work in the United States under the H–1B visa program. These temporary visas are used to attract the best and brightest minds from around the world to U.S. companies and universities, which helps them to compete in global markets.

We must also address our Nation's long term employment challenges by preparing more American students for the high technology, global workforce of tomorrow. Not enough of our students are being prepared, or preparing themselves, to excel in an increasingly high-tech economy.

The American Competitiveness Act takes steps to correct this situation by creating 20,000 scholarships annually for low-income American students to study math, engineering, and computer science. It also authorizes $10 million a year to train unemployed U.S. workers for jobs in the information technology industry.

I strongly urge my colleagues to support Senator ABRAHAM'S bill, which will keep American companies in this country, create and save American jobs and contribute to the growth of the economy. I urge my colleagues to support this bill because it will help ensure that America remains a great, industrious and rich nation both culturally and economically.

Mr. President, I ask unanimous consent that a letter sent to me by the Greater Omaha Chamber of Commerce in support of this legislation be printed in the RECORD.

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

GREATER OMAHA
CHAMBER OF COMMERCE,
Omaha, NE, May 8, 1998.

Senator CHUCK HAGEL,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR HAGEL: The Greater Omaha Chamber of Commerce has been working for several years on the challenge of Nebraska's shortage of skilled workers. We believe Senate bill 1723, known as the ''American Competitiveness Act,'' will aid employers across the country in hiring the skilled workers needed to grow their businesses, especially in the information technology field. We are especially interested in the portion of the bill which increases the number of H–1B visas granted each year. At the current rate, the United States will reach the statutory quota on H–1B visas by the end of June, a full three months before the end of the fiscal year.

Currently, Omaha has approximately 1,200 H–1B visa holders employed in the metro area. There is room for considerable growth, and there are jobs to be filled. Omaha's unemployment rate is about 1.7%. It is one of the lowest in the nation and has consistently been so for the past several years. It is estimated the Omaha area currently has 1,500 to 2,000 job openings in the filed of information technology.

The business community in Omaha has stepped up to the plate and is actively recruiting workers from across the country and around the world. Over the last four years, the Chamber has organized and attended numerous job fairs, initiated Internet recruiting and job posting programs, coordinated and funded national advertising campaigns and image marketing in an attempt to grow the size of our work force.

In addition to recruiting, Omaha has placed great emphasis on ''growing our own.'' Omaha is a national leader in the School-to-Work arena and was one of the first six communities nationally to embrace and promote Work Keys, a work-based skills and job profiling assessment to better prepare our students for the work place. The University of Nebraska, with close to $50 million worth of private support, has established an innovative Institute which encompasses a new College of Information Science and Technology along with the inter-related engineering disciplines.

All of these efforts however, are not enough. The passage of Senate bill 1723 is imperative to the continued growth of the high-tech industry in Nebraska and the rest of the nation. It is reliably estimated that there are 346,000 computer related jobs vacant in the United States and that number will only increase in the coming years. Even with our best efforts nationwide, we will not produce sufficient qualified workers at a rate fast enough to keep pace with the job growth. By allowing greater numbers of skilled workers from other countries to fill available jobs in the United States, our employers will be better equipped to continue to fuel this country's and state's booming economy.

By not increasing the number of H–1B visas granted each year, the government is in effect encouraging United States businesses to enter an all-out civil war for the information technology workers we currently employ here. At a time when the United States is at an historically low rate of unemployment, it is unreasonable for the Federal Government to embrace a policy that in effect robs Peter to pay Paul.

On behalf of the Greater Omaha Chamber of Commerce, I again wish to reiterate our strong support for this legislation and urge immediate passage.

Sincerely,

C.R. ''BOB'' BELL,
President.

Mr. GRAMS. Mr. President, I rise to speak in support of S. 1723, the American Competitiveness Act introduced by Senator SPENCER ABRAHAM to increase the cap on H–1B visas to allow our companies to continue to compete.

We find ourselves in the midst of a booming American economy, now in its 87th month of the longest peacetime economic expansion experienced, and with the lowest inflation and unemployment (4.9%) in 25 years. However, we find that 350,000 information technology (IT) jobs nationwide are unfilled. As we speak, the ability to bring

foreign nationals temporarily into the country on H–1B visas to fill those jobs has been halted as of Monday, May 11. As of last Friday, the 65,000 H–1B visa cap has been reached in this temporary immigrant category. New applications will be turned away and the information technology industry, as well as our universities and colleges will be harmed.

Minnesota companies affected by this cap have aggressively supported this legislation. 3M estimates its projected research effort will lack 80 technical employees for slots paying between $60,00 to $100,000. 3M had $15 billion in 1997 worldwide sales. Through the efforts of foreign nationals working in their research and development departments, 3M has been awarded 578 patents. We should continue to encourage this progress.

Cargill, another Minnesota-based company, has 10 to 15% of their technology department unstaffed—about 99 to 110 people with a starting salary of $44,000. They have not been able to meet their needs through local labor pools and universities. They have been forced to turn to temporary foreign nationals. Furthermore, they tell me they have a 15% turn-over because of competition from other U.S. companies.

Honeywell has 7,500 Minnesota employees and does not hire a large number of H–1B nationals—only those of needed technical skills. However, these shortages affect the productivity of the whole company.

Even labor has agreed that there is a temporary need for this adjustment; that it may be warranted due to current market conditions and global demands. Education and training of the U.S. labor pool is being outstripped by racing technological advances and industry competition. The Department of Labor has projected the high tech industry will create 130,000 jobs each year for the foreseeable future.

This is at a time when the U.S. Chamber of Commerce tells us our domestic labor pool is shrinking. Baby boomers are leaving a 23 million people labor short fall, and often it is difficult to replace them with employees who have the training and expertise to meet the needs of many highly technical areas.

Reports show fewer Americans seeking higher education are choosing the high tech fields of electrical engineering, computer science and mathematics. The number of Americans graduating with engineering degrees has declined 16% since 1985. Ironically, on the other hand, Mr. President, the United States is educating a higher percentage of foreign nationals in these subjects—48% of PHDs are foreign, 22% of undergrads are foreign nationals, and 42% of Master of Sciences candidates are foreign nationals.

There is great global competition for all of these graduates. Japan, Germany, India and China are trying to lure them away with better deals and more benefits. However, the American life style and standard of living are a strong incentive in keeping them here.

Another sector affected by the H–1B cap is the university/college community. A great deal of research and development is carried on at U.S. schools of higher learning. Temporary visiting scholars and research fellows from abroad have extended our base and expanded our scope of understanding in many fields.

The University of Minnesota has written me asking for my strong support of this issue. Their ability to bring foreign scholars and high level faculty to their campus has raised their standards and strengthened their international stature. Their need has become even more critical since the cap has been reached, because they process 40% of their applications for these positions between May and September. They need help now.

However, I would like to point out, Mr. President, we do need to look for a more permanent solution to this problem. We cannot rely on foreign expertise forever. We need to educate our young people to fill these vacancies. I applaud the inclusion in S. 1723 of the training and scholarship incentives for educating our own information technology workers. 20,000 college scholarships a year will be made available to low-income students in math, engineering and computer science through the State Student Incentive Grant program. It will increase training for the unemployed and help people cross-train into these fields. After the bill expires in 5 years, I am hopeful the supply of permanent, skilled American workers will be sufficient to meet industry's needs.

This bill enhances the current H–1B visas by increasing the penalties five times and improving enforcement against willful offenders, although there have been few enforcement actions in the past.

S. 1723, also, provides no-layoff protection for American workers and prohibits underpayment of temporary foreign nationals. In an industry where starting salaries for these skilled workers are between $35,000 and $75,000, by law H–1Bs are to be paid the middle wage of the prevailing scale. This wage is posted at the work site and registered with the Labor Department.

Let me close, Mr. President by saying that Minnesota companies such as Guidant, ADC Telecommunication, Ceridian (formerly Control Data), Imation (a 3M spin-off), Medtronic and the Carlson Companies should be able to fill their IT vacancies now with temporary foreign nationals without having to shift production off-shore. We need to keep jobs at home and benefit by the expertise and innovation brought to us by these global technicians. But more importantly, we need to review, upgrade and strengthen our U.S. educational system to the point where it can best serve our need for permanent talent driving the information technology explosion.

Mr. KENNEDY. Mr. President, I note that this bill contains authorization for programs that will assist in educating and training American workers for these positions. It is essential that we include education and training provisions within this bill, but I believe it is important that we go further.

In particular, I believe that employers who are using this program to fill short term needs should also contribute to programs that will educate and train American workers to fill these positions in the future. If we are going to increase the immigration quota, then I believe we have an obligation to assure American workers that they can get the training to compete for these goods jobs.

So Mr. President, I would hope that as this bill moves forward, we can continue to work together to secure funding for these programs as an integral component of this legislation, and in ways that assure that we are not taking away resources from other training programs to meet this need.

Mr. WELLSTONE. I am very pleased we could agree on language in the managers' amendment which authorizes new demonstration programs for technology skills training for American workers, provided that funding for such training does not diminish funding for existing federal job training programs. It is important that job-training provisions of this bill are consistent with extremely significant legislation we recently passed overwhelmingly to improve the federal workforce education and training system. I thank my colleagues for working with me to achieve that end.

Still, while many employers in this country are doing a great deal to educate and train technology workers, the clamor for a large increase in non-U.S. citizens to fill high-skill jobs here seems clearly to point to a lack both in those efforts and in our public job training system. Therefore I believe we also need to be sure that those who will benefit the most from any adjustment in immigrant policy will help us to address the underlying problem. We in the Senate cannot originate a revenue measure to fund the new training we authorize here. But it would be a serious mistake to enact a final bill that does not call on employers who have pushed for it and will benefit substantially from it to help pay for the new training authorized in the bill.

Mr. ABRAHAM. I too am committed to seeing to it that there is funding for these programs. As the Ranking Member knows, I believe that as far as the shortage of highly skilled workers is concerned, we have both a short term and a long term problem, and I believe these programs are an integral part of addressing our long term problem. I also believe the business community is already doing a great deal to help educate and train workers. That being said, I pledge to work with you, the other members of this body, the business community and other affected

outside interests to seek ways to help fund these programs consistent with the principle you articulated.

Mr. SMITH of Oregon. Mr. President, as a cosponsor of S. 1723, I rise today to support the American Competitiveness Act.

Mr. President, the H–1B immigrant visa program is not the preferred avenue of hiring by our U.S. high tech companies. Hewlett-Packard, which is one of Oregon's largest high tech employers, currently employs more than 65,000 people in the United States and uses only 140 H–1B visas. Of these 140 H–1B visas, 17 of them have Ph.D. degrees and the remaining of them have at least an equivalency of a Masters degree.

Our American companies would prefer to invest in Americans and retain the current domestic workforce. These companies collectively already spend, and will continue to spend, billions of dollars each year on training and educating American workers. Notwithstanding the current workforce, they are unable to fill key personnel slots, and it is critical in order to remain competitive, that they have access, through the H–1B visas, to these foreign-born professionals.

According to the American Electronics Association, the U.S. electronics and information industry creates high-skilled, high value-added jobs. The rapid advances in computer technology have increased demand for trained specialists like computer engineers, computer systems analysis, database administrators, and computer support specialists.

Even the Bureau of Labor Statistics predicts that demand for these occupations will more than double by 2006. Oregon's largest employer in the state is Intel. And with more than 10,000 employees in Oregon, Intel's job growth has grown 167 percent since 1990, creating almost 40,000 jobs worldwide.

In this age of a global marketplace, it is imperative that American companies have access to a legal supply of skilled professionals in the United States so that they can continue to grow and expand in the United States.

Failure to increase the H–1B cap will create significant uncertainty about the U.S. government's commitment to enable American companies to compete and participate effectively in the global economy. These companies will be faced with the tough decisions to either stay in the U.S. without a sufficient number of highly skilled staff or possibly move their research and development facilities overseas.

Mr. President, the American Competitiveness Act raises the current cap for temporary foreign workers to 95,000 in fiscal year 1998 and contains a five-year sunset for the additional H–1B visas. While raising the temporary H–1B cap, the American Competitiveness Act also increases education and training in the high technology field for American citizens and establishes a data bank on the Internet that matches domestic applicants with available technology jobs.

Mr. President, I commend Senator ABRAHAM for his leadership on this issue and urge my colleagues to support the American Competitiveness Act.

Mr. WELLSTONE. Mr. President, there is little question that our country faces a skills shortage in industries with a concentration of workers who utilize high technology and information technologies. In Minnesota, we have very low unemployment in general, and Minnesota technology industry employers are having a hard time finding workers with the skills they need. The Minnesota Department of Economic Security released a study last week called ''Beyond 2000: Information Technology Workers in Minnesota,'' which indicated that over 60 percent of information-technology employers in the state believe the shortage of qualified information technology workers is ''moderately'' or ''extremely'' serious. Representatives of the Minnesota High Tech Council have been in touch with my office. They believe that the provisions of the Abraham bill which raise the cap on the number of nonimmigrant workers allowed to come temporarily to work in the United States are necessary.

I agree that we want to make sure that immigration policy is consistent with our overall desire to remain the world's leader in high technology industries. The high tech sector is crucial in Minnesota. It is an engine of growth and a pillar of current very good economic performance by the state. I take seriously the argument that if the cap, which has been reached for this year, is not lifted, then a significant amount of U.S. high-tech business and a significant amount of jobs could actually be moved oversees.

At the same time, however, there are three areas of concern that I believe must be resolved in the bill before it merits support. First is the matter of job training for workers who are U.S. citizens. Much of the debate over the bill is focused on high tech workers. Clearly we would hope that when we are talking about good jobs—jobs that require significant information technology skills and which pay well—then we are making every effort to see to it that U.S. workers have a shot at those jobs. That means training.

As ranking member of the Labor Subcommittee on Employment and Training, I'm extremely pleased that we were able to complete and pass with an overwhelming vote recently a bill to reform the country's workforce training and education system. Still, even once that reform is enacted, following a conference with the House and passage of a conference report, I believe that the fact we are talking about a serious shortage of workers with technology skills indicates that our current federal job training system, even combined with the large amount of employer-sponsored education and training that is happening, remains inadequate. The skills shortage points to a failure in our efforts to educate and train.

I had intended to offer an amendment to improve the Abraham bill in this area. I am pleased, though, that we were able to agree to changes in the bill which first of all authorize new demonstration programs for technology skills training for American workers. That provision is in a managers' amendment, which it is my understanding will be accepted. The provision ensures that funding for that new training will not diminish funding for existing federal job training programs. It therefore is consistent with the workforce education and training reform we passed with such a large vote. It is crucial that a bill which aims to address a skills shortage in industries that have good jobs available take every step to make sure that our own citizens ultimately can become qualified for those jobs.

In my view, the new training authorized in the bill should be paid for largely with proceeds from a modest fee collected from employers for each application for the specialized visas. The Senate cannot technically originate a revenue measure to fund the new training we authorize here. But it is my hope that the House will include such a funding mechanism for new training of U.S. workers and that such a provision will be included in the conference bill. It would be a serious mistake to enact a bill that allows a large increase in the visas but does not call on those employers who will most benefit from the bill to help pay for the new training. I appreciate my colleagues' willingness to work with me on the provision that is included in the managers' amendment, and I appreciate as well the colloquy between Senators ABRAHAM, KENNEDY and myself indicating support from each of us for funding job training in this bill.

Mr. President, I also strongly support both amendments offered by my colleague Senator KENNEDY—one of the recruitment of U.S. workers for available high technology jobs and one regarding non-displacement of U.S. workers currently holding jobs in the information technology industry. They are moderate amendments and should be included in the bill.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not run against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. 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. ABRAHAM. Mr. President, at this time, I yield 10 minutes to the Senator from Arizona, Mr. MCCAIN, to speak on the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I rise today to express my strong support for S. 1723, the American Competitiveness Act, of which I am proud to be an original co-sponsor. Although it deals ostensibly with the visa cap on foreign-born high-tech workers, its effect would be far more profound—to enhance the competitiveness of the American economy at a time when U.S. companies, if given access to the necessary resources, are poised to dominate the Information Age for decades to come. As the representatives of the American people, we in Congress should do all we can to contribute to their potential for success in the global economy.

Mr. President, I want to say a special thanks to the Senator from Michigan, Senator ABRAHAM. Senator ABRAHAM brought this issue to the attention of my colleagues on both sides of the aisle a long time ago. It is a critical issue. It is far more important than it appears on its surface. As I mentioned earlier when we discussed this bill upon the contemplation of it coming before the Senate, the high-tech community, the ''silicon valleys'' all over America, are saying that they need to have skilled workers if we are going to maintain the dominance of this industry and remain competitive throughout the world.

The fact is that this piece of legislation is as important to our high-tech community as any that we will consider this year before the U.S. Senate. The taxing of the Internet is close. The issue of pornography on the Internet is close. But this issue of being able to have enough skilled workers to continue this incredible revolution going on in Silicon Valley, I believe, is of the utmost importance. The Senator from Michigan has led on this issue, and all of us are very grateful for his participation.

I might add that he had to go through some very delicate negotiations with the other side of the aisle in order to bring this issue to its conclusion.

I am convinced that the best thing government can do to advance the fortunes of the private sector is to stay out of its way. I support this bill because it makes progress toward that end while providing for the regulatory framework and new educational opportunities to protect and promote American workers. By raising the arbitrary cap on temporary immigrant visas for skilled foreign workers—a cap set in 1990, when the Democrats controlled Congress and the American economy was in recession—this legislation gets government out of the way of American companies, universities, and research labs which simply cannot hire the skilled professionals they need in the domestic labor market because of an arbitrary, anachronistic cap on H–1B visas that does not reflect the forces of supply and demand in the American economy today.

Opponents of this legislation surely cannot believe that government knows better than business what's best for business in America. We cannot and should not condemn American companies for wishing to remain competitive in the global marketplace. Indeed, we should encourage the companies that employ our citizens, contribute to our tax base, and produce the goods and services we consume daily to retain the competitive edge that has sustained them by whatever means are available within the law. If we do not consent to raising the cap on H–1B visas for skilled foreign workers, we will be handicapping the very American companies and their employees we profess to support as legislators empowered by the people to advance the public interest.

Critics having charged that this legislation subordinates the public interest to the private interests of American companies engaged in a vast conspiracy to hoodwink Congress and the American people so that they may replace American professionals with skilled foreign workers content with below-market salaries and no benefits.

Had these critics read our bill or spoken with those of us who support it, they would have had to devise new arguments against raising the H–1B cap by virtue of the emptiness of their own rhetoric. It is a fact that this legislation penalizes any employer which lays off an American worker in order to replace him with an H–1B visa holder and pays that individual anything less than the average prevailing wage in that line of work—a standard which often results in a higher salary than made by American entry-level workers. It is also a fact that the Department of Labor is empowered under the law to investigate and penalize willful abuse of the H–1B visa program and has done so repeatedly since the program began in 1990—a fact which disarms those militants who insist that there exist rampant fraud and abuse within the H–1B market.

This is not a debate about the facts, which are unambiguous. This is a debate about the way in which American society responds to the new challenges and opportunities offered by economic globalization and a knowledge-based economy. We can row with the tide or against it, but we will not have an equal prospect for success. Allowing more skilled professionals to enter the U.S. job market to fill jobs Americans are not filling will enhance the dynamism of the American economy by allowing it to more efficiently produce the goods and services demanded by the American consumer and those who buy American exports overseas.

Erecting barriers to the inflow of valuable human capital will not help American businesses, workers, or consumers. Businesses will suffer from the costs of a labor shortage which they are powerless to change in the short term. Workers will suffer when their companies lose the profits that would accrue from hiring the skilled workers that are unavailable. And consumers will pay higher prices for the goods and services which are available while going without those which are not. Everyone will lose as American companies shift production overseas to the sources of the specialized labor they cannot attract in the United States.

Mr. President, the Information Technology Association of America estimates that there are more than 346,000 unfilled positions for highly-skilled workers in American companies today.

A recent Department of Labor study estimates that the American economy will generate 1.3 million new jobs during each of the next ten years in the computer and information-technology industries. The same study predicts that American universities will be able to supply only a quarter of the graduates needed to fill those jobs during that period. The Hudson Institute predicts that in a few years this worker shortage, if not addressed, will cause a five percent drop in the growth rate of the gross domestic product, which breaks down to a startling $200 billion loss in national output.

In the words of T.J. Rodgers, President and CEO of Cypress Semiconductor Corporation, ''It takes two percent of Americans to feed us all, and five percent to make everything we need. Everything else will be service and information technology, and in that world humans and brains will be the key variable. Any country that would limit its brain power to single select group from that country alone is going to self-destruct.''

I support this bill because I do not wish to encourage more U.S. companies to set up shop in India, Pakistan, Costa Rica, and other sources of skilled labor unavailable in sufficient quantities in the United States. I support this bill because I do not think a job is better going unfilled that going to an educated foreign national on a temporary visa to the United States. I support this bill because I believe the Information Age will be built upon a globalized market for people and technology, not upon barriers to the free flow of goods, services, and professional workers. I support this bill because I do not believe the endless advertisements for specialized labor at attractive salaries in the Employment section of the Sunday newspaper represent a conspiracy by Big Business to fool us all into thinking there really are jobs on offer in many of America's fastest-growing companies. I support this bill because I do not think the government is a better judge of the needs of American companies, universities, and laboratories than are the very companies, universities, and laboratories that have urged us to write this legislation.

Mr. President, I, for one, do not take the health of the American economy or the fabulous returns offered by Wall Street for granted. America prospers when we allow entrepreneurs, small businesses, companies, universities,

and research labs to create wealth and knowledge. Government does not cause economic growth; hard-working people do. It is appalling to think that we would stand in the way of those who would temporarily come to our country to add their value to the economy by working in jobs Americans cannot and do not fill.

Over the long term, we must see to it that American workers possess the skills and know-how to fill the jobs created by American high-tech firms. For this reason, our legislation provides for 20,000 new college scholarships annually for low-income students in math, engineering, and computer science through the State Student Incentive Grant program. Our bill also sunsets the higher H–1B visa cap after five years so we can determine whether an increased supply of foreign professionals remains necessary to our economic well-being.

American unemployment levels stand at their lowest levels in over two decades. Americans are not responding to the ''Wanted'' ads in their local newspapers for high-tech and other skilled positions at U.S. companies, universities, and research centers. Company recruiters are hounding college students—on campus, in the libraries, *even at the beach* during Spring Break—to sign on to lucrative contracts with American firms.

Mr. President, we simply cannot afford to allow this desperate trend to continue. The 65,000-person cap on H–1B workers for Fiscal Year 1998 was reached last week. American companies cannot meet their hiring needs until the new Fiscal Year begins on October 1 unless Congress acts now. Should we fail to do so, we will all pay the price imposed by our shortsightedness. The Information Age and the global marketplace are a reality which we neglect at our peril when we refuse to provide the regulatory framework within which the American economy can thrive and Americans can prosper. The American Competitiveness Act deserves our support.

Mr. President, in addition, this is the last of several bills that we call high-tech bills. I think it is the most important one. I hope that we in the Senate recognize that we need to enact further legislation to help high-tech industries in America.

What has happened is remarkable. What has happened is fragile. And what has happened deserves our attention and support as we provide an enormous growth in opportunity, growth in the way of economy and opportunity to provide knowledge to all Americans and all citizens of the world in the most unprecedented fashion; in fact, the most remarkable changes taking place in the world since the industrial revolution.

I appreciate the cognizance by the Senator from Michigan of this fact and his responsibility for this important legislation.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I would like to thank the Senator from Arizona for his support of this legislation. He has been a great ally with regard to not only this bill but, as the Presiding Officer knows, a variety of other similar legislation to make America more competitive. I thank him for having helped me to move the legislation to the floor today. He has been a great friend and ally on this.

I now yield up to 10 minutes to the Senator from Washington to speak with respect to the legislation.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, this debate on the bill of the Senator from Arizona and his opponents, or those who would significantly change it and limit it, is a debate between optimists and pessimists about the American condition. Senator ABRAHAM's proposal stems from the proposition that we are in a society so dynamic, changing so rapidly, with so many new technologies on each and every day, that we can do nothing but benefit by recruiting into that economy the most highly skilled people from dozens of nations around the world who seek to make their contribution to humanity as a part of the United States of America as against the nations from which they come, hobbled by societal and governmental restrictions. A large number of the men and women on whom this battle is being waged have been educated here in the United States and have already begun to become a part of our culture. It is the theory of this bill, a theory borne out by the experience of H–1B so far, that not only are these men and women who seek to become Americans contributing to their own well-being and to the progress of our society but are, in fact, creating jobs for others.

The opponents of this bill, those who would restrict it, those who would tie it by all kinds of restrictions so as to make it impracticable for most of the high-tech companies of the United States to use, still believe implicitly in a zero sum economy—that any job, no matter how skilled, taken by someone who was born somewhere else will inevitably result in a job being deprived from some person born in the United States of America.

They do this despite the fact that at the hearing on this bill, as I understand it, the Department of Labor could come up with only one example of a true displacement and a guess that there might be two or three others somewhere across the United States.

So, Mr. President, if you believe that we are not really competitive, that we can't grow, that every job that one person takes of a skilled nature simply comes at the expense of another job already there, then of course you can support the amendments proposed by the Senator from Massachusetts and by the administration, and wreck a system that has already been so successful that we need to expand it in order to meet the expanding needs of a dynamic and growing American society and American economy.

I find it particularly curious that these attempts to say that every recruiting company must follow rules set out by the Government in recruiting and in retention, detailed rules with major penalties for noncompliance, have made no such proposal with respect to the great bulk of American immigration.

We get tens, hundreds of thousands of immigrants every year who come to the United States under the guise of family reunification, as seekers of political asylum, as refugees, the great bulk of which have few, if any, skills and over whom there has been a major debate lasting over the last 3 years as to their eligibility for various forms of welfare and who, when they get jobs in order to get off welfare, will be taking the lowest skilled jobs that the United States has to offer where there may well be a real displacement. Yet, these requirements, the requirements of the amendments we are about to deal with, do not deal with these immigrants coming in far larger numbers than the extra 30,000 skilled employees about whom we are speaking at the present time.

Mr. President, the proposal of the Senator from Michigan is a proposal for a dynamic future for the United States. It is a proposal that will not only create opportunities for men and women, many of whom are educated in the United States, and others of whom are exceptional people for themselves, but for the new jobs and the new opportunities they will create.

Let me just take one or two examples of a specific company and the way in which it would be impacted by the proposed amendments. My friends at Microsoft tell me they will have hired an individual for a 12-month contract to do a very specific task, say, to develop an Internet site for stamp and coin collectors but then determined that there wasn't enough to warrant going on with the project and dismissed the employee. The proposed amendments backed by the administration would prevent Microsoft from hiring any new H–1B worker for any project for a period of at least 3 to 9 months, or if someone is dismissed because they have worked on a project and are experts at something which is now an anachronism, you cannot hire a new one through H–1B for something that looks to the future and is totally and completely different without meeting all of these restrictions.

Today we have an example of the Clinton administration's desire to have lawyers and judges design computers. In the amendments this afternoon, quite consistent with that philosophy, we have its desire to act as an employment agency for all of the high-tech companies in America, to tell them who they can hire, when they can hire

them, when they can fire them, and what the restrictions on them will be.

That is not the way we caused our economy in the course of the last 10 years to be one about which we have many questions, many jealousies of the Japanese and of others to the point at which we clearly dominate the world in the very fields in which this bill by the Senator from Michigan is designed to keep us preeminent.

I congratulate the Senator from Michigan for his dogged determination to see to it that we get to this vote and to say that we should deal with it with no amendments other than those of which he approves.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just while my friend from the State of Washington is here, I would ask him if he would read through both the amendments which I intend to offer about protection against displacement of U.S. workers, because the Senator has misstated what my amendment does and then differed with it. The amendment is very clear. It says:

For purposes of this section the term ''replacement'' means the employment of the nonimmigrant at the specific place of employment in the specific employment opportunity from which the United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

That is identical language to what is in the Abraham amendment. So it is difficult—when the Senator talks about Microsoft talking about laying off some employee, not being able to hire someone for 6 months is completely inaccurate. I intend to speak further, but if the Senator wanted to make some comment I would be glad to hear it. But I hope perhaps he might look at page 2 at the definitions of the amendment and I think he would find it is different from what the Senator has stated.

Mr. GORTON. Mr. President, this Senator simply wishes to report that the Kennedy amendments place the Department of Labor in the shoes of most of these employers with respect to the criteria with which they will engage in employment. We have sent the amendments that the Senator from Massachusetts proposes to the companies that will be affected by them and asked them, the people who are engaged in these hiring activities, what the impact will be. They report to us exactly what I have told the Senate here today. They report, in fact, that the Kennedy amendments are so disastrous for their recruiting they will be worse off with 95,000 H–1Bs and the Kennedy amendments than they would be to retain present law.

I, for one, am willing to accept the views of the employers in the high-tech community on the impact of these amendments as being exactly what they feel would apply to them. They do not want the Department of Labor making more of their employment decisions than they are making today.

Mr. KENNEDY. Well, Mr. President, this is the problem. Some companies distort and misrepresent what these amendments are. All The Senator has to do is read the amendment. In the recruitment area, our amendment says:

Take such steps to include a good faith recruitment in the United States using procedures that meet industry-wide standards.

Those are industry-wide standards. All we are trying to do is protect American workers. If there is a job out there and an American can do it, we are saying let him or her have the first crack at it. Let's not displace an American worker with a foreign worker and then find the corresponding pressure that is put upon them.

As I mentioned before, over 90 percent of the workers who are coming in are making $75,000 or less. So it is difficult for me to listen to the Senator from Washington talk about the kind of esoteric job he was looking at in terms of what might be needed for Microsoft and relating it to the more than 90 percent of workers who earn less than $75,000 per year. These are the workers—75 percent earn less than $50,000 and 16 earn more than $75,000. It seems to me we ought to be able to develop the training programs for those workers.

I would like to read through a few of the letters we have here that I mentioned earlier. One is from February of this year from Mr. Whittlinger in Torrance, CA.

Chalk up a Republican's support for your stand on not allowing foreign high tech immigrants in until and unless more Americans are given a chance first. I am unemployed (downsized) and cannot get a job, yet I see companies bring in foreign programmers over hiring me who is already trained (although perhaps not to latest technology/program languages). But I also see a reduced quality and wages (which I think is the primary goal of these companies.)

This is from a technology information worker who expressed his views on this particular provision.

Jay Roberts from the State of Maryland writes:

Currently, I work in the information industry as a senior level individual. My observation is there is little if any shortage.

This is a recruiter who says he is in the information industry. And he says:

We are quite capable of hiring all the qualified help that we need at currently prevailing wages. Should there be any question on this point, prepare the most qualified software resume of which you can think and send it to Microsoft. There is a 95 percent chance that they will not even acknowledge it.

There not being a true software professional shortage makes us face this for what it is—the H1B program is in effect an indentured servant program. H1B workers typically work at lower wages than Americans, and with less complaint.

* * * * *

The current technology revolution has the promise of restoring broad middle class prosperity, which has been severely eroded. . . .

* * * * *

If wages do increase to reflect temporary shortages, this soon corrects itself by more college graduates and career challenges.

* * * * *

Please demonstrate that you support the goals, prosperity, and future of your constituency by opposing increases in the H1B quotas. Furthermore, please begin efforts to force H1B employers to proactively demonstrate that they are hiring and training U.S. citizens prior to any H1B approval.

This is to President Clinton on the same issue, from Mr. Burns, of Portland, OR.

If companies are truly so desperate for engineers they should try raising salaries or expanding in areas of the US outside of Silicon Valley. And if the visa limit must truly be raised, then companies who hire H1B engineers should be willing to never layoff US citizen engineers, but I doubt they'll ever accept that.

High-Tech companies are always in favor of a free market and want to limit government intervention. But, when it comes to employment, they demand special treatment rather than letting supply and demand dictate salaries.

I guess he must be referring to what the GAO report showed, that there hadn't been any noticeable, significant increase in salaries in these areas. Generally, when you get a shortage of the professional personnel, salaries go up: Supply and demand. The GAO review of the Commerce Department's study indicates there is no increase, virtually, in these salaries. That is what we are seeing, and we are hearing from a lot of these American workers, who are trying to find employment.

Here is a letter dated February of this year:

Dear Mr. President,

I am graduating with a degree of computer science this spring. I am in deep debt and hope to find work quickly so I may repay it.

If you allow them to raise or eliminate the current 60,000 person quota on foreign computer workers it will be nothing less than a knife in my heart.

* * * * *

I hope you are on the side of indebted college students on this one.

You know, the list goes on. Here is the letter from Martin Rojo, San Mateo. He said:

. . .I am a professional software engineer who conducts hiring interviews. I can state that in my experience there is no shortage of qualified workers. While it is rare that someone exactly matches a job description in the esoteric world of software and hardware, the candidate's mental acumen is a more important indicator of success than any specific language or platform.

The real purpose behind any attempt to lift visa restrictions is, in my opinion, to allow importation of cheap labor. Part of my past coworkers were hired on H–1B visas, and they were tied to an employer in the manner of an indentured servant, while perfectly qualified American citizens did not get the job. This might be fine in farm labor, but there are many Americans who would fill the open positions if allowed.

We are basically saying OK, let's increase the numbers in a temporary way. But let us also develop training programs so Americans can fill those jobs in the future. And let's say no to displacing American workers with foreign temporary workers. And let's also

say that there must be at least minimum efforts to recruit Americans, following whatever the industry standard is.

All they have to do is attest, check the box, ''We have followed the industry standard and attest we have tried to hire an American.''

I find it difficult to understand, among our colleagues here—what is wrong with seeking American workers for these jobs? What is wrong with just asking employers to observe a requirement to recruit American workers? That is what these amendments do. They ensure that employers are at least going to make an effort to try to recruit Americans and make assurance they are not going to lay off Americans and to displace those Americans from a job that will then be filled by a foreigner.

It seems to me, if we had those two measures and an effective training program, then we could respond to whatever the needs of the information technology industry are for the best and the brightest workers.

But it comes down, Mr. President, to what we do for American workers who, despite doing a good job, in many instances, have been displaced. We find out that there is basic prejudice and discrimination against them. I think that is wrong.

I reserve the remainder of my time.

Mr. ABRAHAM. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Washington is recognized.

Mr. GORTON. Perhaps, Madam President, I owe the Senator from Massachusetts an apology. Perhaps it is true that he knows better than these high-tech companies whom they ought to hire and when they ought to hire them. Perhaps his effectively granting to the Department of Labor the determination of when a layoff is a layoff and when it is not, when a replacement is an appropriate replacement and when it is not, will be dealt with entirely benignly and will not harm any of our international competitiveness.

But, Madam President, I think not. I believe that these companies are better judges of their own needs than is the Senator from Massachusetts or the Department of Labor. And I am convinced that, looking around us, we can see how well this system has worked for the last 10 years, as evidenced by the dynamism and the growth of the American economy matched by no one else. Let's extend what already works rather than destroying what already works. Let's be optimists and not pessimists.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I will yield at this point to the Senator from Ohio, up to 10 minutes. I believe we have used all of our time on the bill, so I yield 10 minutes to him, off of one of the amendments that are time controlled.

Before he speaks, I thank the Senator from Ohio for his work and his staff's efforts to work with our staff and the staff of the ranking member and Senator LIEBERMAN and several others, and especially the Senator from Vermont, the chairman of the Labor Committee, to craft what will be ultimately a provision in the managers' amendment that I think effectively begins to address the issue of job training as a part of this legislation.

At this point, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I am proud to be a cosponsor of S. 1723, the American Competitiveness Act. I'd like to commend Senators ABRAHAM and HATCH for introducing such a well crafted piece of legislation.

I think the title of this bill—the American Competitiveness Act—is especially appropriate, since we are talking about a bill that will make our companies stronger and more able to compete in the global marketplace. None of our businesses can run efficiently when they are understaffed—and in today's marketplace there are plenty of overseas competitors who will pick up the slack and take away our customers if we give them that opportunity.

When the Commerce Department, using the Labor Department's data, projects that our economy will continue to grow at such a rate that more than 1.3 million new information technology jobs will be created over the next decade—but that our universities will produce less than a quarter of the necessary number of information technology graduates, simple math tells us that there will be a shortage of these highly skilled workers.

It may surprise people that the high-tech industry is not just about Silicon Valley. Ohio now ranks 10th in the nation in high-tech employment and 8th in high-tech exports. In Ohio, these jobs, on average, pay close to $14,000 higher than Ohio's average private sector wage—$14,000. I want to keep these jobs in Ohio and I don't want to see them moved overseas.

But let's look beyond statistics at what some of the largest employers in our country are telling us. They are the one we need to listen to. NCR, a leading high-tech company based in Ohio, has expressed concern that the estimated 340,000 high-tech worker shortage nationwide could affect NCR's ability to fill key high-tech positions. TRW, which is also based in Ohio, is a good example of how this shortage of skilled workers affects more than just the information technology industry. TRW, which produces safety equipment for the automotive industry and equipment for the defense industry, tells me that only one U.S. citizen for every 10 foreign students apply at TRW when they go onto a college campus to recruit. The company currently has 1,100 openings nationwide. These unfilled jobs are not helping this company to expand and create more jobs.

Procter & Gamble is another Ohio-based company that uses H–1B visas to hire about six to ten foreign nationals a year. Some people may wonder why such a low number of employees are so essential to a company's productivity, but these specialized scientists, many with doctoral degrees, are needed for key projects. Reaching this year's arbitrary limit on H–1B visas will prevent all employers from filling such specialized positions until the next fiscal year begins, thus delaying some key projects for up to six months. When those key projects are delayed, this means other American workers cannot work, other American workers will not be able to work on these projects. In our global marketplace, competitiveness demands that our companies be able to beat their overseas competitors to market. Any delay in the product cycle—from innovation or creation to production—impedes such competitiveness and could result in such companies moving their operations overseas where such hiring limitations do not exit for their overseas competitors.

Also, in a global marketplace, it only makes sense that small and large domestic companies must cater to a wide range of customer preferences and needs—they must know what the traditions and cultures of all of the countries are that they serve. I would rather have these companies hire a few foreign workers under our H–1B visa program, rather than have these companies move their base of operations—and American jobs—overseas.

The best and the brightest of the foreign workforce are brought into our country under the H–1B system. These are productive men and women who create innovative technologies—many receiving patents for the U.S. companies they work for—and whose ideas launch new projects and, thus, create new jobs for our domestic workforce.

I am a firm believer in educating and training our domestic workforce from within, so that this shortage of highly skilled labor may one day be solved. I strongly believe that part of the solution to this shortage depends on how we raise and educate our children and teenagers—this is why the 20,000 scholarships per year created under this bill (some for low income students) for math and engineering and computer science majors is such an important part of the bill, and such a strong contribution. I again salute my colleague from Michigan for inclusion of this Provision in the bill. Improving the educational process—whether it is job training focused on teens and adults, or math and science courses for children—is not something that can be achieved overnight. We must realistically face the shortage of highly skilled, high-tech workers and allow our companies to hire the workers they need to stay competitive in this global marketplace. The world will not wait for us to catch up in the math and science fields. We must move forward.

The enforcement penalties included in the bill will also help us protect our

domestic workforce form those who willfully violate the H–1B program. First, the bill increases penalties for such violators by 5 times the current penalty—by increasing fines from $1,000 to $5,000. The bill also provides for a 5-year probationary period during which spot inspections of the violating firms may occur at the discretion of the Department of Labor. The bill also adds a $25,000 fine per violation, and a two-year debarment from all employment immigration programs, in cases where an employer lays off a U.S. worker and willfully underpays a H1–B worker to replace the U.S. worker.

This bill also modifies the per-country limits an employment based visas. This modification will help prevent further discriminatory effects that the current per-country limit creates for otherwise qualified people from China and India.

I strongly support Senator ABRAHAM's bill. I believe it contains essential provisions to protect our domestic workforce from willful violators by increasing fines and investigative or probationary periods. Out domestic employers and workforce need to have the cap on H–1B visas raised in order to remain competitive. I urge my colleagues in the Senate to vote in favor of the Abraham bill.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I thank the Senator from Ohio for his support and help on this legislation. As I said before, it is especially appropriate to thank him because of his leadership on the entire topic of workforce development. He is the chairman of the Senate subcommittee that deals with preparing our workforce, job training and other similar topics. I know his support of the approach we are taking in this legislation should satisfy Members on both sides of the aisle, given the respect with which he is held on these issues, that the legislation which we are working on today addresses the concerns of the long term of how we are going to prepare American workers to hold these jobs when this short-term solution expires. I thank him.

Madam President, I suggest the absence of a quorum and ask that the time not be assessed to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KENNEDY. I yield myself 11 minutes.

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

THE TOBACCO LEGISLATION AND YOUTH SMOKING

Mr. KENNEDY. Madam President, we will be moving towards the votes as set out by the two leaders for votes on these amendments in approximately 2 hours. But while there is a brief moment, I would like to address the Senate on one of the issues that we will be addressing later this evening and on tomorrow. That is the amendment that will be offered hopefully in a bipartisan way by Republicans and Democrats on the tobacco bill to raise the cost per pack of tobacco from $1.10 to $1.50.

I have hopes that this will be a bipartisan amendment since there have been Republicans and Democrats who have supported that position both in the Finance Committee when the Finance Committee accepted that concept last week and also in the Budget Committee. I think that there are those on both sides of the aisle that support that particular measure.

I will strongly support the measure and welcome the opportunity to be one of those who commends that position to the Senate, when it is hoped, we will have some determination on that as one of the first orders of business. I believe that under the proposition, which will be announced later on this evening by the two leaders, that will be one of the measures which will be addressed and voted on tomorrow. So I will just take a few moments now to express my strong support for increasing the cigarette price by $1.50 per pack.

Mr. President, youth smoking in America has reached epidemic proportions. According to the report issued last month by the Centers for Disease Control Prevention, smoking rates among high school students have risen by nearly a third between 1991 and 1997. Among African-Americans, the smoking rates have soared by 80 percent. And more than 36 percent of high school students smoke—a 19-year high.

With youth smoking at such a crisis level and still increasing, we cannot rely on half measures. Congress must use the strongest legislative tools available to reduce youth smoking as rapidly as possible.

The amendment we will have before us tomorrow will provide for a cigarette price increase of $1.50 per pack over the next 3 years. The $1.10 per pack increase over 5 years in the managers' amendment is not adequate to achieve the youth smoking reduction goals of 60 percent. And by raising it by $1.50 instead of $1.10 a pack, we can deter an additional 750,000 children from smoking over the next 5 years. That will mean 250,000 fewer premature deaths from tobacco-induced illnesses.

Public health experts have overwhelmingly concluded that an increase of $1.50 a pack is the minimum cigarette price increase necessary to achieve our youth-smoking reduction goals.

Dr. C. Everett Koop and Dr. David Kessler, the National Academy of Sciences, the American Cancer Society, the American Heart Association, the American Lung Association, the American Medical Association, the ENACT Coalition, and the Save Lives Not Tobacco Coalition have all stressed the importance of a price increase of at least $1.50 a pack. It is the single most important step we can take to reduce youth smoking.

More than a third of the Senate have already cosponsored bills proposing the $1.50 a pack increase. The Senate Budget Committee endorsed $1.50 on a bipartisan vote of 14–8 in March. Last Thursday, a bipartisan majority in the Finance Committee voted for a cigarette price index of $1.50. Too many young lives are at stake for us to ignore the advice of all the public health experts.

Mr. President, the $1.10 increase, on the other hand, simply will not do the job. According to the University of Illinois' Professor Frank Chaloupka, the Nation's leading authority on the impact of higher cigarette prices on teenage smoking, an increase of $1.50 a pack would reduce youth smoking by nearly 50 percent. When combined with the youth access provisions and other tobacco control measures, the $1.50 per pack increase will reduce youth smoking by 60 percent and reach the target that we have set. In addition, if the tobacco industry plays by the rules and no longer targets young Americans with their advertisements and promotions, no look-back penalties would need to be applied above the $1.50 a pack increase.

According to Professor Chaloupka, the $1.10 increase will reduce youth smoking by only a third. Even with the nonprice provision in the tobacco legislation, it would be very difficult to achieve the targets for reducing youth smoking.

Ask any parents if saving 750,000 additional children from a lifetime of nicotine addiction and tobacco-induced disease is worth the extra 40 cents needed for the $1.50 price increase instead of the $1.10 increase.

Ask any person who is concerned about the health of the Nation's children whether we should do all we can to prevent these young Americans from taking up this deadly habit.

The vast majority of the American people support the $1.50 per pack increase and Congress should support it, too. Ask any taxpayer if they want to continue to shoulder the burden of paying the health costs of the Nation's smokers. Seventy-five percent of Americans do not smoke, yet the Department of Treasury finds that they pay $130 billion each year for the health costs in lost productivity of the 25 percent who do smoke.

Ask any American if they have had enough of the tobacco industry's distortions and denials of the addictiveness of nicotine or about the industry's cynical marketing of cigarettes to children or about the industry's decades-long coverup of the health risks associated with smoking.

This is an industry which once argued that cigarettes are no more addictive than Gummy Bears. This is an industry that used Joe Camel in advertising blatantly designed to hook children on smoking, yet they now ask us to believe that a $1.10 or $1.50 increase will lead to big tobacco's bankruptcy and a rampant black market for illegal cigarettes.

The challenge is clear. One million young people between the ages of 12 and 17 take up the deadly habit each year—3,000 new smokers a day. The average smoker begins smoking at age 13 and becomes a daily smoker before age 15. One-third of these children will die prematurely from a tobacco-induced disease.

Once children become hooked on cigarette smoking at a young age, it becomes increasingly harder for them to quit. And 90 percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenaged smokers say they intend to quit in the near future, but only a quarter of them actually do quit within the first 8 years of beginning to smoke.

The tobacco companies have known these facts for years. They are fully aware that they need to persuade children to take up smoking in order to preserve their future profits. That is why big tobacco has long targeted children with billions of dollars in advertising and promotional giveaways that promise popularity, excitement and success for young men and women who take up smoking.

The recent documents released in the Minnesota case against the tobacco industry reveals the true extent of the industry's marketing strategy to children.

In 1981, in the Philip Morris memo, ''Young Smokers, Prevalence, Implications and Related Demographic Trends,'' the authors wrote that:

> It is important to know as much as possible about teenage smoking patterns and attitude. Today's teenager is tomorrow's potential regular customer. The overwhelming majority of smokers first begin to smoke while still in their teens.

The smoking patterns are particularly important to Philip Morris. Furthermore, it is during the teenage years that the initial choice is made. Nothing is done to reverse this trend in adolescent smoking. The Centers for Disease Control and Prevention estimate that 5 million of today's children will die prematurely from smoke-caused illnesses.

The American public has had enough of the daily tragedy of death and disease caused by tobacco use. They are demanding dramatic action by Congress to drastically curb youth smoking. This Congress will be judged in large measure by whether or not we respond effectively to that challenge. Increasing cigarette prices by $1.50 is the most effective way to reduce teenage smoking. The public health community agrees it is the minimum increase needed to achieve the national goal of reduced youth smoking by 60 percent over 10 years. Study after study has shown that raising cigarette prices is the most powerful weapon in reducing cigarette use among children, since children have less income than adults to spend on tobacco, and most children are not yet addicted.

Philip Morris, the Nation's largest tobacco company, concedes as much in an internal memorandum as far back as 1981. That memorandum stated, ''It is clear that price has a pronounced effect on the smoking prevalence of teenagers.'' And the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes. In 1982, R.J. Reynolds said essentially the same thing in that ''the key finding is that younger adult males are highly sensitive to price. Price may create a barrier which prevents the appeal from developing into an ongoing choice to become a smoker.''

Canada increased its cigarette prices between 1980 and 1981 until there was a $3 difference in cigarette prices with the United States overall. An increase of $1.50 a pack is clearly realistic. In addition, it is not likely that the $1.50 increase in the manufacturers' level will turn into a much higher real price increase at the retail level.

The difference between a $1.10 increase and a $1.50 increase is literally that 750,000 more children will be deterred from smoking over the next 5 years. We shouldn't sacrifice these children to a lifetime of tobacco-induced illnesses. The lives of these children hang in the balance.

The American people are calling on you to have the courage to act. The $1.50 increase has broad public support. The public health community deserves the support of the full Senate, too.

AMERICAN COMPETITIVENESS ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, would the distinguished chairman of the Immigration Subcommittee yield me 5 minutes to speak on behalf of his bill and against the Kennedy amendments?

Mr. ABRAHAM. I yield the Senator from Texas such time as he may need. I believe this would have to be yielded from time that is to be available for the amendments

The PRESIDING OFFICER. The Senator is correct. There is 1 minute 20 seconds remaining on the bill.

Mr. ABRAHAM. I yield 5 minutes from the time reserved for our side.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Madam President, I thank our dear colleague for yielding. I congratulate him on this bill, the American Competitiveness Act.

Over the years, we have wisely attracted the best and brightest to America. We have recognized that having talented people come to our country to work has not only not displaced American workers, but it has created an intellectual base that has help create millions of jobs.

I want to congratulate Senator ABRAHAM for this bill. I think it is vitally important, and I am proud to be a supporter of the bill. I think it is interesting to note that the companies most strongly supporting Senator ABRAHAM's bill are America's fastest growing companies. These are the companies that are creating most of the new jobs in America. Especially those companies that are in high-tech areas and research areas that are primarily responsible for generating the new products, the new know-how and the new technology that will create jobs now and in the 21st century.

I understand that Senator KENNEDY will be offering two amendments. Although they have not technically been offered yet, I know enough about the amendments to know that I am opposed to them. Senator KENNEDY is trying to preserve the jobs of the 1950s. Senator ABRAHAM is trying to create jobs now and in the 21st century. Senator KENNEDY believes that if we can keep new, talented people out of America, as a contributory factor to the intellectual base of our country, we can induce innovative businesses to hire more Americans. Senator ABRAHAM understands that we need an intellectual base to help us create the products and the technology that will create thousands and ultimately millions of new jobs.

In these two amendments that will be offered, we really have a debate between the past and the future. The past deals with the idea that we can somehow protect jobs by keeping talented people out of the country. The future is a recognition that America has literally drained the brain talent of the world by bringing talented people to America, and, in the process, talented people here have found more opportunity, more freedom, than any other people who have lived. They have created an economic system that is unrivaled throughout the world.

The first amendment Senator KENNEDY will offer states that if a company brings in an H–1B visa worker, and later has to lay someone off, the company is in violation of the law. The problem is that in dealing with innovative companies, people are hired based on creating new products and based on success of their research. To force a company to guarantee that it will not, in the next 6 months, have to lay anyone off is to ask them to guarantee the success of their research. As we know from the experience of Europe, which is still trying to follow the policies of the 1950s that are built into the Kennedy amendments, if a company does not have the right to lay people off when a project fails, it can not take the risk to

hire the very people who make it possible for it to succeed.

The second amendment deals with giving the Labor Department the ability to make a final judgment and to second-guess an employer as to whether or not a person who is a resident of the United States could have been found to do the work. I simply want to remind my colleagues that the existing law states that a company can not bring in an H–1B worker from outside and pay them less than either the prevailing wage or the actual wage. So it is not a case of bringing in people who will work for less.

Also, the bill offered by Senator ABRAHAM strengthens current law by providing a $25,000 fine and a 2-year debarment from the program for those who willfully violate the law.

So the question is: If there are talented people who can come to our universities, to our research labs, to our high-tech companies bringing with them human capital that can help us create technology and products that will put millions of our own people to work, why not ask them to come to America, instead of inducing American companies to invest abroad in order to employ them in their country?

It seems to me that the most revealing thing about this whole debate is the companies that use this H–1B program are the companies that have the fastest growing employment base of American citizens. We are not talking about companies that are experiencing declining employment trying to bring in technical people from abroad. It is companies in Silicon Valley that want to bring in people with special expertise. This will allow these companies, through the application of their genius to practical business problems, to hire hundreds and ultimately thousands more people.

If Senator KENNEDY's amendments were valid, the companies that use this program would be companies where employment is declining. But the plain truth, as is evident to anyone who looks at the data, is that the companies using these programs are companies that are creating the largest number of jobs in America.

So if Microsoft—assuming the Government doesn't put them out of business by trying to limit technology—can put hundreds of thousands of Americans to work by bringing someone to this country who has special expertise, why not let them do it. Especially when this bill strengthens the law by imposing a $25,000 fine on companies that violate procedures aimed at dealing with the legitimate problems raised by Senator KENNEDY and others—-that people will be brought here who will work for less and therefore undercut the wage base of American workers.

So I hope these two amendments will be defeated. I think it is very revealing that our high-tech industries say they would rather not have the bill if the Kennedy amendments are adopted. That suggests to me that the purpose of the amendments are to kill the bill.

Mr. KENNEDY. Madam President, I yield myself 4 minutes on the amendments.

As I am sure the Senator from Texas knows, about 85 percent of these jobs earn $75,000 a year, or less. I am just wondering what we have against Americans and American workers that we are so prepared to turn over these good jobs to foreigners.

Now, if the Senator wants to say, well, what about these $75,000 jobs? The GAO pointed out that there is no increase in the salary of these workers. I thought supply and demand said that if we have that great a demand, we are going to see an increase in salaries; right? Wrong. The GAO report says there is no indication of that.

So these are good jobs. I say, let's try an American first. Let's develop the kinds of skills employers need so that we won't need to have this continue after the expiration of this particular proposal. Let's try an American first. And if we are not going to do that, let's just ensure that an American who is in that job and working, as the record demonstrates today, isn't going to get laid off and replaced by a foreign worker who then is going to work longer hours and be threatened day after day that if they complain at all, they are going to have their green card taken and they will be shipped overseas. That is the case, in many instances.

Madam President, I find it difficult to just accept the Senator's argument that this really is just the pure free market system working at its best. I think we owe something to American workers. It is so interesting that all of these companies want to have a free enterprise system—except when it comes to paying wages and salaries. Then they want to do it and get cheaper workers in from overseas and then exploit them. We want to protect against that. That is what those amendments would do.

I withhold the balance of my time.

Mr. GRAMM. Madam President, I ask the Senator from Michigan to yield me an additional 5 minutes.

Mr. ABRAHAM. Madam President, I yield an additional 5 minutes to the Senator from Texas.

Mr. GRAMM. Madam President, first of all, I always welcome Senator KENNEDY giving me lectures about supply and demand. I wish I believed in my heart that he believed in supply and demand.

Secondly, one of the purposes of the bill is to add teeth to the provision about hiring Americans first. This is done by imposing a $25,000 fine on people who displace American workers in order to hire H–1B workers, or people who violate the law that prohibits hiring these workers at less than the current wage rate.

Obviously, we are talking about very talented people when we are talking about people coming in for salary of $75,000. I have to admit that I am somewhat struck by the paradox. Only last week, we were debating an effort I had undertaken to make people who come to America, come with their sleeves rolled up, rather than their hand held out to get food stamps; and last week the Senate voted to give them food stamps for 7 years.

When the Senator from Michigan says, we should let very talented people come and not let them work for less than Americans, and if they can bring talent that will make American products more competitive and help create American jobs, we should let them come in and work in limited numbers, under strict requirements. I think one might be confused to hear that we are perfectly willing to let people come here and go on welfare; it is when they want to come and go to work that we have an objection. Well, I do not.

I go back to the point that the companies who are hiring these people are not companies that are in decline. I know the Senator feels this concern in his heart, and I have no doubt about the sincerity of his position. If these were companies in decline and they were trying to drive down their wage base by simply hiring people with standard skills to displace Americans, I would be siding with Senator KENNEDY. But what is happening here is companies that are using this program are our most innovative companies. They are the companies that have the most talented workers that they can hire in our country. They are our fastest growing companies. They are companies that are creating jobs now, and they are laying the technological foundations that will create hundreds, thousands, and ultimately millions of jobs in the future. They want to reach out in the world and pick the most talented, the best and the brightest, to come to America on a temporary basis and help us develop the technology that will create jobs—good jobs, high-paying jobs, $75,000-a-year jobs—for our own workers.

So I strongly support the provision offered by the Senator from Michigan. I do believe that the amendments offered by the Senator from Massachusetts are well intended, but I think they are wrongheaded in the sense that, in the name of protecting jobs, we are keeping out a very small number of very select people who are working at labs at Harvard University, or working in Silicon Valley, or working in research institutes all over the country to create technology that puts millions of our people to work.

I yield the floor.

Mr. KENNEDY. Madam President, I have 150 letters and scores more back in my office of Americans who have training and skills in computer knowledge and technology and are unable to get the jobs. You can, under this proposal, hire 1,000 foreign workers and displace 1,000 American workers and it doesn't violate any law. It violates no law. I think we ought to protect American workers, and if there is a job out

there, an American worker ought to have a crack at it before it goes overseas.

Madam President, I see my friend and colleague from Nevada who, under the agreement, is to be recognized to offer an amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, let's put ourselves in the situation that a woman from Las Vegas found herself in.

The PRESIDING OFFICER. Is the Senator from Nevada offering his amendment?

Mr. REID. I will offer it at the appropriate time. I have the floor now.

The PRESIDING OFFICER. Unless time is yielded to the Senator under the agreement on the bill, the Senator——

Mr. REID. My amendment has no time.

AMENDMENT NO. 2414

(Purpose: To require that applications for passports for minors have parental signatures)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2414.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC ___. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking ''Before'' and inserting ''(a) IN GENERAL.—Before'', and

(2) by adding at the end the following new subsection:

''(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

''(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

''(A) both parents of the child if the child lives with both parents;

''(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

''(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

''(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

Mr. REID. Madam President, let's assume that you are a mother, you have a 6-year-old child, you have recently been divorced, and you go to pick the child up from school and he is not there. You wonder what happened to your child. You call the police; the police have no knowledge of his whereabouts. No one seems to know what happened to your child. But as things are pieced together, you learn that your husband, who you recently divorced, has taken the child from school and to Croatia. This happens during the time of the Balkans war. What as a mother are you to do? Your child is in Croatia. You were married to a Croatian.

This is a situation that 1,000 parents face every year in our country. Over 1,000 children are taken from this country, normally as a result of the mother and father not getting along, or recently divorced, and they are taken many times to a country where one of the parents was born. Sometimes the parent just takes off to a country they are familiar with. They want to get away from the wife or husband, recognizing that it will be difficult, if not impossible, to get the baby back.

The tragedy is of a thousand stories a year; there are many thousands of stories I could retell.

The Las Vegas Review Journal reported about a woman by whose name is Lilly Waken. Her two daughters left home for a party. The children never came back. Frantically, she called the police. She called the hospitals. She learned that her husband had taken them away and had bought three one-way tickets to Damascus, Syria. That was 18 months ago. She hasn't seen her children since.

My amendment is all about fairness and prevention. It is about preventing a problem that plagues this country, the international children's abduction problem. As I have indicated, 1,000 or more children are abducted every year in our country. These children, as I have indicated, are abducted during or shortly after a contentious divorce, sometimes even by an abusive parent, at a time when these children are most vulnerable and uncertain about their future. They are then snatched from custody of one parent and hauled over to a foreign country.

In the case that I first spoke of, a young boy by the name of Mikey Kale from Las Vegas was taken to Croatia. His mother worked for months and months, and was finally able, after spending a tremendous amount of money trying to get the return of her son—remember, this is in a country that was Mikey Kale Passport and Notification Amendment at war—she was able to get her child back.

I am proposing this legislation, the Mikey Kale Passport Notification Amendment, after this young boy taken to Croatia, Mikey Kale. This amendment is very simple. It will require that parents who are married must both sign for a passport for their child. If there has been a divorce, the one with primary custody must sign for the child to obtain a passport. We have a provision in this bill so that, under extreme circumstances, the Secretary of State can waive the requirements if the Secretary determines that the circumstances do not permit the obtaining of the signatures of both parents.

Madam President, this legislation was passed before in this body. It went to the House where it was knocked out in conference. Why? For the same reason that the State Department indicated in a recent article in Parade Magazine, it is going to create too much paperwork. I say, Madam President, that is too much baloney. It may be too much paperwork for them. But for the parents and the children involved in this, it is better to spend a little extra time when someone comes to get a passport to make sure that the passport is obtained properly. It is not asking too much of the State Department to insure that people who are going to get a passport for a child to check out that the child is, in effect, not being kidnaped.

The aim of the amendment is prevention. It prevents parental abductors from obtaining U.S. passports for their minor children. One of the best ways to prevent international parental abductions is to make it more difficult for the abductors to obtain a passport.

Madam President, prior to coming to this body I practiced law and did divorce work, among other things. When Mikey Kale's mother came to me, it flooded memories back to my mind about a case that I had where there was a contested divorce. I represented a police officer from Henderson, NV. Suddenly, my client picked up the two children and went to Mexico. He called me from Mexico, and said, ''I'm not coming back until I get what I asked for from my wife.'' So I called the opposing counsel and told him what had happened. My client stayed down in Mexico for years until finally the mother of the two children, in effect, gave him what he wanted. It was a difficult situation. The children were never in school during that period of time.

Madam President, this is a very serious problem. We who are parents and grandparents know that we are the ones who are looked upon as protectors of our children. But those who should be protecting children are doing the worst for the child by taking them to a strange country, recognizing that the standards and customs in that country are much different from ours, and that it is going to be difficult, if not impossible, to get that child back.

It is reported that the State Department has had thousands and thousands of these reported kidnapings, and that they just write them off after a year or two, closing 80 percent of their files.

This amendment is a simple legislative solution which will implement a system of checks prior to the issuance of a minor child's passport thereby protecting both parental rights and the rights of the child.

Two years ago the same amendment passed. The State Department and their lobbyists prevailed upon those in conference to remove this provision. In the meantime, 2,000 children in this country have been abducted to other countries—2,000 children. Think of the grief that has been caused to those children and to the parents of those children. This, Madam President, should stop. We should not listen to what the State Department says, that because they are understaffed and don't want to go into the details of who has custody, they cannot implement this preventive measure. I say let's save some pain and suffering of these little children, and also of one of the parents.

This problem is more common than one would think. As I stated earlier, 1,000 children are abducted every year. Here in the United States missing and abducted children are counted meticulously, in some countries they keep no records whatsoever. Forty-five nations have signed a Hague treaty designed to resolve international child custody disputes. Most countries have not.

Finding a missing child is very difficult. This problem is no better illustrated, as I have indicated, than that of Mikey Kale for whom this amendment is named.

Let me repeat. On Valentine's Day in 1993, Mikey was abducted by the exhusband of Barbara Spierer and taken to Croatia—kidnaped, for lack of a better description. As I have said, after tremendous emotional and financial efforts, Barbara was one of the lucky ones. She got her baby boy back.

Regardless of the number of cases—whether it is 1,000 cases, which it is, or 10 cases a year, which it isn't—one case of abduction is one too many. My amendment seeks to prevent even that one tragedy from occurring. One of the most difficult and frustrating elements for parents of internationally abducted children is that the U.S. laws and court orders are usually ignored in a foreign country. If they are not ignored, the possible pain and expense of legal representation in that country are unbearable.

Many of these cases involve parents who have relatively no assets. So the one who is, in effect, left behind, when the child has been kidnaped, can do nothing.

One country alone has 45 cases of American children being abducted. Letters to that foreign head of state have had no effect, and none of the 45 have been voluntarily returned.

An inconceivable, irrefutable fact is that once a child is abducted from the United States, it is almost impossible to get the child back.

Madam President, once again, the aim of this amendment is prevention—prevention of anguish to families, prevention of parental rights being violated, prevention of a child being abducted. Until more can be done, I believe a simple, cost-effective legislative solution to protect our children's rights is essential, and I ask my colleagues to join me.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ABRAHAM. Madam President, I would like to speak on the amendment, but what I will do is note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ABRAHAM. Madam President, I will speak very briefly in support of the Reid amendment.

I think the concerns he has raised here are very important ones and need to be addressed. I would actually add to the examples he used other situations which have occurred to constituents of mine in which following a divorce decree in this country, a spouse who maintains dual citizenship in some fashion goes to a country of his or her other citizenship with the child after there has been an agreement with regard to visitation. The American citizen spouse who remains in the United States then seeks to visit on the basis of that visitation agreement and finds, when visiting the foreign country, the child is not available, cannot be found, has disappeared, usually just to another city or another relative's home or something else, but basically because of the limited amount of time the visiting spouses have in the country, they no longer have the opportunity to see their children.

This is not the case of an abduction per se, but it is relatively similar in terms of the implications. So I think the outlawing this amendment takes helps to address the most egregious form of this problem. But I indicate to the Senator from Nevada I not only would be willing to accept this amendment and support it, but I look forward to working with him—and I know of several other Senators who have approved—to see if there are ways we could also address these other cases where we may not be dealing with abduction, but still dealing with the circumstance where parents are prevented from seeing their children.

So I thank the Senator from Nevada for his amendment.

Mr. KENNEDY. Madam President, I thank the Senator from Nevada for bringing this matter to our attention once again. As we were saying a few moments ago, this was accepted in the last debate on immigration reform in 1996. When it went to conference, there were a number of us who were excluded. If we had been able to participate, we would have supported this measure. But we were in a different regime at the time.

In so many areas of immigration policy there are the opportunities for abuse by a few. But as the Senator has pointed out, thousands can still be affected by the injustice. The Senator has identified one instance in which a family was harmed. We would be glad to work with him and with Senator ABRAHAM to see what could be worked through in the conference. If somehow we are not persuasive in the conference, we will join with him later in offering his amendment on appropriations bills or other bills. But I think the Senator has made a strong case, just as he did the last time. I think he has identified a very important issue.

Mr. REID. Madam President, I ask unanimous consent that my request for the yeas and nays be withdrawn subject to the manager of the bill accepting the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment (No. 2414) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. BUMPERS. Madam President, I ask unanimous consent the Senator from Rhode Island, Mr. REED, be recognized for 7 minutes in order to offer an amendment, and immediately following the conclusion that I be recognized for the same purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object—I do not intend to—he will go for 7 minutes and then we will have a chance to respond to his amendment? Are we going to have time to dispose of his amendment before the Senator from Arkansas?

Mr. REED. I think in that time we can dispose of the amendment.

Mr. BUMPERS. The amendment, I think, can be disposed of in 7 minutes.

Mr. KENNEDY. That is fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

AMENDMENT NO. 2415

(Purpose: To strike section 4, relating to education and training in science and technology)

Mr. REED. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:.

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 2415.

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

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

The amendment is as follows:

On page 27, beginning with line 1, strike all through page 29, line 10.

Mr. REED. Madam President, my amendment would strike section 4 of

the underlying legislation. This section proposes to amend the State Student Incentive Grant Program, the SSIG Program.

I first want to recognize Senator ABRAHAM's efforts on behalf of this legislation and to underscore that I understand the issue the Senator is attempting to address is the lack of suitable training in our country to provide the types of scientists and engineers which this legislation hopes to attract through immigration policies. But I would object to the importation of the SSIG Program into this legislation; to pull SSIG in is inappropriate.

We all recognize we do have to educate and train more Americans to take up these high-tech jobs, but this immigration bill is not the right vehicle, and the SSIG Program is not the right approach to simply target high-tech training in the United States.

I would like to briefly set the record straight with respect to SSIG, its status, and I hope its future.

First, the State Student Incentive Grant Program is within the jurisdiction of the Labor and Human Resources Committee. We have been considering its reformation and improvement over the last several months, and we have made progress in that regard. We are on the verge, after deliberation in the committee, of bringing a bill to the floor which will make significant improvements to SSIG.

I would like to also point out that the State Student Incentive Grant Program was initiated back in 1972 by Senator Jacob Javits of New York. It was created not as a way to bootstrap high-tech learning in the United States, but to meet a critical deficiency—the need to provide resources to low-income students to enable them to go to college in a vast array of programs, letting them make the decision of where their talent will carry them, but giving them the resources to go to college and stay in college.

In its more than 20-year history, it has been a remarkably effective program. It takes Federal dollars and offers a one-for-one dollar match with the States to provide need-based grants to students. It has no federal overhead. It delivers money in the form of grants to low-income students that need these resources to go on to college.

Now, if we are talking about providing more opportunities for Americans to be scientists, to be engineers, to do all the things that we want them to do and not have to rely upon foreign nationals coming into our country, SSIG is the wrong place to start. We should be starting in the elementary and secondary schools. We should be recognizing that in many of our schools, particularly low-income urban schools with high minority enrollments, 50 percent of those students are likely to have a science or math teacher who never concentrated on science or math in college. And that is one reason we are not developing, here in the United States, those skills necessary for this high-tech age. So, if we are really interested in having Americans qualify to take these jobs, bringing SSIG into this bill, hijacking it, Shanghaiing it into this bill is not going to do it. We have to start early and consistently to reach young people.

I believe we have made progress in this regard. We have made progress, both in terms of identifying the need to improve elementary and secondary education, and, as I mentioned before, we have made progress working closely with my colleague, the Senator from Maine, Senator COLLINS, to improve SSIG. We have introduced, with 17 other Senators, a bipartisan proposal to reform SSIG. It is called the LEAP Act. This proposal will create a two-tiered proposal: Up to $35 million, there will continue to be a one-for-one match of Federal dollars to State dollars; but when we go beyond that amount, we will allow the States a great deal more flexibility, flexibility that they will have to recognize by matching $2 for every one Federal dollar. But within that more flexible regime of options, we have actually built in, at the request of Senator ABRAHAM, the ability of States to develop scholarship programs that are targeted to mathematics and computer science and engineering. In effect, working very closely with the Senator, who is sincerely committed to improving the quality of education throughout this country, we have done in the LEAP Act in the Labor Committee what is purported to be done here in this legislation.

Now, we are concerned—frankly, I am concerned—that if we act in this immigration bill, we might upset the progress we have made to date on the LEAP Act. We might, in fact, compromise its fundamental commitment not to one specific sector of study but to a broader social purpose—of giving low-income students the chance to go on to college.

I hope we will not do that. I feel very strongly about SSIG. I felt very strongly last year—again, working with Senator COLLINS from Maine. We came to the floor, we literally saved this program from extinction with an overwhelming vote of 84 to 4 to maintain appropriations for SSIG. Having, in a sense, given renewed life to this legislation, I want the opportunity, with my colleagues, to ensure that we continue this program as a need-based program and not at this moment, for convenience, for an attempt to respond to a legitimate concern about training high-tech personnel, to distort the purpose, the goals, and the future of SSIG.

I think, working together with my colleagues, we can maintain the integrity of SSIG and we can also, using the Higher Education Act, strengthen it, reform it, and make it adaptable and make it accessible to a new generation of American students.

I have had the opportunity to work with Senator ABRAHAM. We have, I think, mutual appreciation of the need for SSIG. I hope, working with him over the next several weeks as this measure goes forward, and given his commitment to work together on this whole topic of the State Student Incentive Grant Program—I am prepared at this moment to seek unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2115) was withdrawn.

Mr. REED. I yield to the Senator from Michigan, if he had a comment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I briefly would like to do a couple of things. First, I compliment the Senator from Rhode Island as well as the Presiding Officer for their efforts on this issue. As I mentioned earlier in my opening statement about the legislation before us, our office has been very grateful to you as well as to Senator JEFFORDS and others on the Labor Committee for the efforts that have been engaged in to help us craft, in the higher education bill, language which was consistent with our objectives in terms of trying to provide ways by which we can incentivize more young people in our country to fill these jobs we know are going to be created in the future.

And under no circumstances, I think the Senator from Rhode Island knows, and I know the Senator from Maine knows as well, are any of us involved in the development of this legislation seeking to, in any context, reduce or undermine the SSIG program. To the contrary, I think everybody who is a cosponsor is a strong supporter. So we look forward to working with you. I have appreciated the efforts of the Senator from Rhode Island to assist us in this and thank him for what he has already done and what we look forward to doing together, to find a way to address this issue in the context of other legislation that will be before us.

Mr. KENNEDY. Madam President, I thank the Senator, my friend from Rhode Island. We have had the good opportunity to work with the Senator from Rhode Island and also the Senator from Maine on this particular issue. I know that the Senator from Rhode Island is someone who has been on the education committees, not only in the Senate but also in the House of Representatives, and is someone with a number of years of experience with this important issue. The Senator from Rhode Island has spent a lot of time in developing an understanding of this particular program and how it works in the States. He has also found how it can best be targeted in ways that offer the best opportunity for needy students, giving focus in areas of important need—math and science and other skills. So, we will continue to work with him. We appreciate his leadership and the leadership of the Senator from Maine in this area.

We have been trying to work to assure that Americans are going to develop the skills to be able to compete in these areas. This is really a combination of both the education and training aspects that Senator DEWINE, Senator REED, and Senator COLLINS have been working on, as well as the Senator from Michigan. And that is a reflection of the good faith of the Senator from Michigan on it.

So I appreciate his willingness of the Senator from Rhode Island, at this time, to continue to work with us. We give the Senator the assurance we will continue to work very closely with him, and with the Senator from Maine, as we move on into the conference. But I appreciate his cooperation and leadership on this issue.

AMENDMENT NO. 2416

(Purpose: To repeal the Immigrant Investor Program)

The PRESIDING OFFICER. The Senator from Arkansas is recognized, under the previous order.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], proposes an amendment numbered 2416.

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

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

The amendment is as follows:

At the end of the bill add the following:

''SEC. ——. REPEAL OF IMMIGRANT INVESTOR PROGRAM.

''Section 203(b)(5) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1153(b)(5)) shall be repealed effective on the date of enactment of this Act.''

The PRESIDING OFFICER. The Senator will be advised that there are 90 minutes equally divided under the time agreement.

The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair for reminding me.

Madam President, this amendment repeals a provision in the immigration laws that was a tragic mistake when it was enacted. My amendment to strike that provision deals with economics, it deals with patriotism, it deals with immigration, and it deals with fraud. In order for my colleagues to understand precisely what we are talking about, let me set the stage. I fought this battle in 1989 and, at the expense of sounding a little self-serving, lost, but predicted what has happened would happen.

The immigration bill considered by the Senate in 1989 included a provision of the bill to increase investment because we were headed into a recession. We decided we would take a page out of the play books of Canada and Australia. We thought, if they can sell citizenship for $200,000, citizenship in the United States ought to be worth at least $1 million. It is a very logical assumption. So, we said, in that bill in 1989, we will reserve 4,800 visas for foreigners who wants to come into this Nation and bring $1 million and hire 10 people: We will give you a green card at the end of 2 years, and, at the end of an additional 3 years, we will make you a citizen of the United States.

Then in the conference committee we decided we could do even better than that. We said: You don't have to bring $1 million dollars; bring $500,000. If you put a hamburger joint up that will hire 10 people in an area of high unemployment or in a rural area, we will do the same thing for you. We cut the price of citizenship from $1 million to $500,000 and the 4,800 slots that we reserved in the Senate bill increased to 10,000 in the conference report.

Multiply $1 million by 10,000 visas and just think of all the magnificent investment we would have in this country and how many jobs we would create.

Madam President, that ''ain't'' all. We said not only will you not really have to create 10 jobs with your $500,000 or your $1 million, you only have to maintain 10 jobs. What does that mean? If old Joe's hamburger joint is about to go out of business and he has 10 employees and you are willing to buy his place and keep those 10 employees working, you have maintained 10 jobs, so you qualify for American citizenship.

Then in 1993 we decided we would liberalize it a little further. Not only do you not have to create 10 jobs, not only do you not have to maintain 10 jobs, all you have to do is indirectly provide 10 jobs if you invest in businesses located in certain areas known as Regional Centers . What does that mean? You are making widgets. You employ five people to make widgets. You have two people to distribute them and three people to sell them. Those are indirectly created jobs. Therefore, you get your green card at the end of 2 years, and you get your citizenship papers at the end of 5 years.

I can remember at that time how we thought Hong Kong was going to flood this Nation with people with $1 million in their pocket because they were terrified of the Chinese taking over Hong Kong. I must say, the program, such as it is, has been mostly of people from the Pacific rim—Hong Kong, Korea, Taiwan.

Madam President, do you know the nice thing about this? If you have $500,000 to invest, bring the little wife and kids, too, you are all welcome. They are also going to ultimately be entitled to citizenship.

What have been the results? Madam President, a cottage industry of consultants and limited partnerships has grown up in this Nation. No plan the U.S. Congress has ever devised has been scam-proof, and God knows this one is no exception. What do these consultants do? Why, they advertise in the newspapers in Hong Kong, in Oman, in Taiwan, and they say, ''You don't even need $500,000, you don't need $1 million, you only need $100,000.'' We have gone from $1 million to $500,000 to $100,000. We have gone from creating jobs to maintaining jobs to indirectly providing jobs. It is incredible what has happened to this program.

How do they get by with this? These consultants form limited partnerships. They get several of these people who have $100,000 and they pool all those $100,000 contributions from various people.

What about the $500,000 requirement? How are you going to put up $100,000 and meet that? Easy. You give a promissory note for $400,000. You give $100,000 in cash—incidentally, there is a little matter of a $35,000 to $50,000 fee that goes to the consultant. So if you come, you ought to have $150,000 in your pocket, $50,000 for the consultant and $100,000 to show your good faith, and then be willing to sign a note for $400,000. But not to worry. At the end of 2 years, your note is forgiven. Forget the $400,000 note. If you are in the $1 million class, forget the $900,000 note. And if, at the end of 2 years, the business has not done well, shut it down. When you shut it down, you can go down to the courthouse and apply for your citizenship 3 years later. You do not have to maintain the business for the ensuing 3 years to get your citizenship. Shut that sucker down after 2 years; it has probably been a loser anyway.

Madam President, Russell Burgoise was quoted in an April 13, 1998 New York Times article. He is a spokesman for the Immigration Service. He said: ''These plans don't meet either the spirit or the letter of the law.''

Recently, when the INS sought to revoke up to 5,000 visas, the New York Times in the same article said ''influential Members of Congress protested the Government was changing rules in midstream,'' and the INS backed off.

Late in 1997, the Times of Oman, not a widely read paper in Washington, contained an advertisement which said: ''U.S. green card for anyone who can show U.S. $500,000.''

They ought to be prosecuted for misleading advertising. It doesn't take $500,000, just $100,000 would do fine if you know the right consultant in this country.

It is an interesting thing that it took these consultants and these limited partnerships to figure out how to get the program going. Until the latter part of 1996, the investor visa program had been an even worse disaster than its worst critics—namely me—had predicted. Nobody was showing much interest.

In 1992, 280 people applied, 240 were approved. In 1993, 384; 1994, 407; 1995, 291; 1996, 616; in 1997, 1,110. The consultants are getting geared up now. It is still a far cry from the 10,000 slots available, but in 1997, 1,110 petitions were approved. But over the last 7 years, only 3,284 have been approved.

So, despite the fact that the program has been weakened unbelievably to

make almost anybody eligible for it, nobody much has been applying. Out of 7 years, we only got 3,000-plus, and we are supposed to be doing 10,000 each year.

AIS, one of the consulting organizations I mentioned a moment ago, specializes, as I said, in pooling investors to bankroll larger products.

Now you should know that a lot of people invest their $100,000 not to become American citizens; they come here because they want to purchase citizenship for their children and educate them here. Or they come here for any host of other reasons. Maybe they are actually coming with their family. That would be a fairly laudable purpose. But they do not come because they want citizenship. And a lot of people will freely tell you the reason they did not want to be citizens of the United States is because they will have to pay taxes. They have to pay taxes on all of their income all over the world wherever it may come from. They are not about to do that. They only have to come here twice a year to keep their eligibility for the green card.

AIS has advertised ''Alternate residency: Less restrictive and expensive than other plans in other countries.'' You are not becoming a citizen of the United States. You do not have to love the flag. You do not have to say the Pledge of Allegiance. You do not have to fight our wars. You do not have to be any particular age. You do not have to have any specialized education. You do not have to have any experience. You do not have to know the language. All you need is ''green.'' You do not have to know anything about the poor and huddled masses that Emma Lazarus wrote about.

Madam President, this program is so rife with fraud. In some instances, you can get your entire $500,000 back. If you invest $500,000 or $1 million, there are some plans under which you can get it all back and still get your citizenship.

Harold Ezell, a former INS regional immigration commissioner—now a lawyer in Newport Beach, CA—this is a former INS official's quote. What did he say about Congress, about this bill? ''They were smoking something when they wrote it.'' ''We've shot ourselves in the foot.'' Another attorney said, ''You know, since we're blatantly soliciting the wealthy, we might ought to charge $2 million.''

Madam President, the investor visa program makes no economic sense either. The underlying bill we are debating today would raise the cap on the number of workers who will come into this country who have skills, principally for the computer industry.

The Senator from Michigan, who is handling this bill on the floor, wants to raise the annual limit on people coming into this country from 60,000 to 95,000. Now, you think about the incongruity of raising the level of people we invite into this country because they have a skill and because we have a labor shortage. We would not do it otherwise. We have a labor shortage of so-called skilled workers. At least, that is the proposition. I do not believe it, and I am not going to vote for the bill. I will announce that right now.

This country, incidentally, as great as we are, to be depending on the rest of the world to send us their skilled workers so we can stay afloat in the computer industry, or whatever, is the height of something or other. If we have a $50 billion surplus looming this year, for Pete's sake, let us educate our youngsters so we do not have to depend on anybody else for these skills. That should not be too difficult.

But here we are saying we want to invite an additional 35,000 laborers into this country because we have a labor shortage, and at the same time saying, ''If you will give us $100,000 or $500,000''—whichever the case may be—''and hire 10 people, we'll give you citizenship.''

There is an outfit in West Virginia called InterBank, and they want to create a telemarketing business. While the deal has not been approved yet, the wages will be $6 an hour. I have not seen a McDonald's in I don't know how long that didn't have a sign in the window saying, ''Help wanted. Pay up to $6 an hour.'' We are desperate for workers at all levels in this country, and here we are asking people to put up money and come into this country and hire workers. How silly can we get? Even if it were not rife with fraud, even if it were not shameless to be selling American citizenship, it makes no economic sense. It is an oxymoron to vote at the same time to bring 95,000 workers in and ask somebody else to come in and hire more workers.

Every time Alan Greenspan appears on a television station, every time he appears before the Banking Committee, every time he appears before the Joint Economic Committee, Wall Street and all of America holds its breath for fear he is going to announce an increase in interest rates. And why are they afraid he is going to raise interest rates? Because they have a labor shortage. In Economic 101 at the University of Arkansas, I was taught—and it is still a fundamental economic principle—that when you have a labor shortage, you have to pay more for labor. You think McDonald's is paying $6 an hour because they want to see how far they can exceed the minimum wage? They are paying $6 an hour because they cannot find workers for any less than that. That is still a pitiful wage, but be that as it may, I am not here to debate that.

What I am saying is, everybody is scared to death that this labor shortage is going to kick wages up, that in turn is going to create inflation, and inflation is going to cause Alan Greenspan to raise interest rates, and raising interest rates is going to bring the longest sustained period of economic prosperity in the United States to a grinding halt. These are not things that you have to be a rocket scientist to understand. Everybody knows precisely what I am talking about.

Finally, Madam President—and I am reluctant to say this because I am not one who has stood on the floor of the U.S. Senate and waved the flag and beat my chest and talked about what a great patriot I am. I put in 3 years in the Marine Corps in World War II, for a very simple reason—we were in a war where the absolute freedom of this Nation was at stake. Not even a second thought about it. And 25, 30 other million men and women did the same thing.

I have voted against constitutional amendments on flag burning. Nobody is more deeply offended than I am to see an American flag burn. There are ways to deal with it. But you do not need to tinker with the Bill of Rights for the first time in more than 200 years.

I still get goose bumps at a military parade when Old Glory goes by. And I am offended by a law which puts American citizenship up for bid by either the wealthy or those willing to participate in a fraud.

How crassly we demean this precious blessing we call citizenship. Emma Lazarus who wrote those magnificent words in the Statue of Liberty about, ''Give us your poor, your tired, your huddled masses,'' Emma Lazarus must be whirling in her grave to even hear such a debate as this going on. The families of the people whose sons and daughters fought those wars for citizenship and freedom—and the families of those who died, and they did it because they valued citizenship so highly—must be weeping at the thought of citizenship being sold to the highest bidder. It is vulgar. How we champion citizenship that we once prized so highly.

Madam President, these people are not the poor. They are not the huddled masses who were our ancestors and who came here for freedom to contribute their labor and their values to live, live free, and to raise their families and die here, even in battle, if need be.

These people who we welcome for $1 million are coming twice a year because that is the only way they can keep their green card. They don't want citizenship because that would require them to pay taxes.

What in the name of God has happened to this place?

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia. Who yields time?

Mr. ABRAHAM. I yield the Senator from West Virginia such time as he may need to speak in opposition to the amendment by the Senator from Arkansas.

Mr. ROCKEFELLER. Madam President, I am grateful to my friend from the State of Michigan.

I start out by disputing any thought by the senior Senator from Arkansas that the words ''patriotism'' and ''Bumpers'' don't go side by side—I know the Senator himself knows that

to be true—in his service in the Marine Corps, his service in this body, the things he has been through over the years. He is a patriot. He is a marvelous man.

He happens, however, to be marvelously wrong on the amendment that he puts forward, which in spite of the larger framework of the immigration bill, is a very specific and very targeted amendment which would do enormous damage to what we are trying to do in areas of my State that need this program desperately, and which do enormous damage to some of the things that I and others I work with—Governor Underwood and others—are trying to do in the State of West Virginia. I refer to the attempt to eliminate the EB5, the immigrant Investor Program. I didn't say that with an abundance of fluency, and there is a reason for that. It is not one of the things that trips off your lips. I confess that it was not until relatively recently, in the last several years, that I, indeed, learned what it was at all because we had not had experience.

Let me give a little context. I was Governor of the State of West Virginia for 8 years and I was always very frustrated, and I say to my fellow Governor from the State of Arkansas, of all of the money that was discretionary to the Governor during the 8 years that this Senator was Governor, I spent 75 percent of it on water and sewer, which of course is invisible and never seen. And I put more per capita in one of our poorest counties in southern West Virginia called McDowell County, which used to be referred to as the $1 billion coal field, and now is mostly worked out and people have left. Even when I came to West Virginia as a VISTA volunteer in 1964, I say to the Senator, there were tens of thousands of people in McDowell County, the Senator would remember. Now there are about a handful.

I felt that I had not come through properly in spite of efforts for McDowell County, for Wyoming County, for Mercer County, for southern West Virginia, for people who had broken their backs and given their lives, many of them, and who walk around, some of them carrying oxygen tanks. For some it is a 10-minute walk from one side of a room to another side to adjust the television and back because of something called black lung or because of diseases they have accumulated by virtue of being coal miners.

These are the areas I am talking about. There are other areas in West Virginia and the State of Arkansas and in the State of Massachusetts and in the State of Michigan and in the State of Maine, all of our States, where people just don't have the opportunity to have jobs because they live in rural areas. It might be a worked-out coal mining area which is called rural, or it might be an area which is mostly trees which would be called rural, but it is rural and jobs don't tend to go there. People don't tend to build the interstates over there.

I am old fashioned about it, but the reason that I stayed in West Virginia as a VISTA volunteer, more than anything I wanted to see people go to work. I think my friend from Arkansas understands that. I think he understands it very well. What I found was there were just certain blocks, certain ways, certain impediments that nature put up which just didn't allow some of our good people to be able to go to work by accident of their birth or by the fact they were so close to their families that they didn't leave and go to other places like so many others had done from Appalachia. So they stayed and they can't work and they want to work, and they want so badly to work but there is no work. So that is how I came to know what the EB5 Immigrant Investor Program is.

''Give us your poor,'' the Senator from Arkansas said. Well, our income and our population is increasing, I am happy to say, in West Virginia at a very healthy rate. Things are being done right there. People have caught the flavor of it and there is a sense of optimism which I haven't seen there in 20 or 30 years.

But I learned about this program that the Senator wants to eliminate in this amendment. It is just a little thing down here. It says, ''Repeal. . . Section 203(b)(5),'' et cetera—one sentence which nobody can understand, but I know exactly what it does. It would eliminate everything that I am talking about, just eliminate it. It would be gone.

I learned about this program because of a company called InterBank. It is a merchant banking company. They run a program which is called Invest in America. Nothing wrong that I can see in that, especially because in this program InterBank has pooled millions of dollars in foreign investments, millions of dollars to establish new operations in teleservicing—telemarketing some call it; I call it teleservices—in exactly the kind of areas in West Virginia I was talking about.

I was in Welch, WV, in McDowell County on a freezing-cold day when they announced they were going to create 400 new jobs. The next day they had 1,500 applicants from that county; the word traveled so fast. This was considered the best news that had ever happened to that county. And now they are looking at others. They are looking, in fact, at putting, 10, 12, 15,000 jobs across the State of West Virginia in precisely the kinds of places where nobody else will go to invest, and they want to do it in telemarketing, or teleservicing as I prefer to call it. West Virginia is important in that we are wired very well in terms of fiber optics, so it is a superb place for them to do that.

It is like with the telephone system. If you are in Washington, DC, and you call information, you are talking to somebody in West Virginia. Where you live, where you reside doesn't make that much difference anymore. But it makes a tremendous difference in southern West Virginia and in other parts of West Virginia where people do not have work, where people remember having had work because of coal mining or remember when they had an opportunity for work, but they were rejected for work. Now they realize that they could get into these programs and get trained because InterBank is going to put a lot of money into training people, West Virginia people, and I assume people in other parts of the country, other industries like them in other parts of the country.

We are talking about $7 or $8 an hour. I don't ridicule that. And I don't ridicule it because it is a company that has benefits particularly when it is a company that provides health benefits, which is something I care about as much as anybody on this planet, and they are included. My people will get them or my people will not get them, depending, and it is true for all the rest of the people in this country who interact with this program as to whether this amendment passes or fails, which is why I hope so much that it fails.

Yes, it is true there has been some abuse, and the Senator, I believe, quoted the New York Times. I don't necessarily think because something is in the New York Times and it is printed, it defines what national policy is to be, but I read it every day and I respect it very much, and there was an article saying there had been some abuse. There have been 30 or 40 articles talking about the abuse in Medicare and I don't hear anybody talking of getting rid of Medicare, because HCFA is trying to crack down. There is, I am sure, abuse in the farmers assistance programs which help the Senator and the people he represents from Arkansas, which don't do our people any good at all in West Virginia.

All I am saying is that there is always abuse in Federal programs, but it is usually a little bit. In the case of the INS, I have talked with Doris Meissner about the problem of abuse and about these programs. She has put our InterBank program on hold, in fact, even though they have done nothing wrong, because they have the FBI and the INS who looks into this, and the State Department looks into it. They have a total of five separate reviews that are involved in this. The INS is not only taking steps to correct whatever abuse that may exist, but they are so adamant about it that they are taking those programs where there are no problems and making them wait until they have a chance to look at the entire thing. I pleaded with Doris Meissner to approve this program, which had no deficiencies, and she said, ''I can't do it. We have to put it near the end of the line so we can review all of these programs to make sure there is no fraud and abuse, and where there is, we can get rid of it.''

Now, is the idea that somebody would be able to bring some money into the United States to put a West

Virginian, or a Washingtonian, or Oregonian, or somebody from Maine, Vermont, or Wisconsin, to work, that they would bring in some money and they would be given a period of a couple of years for review and, after the review, which is a three-agency review, they be allowed to stay because they have brought money, which is then pooled, which puts people to work in areas where nobody else will put them to work, is there something wrong with that? I certainly don't see it.

If it is helping my people in southern West Virginia, or from the State of Maine, where there is so much of the population located in one section—and I am sure some industry will not go into the interior section because the infrastructure isn't there, but they might with innovative thinking such as InterBank has put forward.

So I think eliminating a program, just wiping it out for the idea of somehow being able to say I am against waste, fraud, and abuse and I am going to have none of it, when one knows there may be, as in Medicare—I repeat, there is waste, fraud, and abuse in Medicare, and the Health Care Financing Administration which is going crazy trying to cure that abuse, most of which comes from the private sector. Here, INS is doing the same thing. They admit it is a good program, but they admit they cannot have a program that has any abuse at all in it. So they are stopping everything until they have a chance to review it.

Yes, we need to take steps to prevent abuses in this or any other program—INS, Medicare, crop subsidies, or any other thing that involves the U.S. taxpayers' money—but to eliminate a program that holds out more for the people of my State in terms of areas where people have had a hard time getting jobs, all of a sudden having a $7- or $8-per-hour job with health benefits, I can't imagine doing such a thing.

I passionately urge my colleagues to defeat the amendment of the Senator, my friend from Arkansas.

I thank the Senator from Michigan, and I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Before the Senator leaves, let me say how much I appreciate his very kind and complimentary remarks in his opening statement, and to say that I value his friendship very highly. He and I have been close friends for many years. We were both Governors and we relate in that way. His uncle used to be Governor of my State. I must say to the Senator from West Virginia that I wonder what has happened since 1989 when he voted with me on precisely the same amendment, and his vote now after the INS says we must have been smoking something when we passed the bill in the first place?

Mr. ROCKEFELLER. If I may answer, as the Senator well knows, the amendment he referred to was in 1989, as my encyclopedic memory comes flashing before me like a billboard here in the Senate. As I told the Senator, on that particular bill, I felt I voted wrong and I have told him since then that I should have voted against him. In reflection, I think my vote at that time was based on too much of a knee-jerk theory on the idea that somehow it was wrong, when, in fact, it was exactly, I think, the right thing to do. The case didn't seem to be as strongly made at that point. If the Senator would put that forward again, I would vote against it in a flash.

Mr. BUMPERS. Would the Senator answer one additional question? First of all, I come from a poor State, too. In Arkansas, our teachers' salaries are 45th in the Nation. I don't know where we are economically; it's in that vicinity. I relate to the poverty you have described in southern West Virginia. Yet, I have to say I believe that if I could communicate the remarks I made a moment ago in offering this amendment to the people of my State—and there are plenty of areas in the Mississippi Delta where we are desperate for jobs, and this may be a gross exaggeration—I believe 90 percent of the people of my State would agree that it is wrong to be selling citizenship like this. They might be willing to accept tax credits to attract foreign investment. They might be willing to do all kinds of things that you and I did as Governor to try to attract industry into our States. But I believe that people in my State would take a very dim view if they knew, No. 1, the amount of fraud that has now been uncovered in the program; and, No. 2, the fact that we are selling citizenship in exchange for a few bucks from some of the wealthy people in other countries just to come here and get citizenship. Don't you think there is something a little crass about that?

Mr. ROCKEFELLER. I say to the Senator from Arkansas, what strikes me as utterly crass is the thought that for the words the Senator used, that I would then take away or deny the opportunity for the people that I love so much in my State, that you love so much in your State in the delta area, or wherever it may be, from having jobs when they have never been able to have jobs before.

Let me tell you something very plain and clear. Arkansas, Mississippi, Louisiana, and West Virginia have statistically bound themselves together on the bottom of the charts for a long time. I am absolutely, flat-out sick of it. There are not many principles that will get me over the fact that I am sick of seeing my people not being able to work when my people—if you are a West Virginian and you go down to North Carolina and apply for a job, and they ask—and this is true—''Where do you come from?'' and you say, ''West Virginia,'' you are hired because of the work ethic, because these people have known jobs. There has been a tradition in parts of our State where people have known jobs. When they have had a chance to get those jobs, there is a 1-percent turnover, or less, and absenteeism is 1 percent or less per year. They work.

We had AT&T close down a plant employing 450 people in Charleston, WV, the capital of our State. After the workers got their pink slips, I say to the Senator from Arkansas, saying they were fired, and it had been announced in the press, just against hope, I guess, they worked harder, their productivity went up after they got their pink slips. And they kept the plant open.

I don't mean to filibuster the Senator's question because it was an honorable question.

Mr. BUMPERS. I had a question. I wanted the Senator to give me a full and complete answer according to his beliefs.

Let me make one other observation. The other day, the Appropriations Subcommittee on HUD–VA very graciously invited me over to question Dan Goldin, who is, as the Senator knows, the Administrator of NASA. And, as the Senator knows, I am opposed to the space station. I know the Senator is strongly in favor of the space station. But I asked Mr. Goldin about the $6.8 billion overrun that has just been announced. It has not been built. It is not deployed and operating. It is a 43-percent cost overrun. I said, ''Mr. Goldin, is there any threshold beyond which you would not be willing to go to build the space station?'' He said he had not thought about it.

If somebody asked me desperately, ''We want jobs in Arkansas''—and as much as I want to do something about the delta area of my State, there is a threshold beyond which I would not be willing to cross. That would be to sell citizenship to a bunch of takers and not givers.

Mr. ROCKEFELLER. This is not a matter of selling citizenship, I repeat. I want to be able to explain that. It is not a matter of selling citizenship.

You come in, and then for $500,000, if you can produce 10 jobs for West Virginia, for Americans, if you can do that, then after a period of 2 years of that activity, then by three different agencies with an analysis from those agencies, which is extremely tough, if you then pass muster, then you can become a citizen, but not before.

If you would ask if I would turn down somebody from England, or if I would turn down somebody from somewhere else, and I worked for 10 years to get the Toyota Motor Company to come to West Virginia—10 years, and they came, do I feel that somehow—I am just making a point—that because the person comes from Japan, or because they come from Taiwan, or because they come from some other place and they have some money and they want to come to this country, which is what the Statue of Liberty is all about, and they are willing to put 10 Americans to work and those 10 Americans turn out

to be 10 West Virginians in the case of InterBank, and other companies that are interested in West Virginia in a like manner, I would say bring them on.

Mr. BUMPERS. Here is a quote. It says, ''The immigrant investor program was created 8 years ago. It allowed foreigners to put up $500,000 to create 10 jobs.''

Mr. ROCKEFELLER. The Senator says ''foreigners,'' people who are not from this country.

Mr. BUMPERS. I am quoting a newspaper article.

I will answer the next question. This is an op-ed piece in a West Virginia newspaper.

Yesterday the United States was selling citizenship. The program was supposed to spur job creation. The investors have the money to spend, and the benefits are worth it to them. Is it fair to open a door to citizenship but let only the rich pass through? Of course not. But that is what is done. Now there are new problems. Years after the program was established companies began springing up to pool investments and people seeking those visa. A Virginia firm called the InterBank Group plans to use some of that capital to build two telemarketing centers in southern West Virginia.''

That is what the Senator alluded to in his comments.

They say:

The InterBank ran into trouble in California where the Department of Corporations in March indicated that the company was luring investors who had no way of knowing that their investment would qualify them for a visa. InterBank says it was all a misunderstanding and is being worked out. Meanwhile, INS is reexamining the foreign investment deal, including InterBank, and hoping to set up stricter rules. InterBank maintains its deal should pass muster and is going ahead with the telemarketing centers. But the money is tied up until INS makes a call. That the visa program has run into trouble shouldn't be a shock to anyone. It is just too tempting with all of that money, and all of those communities are grateful for any investment.

Mr. ROCKEFELLER. May I answer the Senator?

Mr. BUMPERS. Certainly.

Mr. ROCKEFELLER. Let me answer the Senator specifically, returning to what he has read. The reference to InterBank was not accurate.

Yes; a desist and refrain order was issued against the bank because it was thought that InterBank was selling securities to Americans in California.

I hope my colleagues are listening, because this is important, because the Senator is attempting to put me on the defensive, and therefore his amendment, which I strongly oppose, seems to have more weight. But the Senator is wrong in his criticism, because he has read the New York Times with too much faith.

The issue began from an ad in fact that InterBank ran in a Japanese language magazine. This magazine was translated into English and had some circulation in California

which is understandable.

Although the InterBank program is only available to foreign nationals California's Commissioner of Corporations was unaware of the program and assumed that the ad was an offer for the sale of securities in California to Americans. Since that time the matter has been completely settled, and InterBank is seeking to have the order lifted.

Mr. BUMPERS. Let me just say to the Senator from West Virginia that there isn't a Senator in the U.S. Senate for whom I have greater respect and hopefully a warmer friendship and whose opinions I value highly. I tell you, I have been in that position many, many times where I simply disagreed with somebody who couldn't understand why I disagreed with them. And the Senator is a great champion for the people of West Virginia. The jobs situation in West Virginia is paramount to him, more than almost anything else in that State; that is, trying to improve the quality of life for people. I certainly would not ever suggest anything to the contrary. It is just that I would be willing to provide jobs for the people of West Virginia by attracting foreign investments with tax credits and anything under the shining sun, except offering them citizenship. There is just something crass about that that really hits me right here. That is the only difference we have.

Mr. ROCKEFELLER. No; the only difference we have is maybe broader than that, because I take it philosophically. I grew up in a very lucky fashion, unlike the Senator from Arkansas. Sometimes in private we joke about that, and we have a good laugh about it.

But my great-great-grandfather came from somewhere in Germany. Nobody really knows what he was doing. And he came to this country because he wanted to be able to do something better, to have a better life. I find nothing wrong with that. I thought that, again, was what the Statue of Liberty was all about. My family has done well. Other families have done well. People not only do well in this country, they do well in other countries. Often people who do well in other countries want to come to the United States either for their own professional purposes or because they feel they can use the money which they have earned in other countries to better affect this country. That is one reason why people are investing. Is it wrong for foreigners to buy in the stock market? No. They are. It is one of the reasons they are doing so well; we are a good deal.

What I am saying is, positively the Senator was wrong in his previous question about California, that the commissioner of corporations was totally unaware of this program. What I am saying is that allowing people to pool money to put West Virginians, or Kansans, or others to work is a principle which is no less evil than allowing 17 people from Boston or 13 people from Magnolia, AR, to pool funds and put people to work in those two States.

Citizens of the world want to come to this country. That is why we are so much populated by people who came from other countries, including my own family, and including the Senator's, at some point. That is what is great about this country. If in that process we create jobs for people who in the 34 years that I have been in West Virginia have never held a job before and it brings with it health benefits, then don't expect me to stand in its way.

Mr. BUMPERS. We are all indebted to your great-great-grandfather who immigrated to this country. We are indebted to him for coming because he wanted to be free; he wanted to live and die here; he wanted to raise his family here.

These people do not even come to the United States. They live in Hong Kong and they send their money.

I yield the floor and reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Massachusetts.

Mr. KENNEDY. How much time do we have on the Bumpers amendment?

The PRESIDING OFFICER. The Senator from Arkansas has 13 minutes 27 seconds. The Senator from Massachusetts has 22 minutes 30 seconds.

Mr. KENNEDY. I have listened to the debate on this issue. It has been an important and illuminating debate. We are really talking, as I understand it—and I am going to ask the Senator from West Virginia a question about this—we are talking about approximately 1,000, maybe 1,500 visas or green cards a year. We issue about 900,000 green cards annually, and with the investor visa, we are talking about a very small program by comparison. There is a principle involved and I have heard the Senator from Arkansas. But it actually is a very, very modest program. It was developed at a time when we had higher unemployment than we do at the present time. It was a recognition that in many of these areas of unemployment we were trying to devise as many different kinds of ways to bring jobs into those areas as possible.

But I ask the Senator from West Virginia if he would not agree with me that the immigration policy is a policy which is basically to benefit the United States? That is overarching and a generalization, I know. But our overall immigration policy includes a number of different features.

We have the reunification of families. That has a very high priority.

We have provisions in our immigration laws for 140,000 skilled workers. Most of our major hockey league players are players from other countries. They come over here, play hockey, get citizenship, and make a lot of money. We have artists who come in here and appear on our stages and they make a lot of money. They have money when they come in here, and they make a lot of money, but we feel they add to the theater or to sports, so we let them in. We have artists who come over here

who are wealthy and have particular talents and settle here, get green cards and become citizens. But we believe they add to the country, too, so we let them in.

We are, as I understand it, not a nation that just is taking in the dispossessed, although we have an important tradition for that. As I look at immigration, the way that it actually works—a matter which we have been debating here—I believe we ought to give Americans the first crack at these jobs under the temporary worker program, which we can certainly do. But if we are talking about Andrew Lloyd Webber coming over here, he gets in here. He has not waited 2 years, 3 years to get in. He comes on in as fast as the Concorde can bring him. You can say, ''Well, that is unfair. That is unfair. Why are we going to take Lloyd Webber? Why is he jumping over all these other people who want to come here?'' But we still believe he is exceptional and adds something to our nation.

These are all balances, though the Senator may not agree with me. What we did in creating the investor visa was very modest. No one quite understood it, because we had never done it before. But it was an effort to try to get some jobs in underserved areas. We had seen that the idea of an investor visa had been utilized in other countries with a modest amount of success—not great success but a modest amount. But we said that in our law, immigrant investors must also create jobs because jobs are needed in West Virginia, needed in Roxbury, MA, needed in Lawrence, MA, and needed in southeastern Massachusetts.

Maybe this hasn't worked as well as many of us would like, but nonetheless in some areas, in my own State in some areas, there has been some positive development. Sure, it is 10 jobs per investor. Sure, I would like them to be better jobs than some of the investors have created, but there have been jobs that wouldn't have been there or that would have disappeared without these investments.

But I would just say to the Senator, with all respect to my colleague from Arkansas, we have just let in, thank God, one of the best baseball pitchers that we have on the Boston Red Sox. He did not wait like unskilled people do, coming from all over the world. He came right in, and he has been pitching. He started pitching 5 days after he was in this country and he has been just superb.

I wanted to say to the Senator and ask him, does he not believe that we have an immigration policy that includes a variety of these features; the overwhelming aspect of it is the reunification of families? That is its heart and soul, as I believe it should be. We have debated what is a family—a nuclear family, whether it is just brothers and sisters, older brothers and sisters, younger brothers and sisters, small children. We have had that debate. There are important differences in this body on that issue. But it has been families.

We have also cut back on low-skilled workers which we did not do 20 years ago, and the reason why? Because we find that they are a depression factor on wages for American workers in entry-level jobs. Interesting. That was not a factor years and years ago. But it is now. It is now. That is why there has been some alteration and change.

So I just wondered whether the Senator from West Virginia agrees with me that we have in our immigration policy a variety of different features. There are some features of it I disagree with and we have debated some in the last bill which came through this body, which I opposed for various other reasons, not important here today.

In creating the investor visa, jobs were important. And that was the balance that was made—to permit the visa if it created jobs. It has been a very modest program and all of us hope that it can be strengthened.

But I would ask my colleague whether he does not agree in the total lexicon of consideration of the immigration policy we shouldn't at least be able to consider the feature of national need.

Mr. ROCKEFELLER. I say to my friend from Massachusetts that I certainly do agree with the variety of the application he describes. And I would also say to my friend from Massachusetts the final words of the Senator from Arkansas, Mr. BUMPERS, before sitting down were oh, no, these are all people who are living in Hong Kong, which is an odd statement to make. But I want my colleagues to pay very, very close attention when I say that the majority of the people involved in this program are coming to this country, are bringing their families to this country, want to settle in this country, want to educate their children in this country. They are not doing this from long distance like it is totally legal for them to do, for example, to invest in our stock market from long distance.

As the Senator from Massachusetts has said, these are people who for the most part plan to come into this country, bring their families, are in this country. That is one of the ways that you can come to this country. You want your children to go to good schools. You want them to have a better life than they do from where they might come—just the wide open spaces, the wide open opportunities of America. So this is one of the vehicles.

On the way, by the way, it helps create potentially tens of thousands of jobs in this country, and then 5,000 or 6,000 jobs in my State of West Virginia from people who are for the most part deciding to come to live in this country and to make their money available to put my people to work. I would not argue against that.

Mr. BUMPERS. Will the Senator be willing to answer this question. He said most of these people are coming into this country. What is the Senator's source for that information?

Mr. KENNEDY. If the Senator will yield for that, you have to come in in order to qualify for it.

Mr. BUMPERS. I do not know where the bill says that. Could the Senator quote that for me in the bill?

Mr. KENNEDY. It is self-evident in the application of the green card. You cannot get the green card unless you come here. That is the provision. It is self-evident because that is what the Senator is complaining about—they are coming over here and getting the green card.

Mr. BUMPERS. That is right. They get the green card at the end of 2 years.

Mr. KENNEDY. That is exactly correct.

Mr. BUMPERS. But they don't have to be here for that first 2 years to get it. And there is nothing in the law that requires them to be here.

Mr. KENNEDY. The statute says primary residence.

Mr. BUMPERS. Primary residence in Hong Kong or the Senator is saying the United States is the primary residence?

Mr. KENNEDY. In the United States, or they lose their immigration status. It says the U.S. must be the primary residence in the legislation.

Mr. ROCKEFELLER. If the Senator from Arkansas would yield for this statement. The statement we got is from the official documents, in fact, sent from West Virginia by InterBank in which they declare that the majority of their people are coming here to live, to bring their families and to raise their families.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes 45 seconds.

Mr. BUMPERS. How much time do the opponents have?

The PRESIDING OFFICER. They have 14 minutes 30 seconds.

Mr. BUMPERS. Mr. President, some of this information is really strange to me. It is things I never heard before. The Immigration and Naturalization Service is the one who said, first, that we must have been smoking something when we passed this law, and, second, that we shot ourselves in the foot. And now they say that this program cannot be monitored.

The law does require the INS, incidentally, to study the background of these people. You think about that. And the INS says that is utterly impossible. This can be drug money. Any guy who has run drugs in Colombia or wherever can come to this country, put up $100,000, and pretend that he is creating jobs and get himself a green card in 2 years.

Hold a hearing in the Judiciary Committee and ask the INS how well they are monitoring this program? They

will tell you they don't even come close to having the personnel to monitor this program, or the background of the people who are coming in, the background of those who are putting the money up. Of course they can't. They can't stop the hoards crossing the border from Mexico into the United States. They can't stop the hoards coming into our airports. How do you expect them to do background checks to determine whether or not this money that they do put up, which is about 20 percent or 10 percent of the required amount, how do you expect them to be able to determine whether that is drug money or not? Whether the guy is an escaped convict or not? Whether he is simply coming to educate his children and comes here long enough to set the thing up and goes back to Korea or Hong Kong or Taiwan or wherever. Most all of these people are coming from the Pacific rim.

When I say that, I say that advisedly. They are not coming at all. They are coming to visit and then they are going home. They are buying what is advertised by AIS, the biggest limited partnership who deals in these things; they are buying American citizenship and they are buying an alternate residence.

Mr. President, let me say one other thing in response to the statement of the Senator from Massachusetts. Pedro Martinez gets a permit to come here for a certain number of days and then he has to go back to the Dominican Republic? Other players, such as Livan Hernandez, of Cuba, came here because he was a baseball pitcher and because he was willing to get in a boat and risk his life, I suppose. Was he one of those? Let me ask the Senator from Massachusetts, was Livan Hernandez one of the boat people that they rescued?

Mr. KENNEDY. Yes. He was one of those. Although we have many others.

Mr. BUMPERS. I would almost be willing to grant him carte blanche, if he wants to come here bad enough to get into a little old boat and come from Cuba, that is fine. Give that guy a chance to become an American citizen. That is the way our ancestors came. They took risks to get here. They would do anything in the world—to fight and scratch and claw to get here. And people still do.

So what are we doing? We are not rewarding them. We are taking up some of the immigration slots in this country with this scam, one of the biggest scams ever perpetrated by the U.S. Congress deliberately.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, it will be evenly divided between the two sides.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just 1 more minute. On the issue of the presence of the applicant, the law itself says:

Continuing residence: The alien must establish that he has continuously resided in the United States since the date the alien was granted the temporary resident status.

So, according to the law, it says must ''continuously reside in the United States.''

Mr. BUMPERS. Mr. President, if I may respond to that, that is exactly what the INS says. They cannot monitor this program. They don't have the people to monitor it. They don't know whether they are staying or not.

But if you talk to these people running these limited partnerships and consulting firms who are the people really making money out of this—you have to pay them $50,000 up front to pull this scam off. And INS will tell you that they cannot monitor the very question, the very point that the Senator from Massachusetts makes. They are not complying with any of these laws. INS will tell you some of them are and some of them aren't, but they cannot monitor it. The law is bad and the enforcement is impossible.

Mr. President, I ask unanimous consent that an article appearing in the New York Times on April 12, 1998, and an article in the Washington Post, dated December 29, 1997, setting out virtually everything I just pointed out in my remarks, be printed in the RECORD.

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

[From the New York Times, April 13, 1998]

ABUSES ARE CITED IN TRADE OF MONEY FOR U.S. RESIDENCE

(By Eric Schmitt)

WASHINGTON, APRIL 12.—A Federal program that grants wealthy foreign investors permanent residency in the United States is being manipulated, the Immigration and Naturalization Service says, with investors' money being pooled so that most of them obtain residency visas without making the required investment.

The program, established by Congress in 1990, envisioned wealthy foreigners investing directly in American businesses. But in recent years, a cottage industry of consultants has sprung up to pool money in creative ways from the foreigners, who under the program must invest at least $500,000 in an American business that creates or saves jobs. In return, the foreigners receive a permanent residency visa, or green card, the coveted document that is the first step toward American citizenship.

A six-month Government review concluded last month that many of the consulting firms that link the immigrants to business opportunities in the United States had improperly exploited loopholes to guarantee rates of return and limit investor risk. Under some consultants' plans, for example, foreigners would only have to pay about one-third of the required $500,000 investment, with a promissory note for the rest that could eventually be forgiven by the consulting firm or the American business.

''These plans do not meet either the spirit or the letter of the law established by Congress,'' said Russell Bergeron, a spokesman for the immigration service.

But when immigration officials moved this year to revoke more than 5,000 visas granted under the program, mostly to immigrants from Taiwan, China, South Korea and Hong Kong, a number of influential lawmakers from both parties, including Senator Edward M. Kennedy, Democrat of Massachusetts, protested that the Government was changing the rules in midstream.

The immigration service, the lawmakers said, knew all along what the investors were doing and never raised an eyebrow when the Government approved the visa petitions. The lawmakers criticized a freeze the agency has imposed on most new visas until it sorts out what kinds of investments are allowed. They contend that the freeze has stymied growth in economically depressed parts of the country that the program was intended to help invigorate.

''For months, American jobs, created by the investor visa program, have been ensnared in bureaucratic red tape,'' said Representative Lamar Smith, a Texas Republican who heads the House Judiciary subcommittee on immigration. ''Job opportunities have been stifled by a heavy-handed Government agency.''

In response to the criticism, the immigration service backtracked a bit late last month, allowing 1,500 investors and their families, who had received conditional green cards and completed a two-year waiting period, to stay in the United States.

But hundreds of other applicants in the pipeline will have to refile their visa petitions under new guidelines being developed. Critics say the immigration service did not publicize this decision, leaving immigrants and their lawyers in limbo.

''The immigration service is wreaking havoc on everyone's lives, and it makes zero sense to me,'' said Denyse Sabagh, a former president of the American Immigration Lawyers Association, who now represents one of the consulting firms.

The issue has rekindled a fierce debate over the propriety of using permanent residency visas to attract foreign capital and create, or at least save, American jobs.

The uproar also underscores deficiencies in the immigration service. Its loosely worded regulations are an easy target for consulting firms looking for loopholes. And its examiners, who are trained to ferret out most routine immigration fraud, are ill-equipped to address increasingly complicated financial plans.

''The I.N.S., unlike the I.R.S., isn't typically an agency that has to police against highly sophisticated investment devices,'' said David A. Martin, the former general counsel of the immigration service whose blistering 36-page memorandum last December became the centerpiece of the Government's review of the program.

For the immigration service, the visa program is the latest in a string of contentious issues to catch the attention of the Republican-led Congress, which over the past year has criticized the agency for wrongly naturalizing tens of thousands of immigrants and which has even suggested abolishing the service.

The immigrant investor program, which offers 10,000 visas a year, has never caught on the way its proponents had hoped. Until two years ago, the immigration service never issued more than 600 visas a year to investors and members of their immediate families.

Congress created the program to compete with other countries, including Canada and Australia, that offered similar visas to attract foreign capital and create jobs. But the American model required larger investments, the hiring of at least 10 employees who were not related to the investor, and an audit two years after the visa was issued to insure the investment and employees were still in place.

In the past two years, immigration officials say consulting firms have devised savvier business plans for immigrants to use and stepped up their marketing, particularly in Asian and Middle Eastern publications. The number of visas issued to investors

jumped to 1,110 in fiscal year 1997 from 295 visas in fiscal year 1996.

At the same time, American consular officials in Tokyo, Taipei, Guangzhou, Seoul and Hong Kong raised questions about dozens of visa petitions. Consuls found that many plans called for a down payment, typically $150,000 on a $500,000 investment, and arranged a promissory note for the rest. After two years, the investor would get a green card and then, the plans suggested, the remaining $350,000 would be forgiven.

Last month, the California Department of Corporations ordered a Virginia-based firm, Interbank Immigration Services, to stop offering investment programs to wealthy immigrants.

The company, California officials said, promised qualified immigrants a green card within eight weeks if they bought a stake in a Delaware limited partnership. The stakes were in turn sold to a Bahamian enterprise for an annuity that matured in five years. But state officials said investors had no guarantee that they would realize the promised benefits.

Reports like this prompted the immigration service to conduct its review. ''Little by little, the program may have gotten out of control,'' said a State Department official familiar with the visa program.

But many consulting firms say that they have followed the rules and that they are being penalized for the abuses of a few or by lax oversight by immigration officials.

One such firm, American Export Partners of Charleston, S.C., has pooled more than $8 million in cash and promissory notes from investors, mostly from Asia, and, with the Government's blessing, created a commercial financing company to make loans to American exporters. Thirty-eight of the firm's investors have received green cards, said Timothy D. Scranton, a managing director.

One loan was a $750,000 line of credit to Pillow Perfect, a bedding manufacturer in Woodstock, Ga. ''They're providing financing for my company to grow and hire more people,'' said Paul Ratner, president of Pillow Perfect, whose work force has increased to 50 employees from 20 employees in the past two years.

Mr. Ratner said that he had consulted several local banks but that American Export was ''more competitive and easier to deal with.''

Other middlemen are changing their marketing practices to address the Government's complaints. One of the largest consulting firms, AIS of Greenbelt, Md., said it sent a revised business plan to the immigration service in February.

''Things are continuing to evolve,'' said William P. Cook, a lawyer for AIS who was the immigration service's general counsel when the visa program was created.

The immigration service insists that it still supports the program—but with several changes—and plans to ask the Commerce Department and Small Business Administration for technical help in reviewing future immigrant-investor financial packages.

But immigration lawyers and their clients say the program will stay stuck in neutral until the immigration service drafts a clear set of rules for the industry and immigrants to follow. ''What we need now is for the I.N.S. not to issue more general counsel memos, but regulations,'' Mr. Cook said.

[From the Washington Post, December 29, 1997]

U.S. ISSUING MORE VISAS TO INVESTORS; CRITICS SAY 1990 STATUTE OPENS PATH TO CITIZENSHIP FOR WEALTHY FOREIGNERS

(By William Branigin)

For those with a desire to emigrate and cash to spare, the recent ad in the Times of Oman offered an enticing proposition: ''U.S. Green Card for anyone who can show U.S. $500,000.''

Green cards for sale? Those coveted credit card-size documents, which confer legal U.S. resident status and constitute the first step toward citizenship, on the block for cold cash in a Persian Gulf sultanate?

What appeared on the face of it to be a dubious offer in fact was based on a little-known—but quite legal—U.S. government program to encourage immigration by wealthy foreign investors. The investor visa program, passed by Congress in 1990 as a way to compete for foreign capital and create U.S. jobs, reserves up to 10,000 green cards a year for investors and their immediate families.

To qualify, the principals must each create at least 10 full-time U.S. jobs by investing $1 million—or $500,000 if the jobs are in certain high-unemployment areas—in the establishment of a new business, or the rescue or expansion of an existing one. The workers must not be relatives of the investors, but they do not necessarily have to be U.S. citizens.

So far, the program has not really taken off. In recent years, issuances have numbered only in the hundreds. In 1996, the latest fiscal year for which figures are available, 936 people received them, including spouses and children. More than 80 percent of the visas went to Asians, mostly from Taiwan, South Korea, China and Hong Kong.

In part because of promotions like the one by a private consulting firm in Oman, however, the investor visa program gradually is becoming better known around the world. Its boosters expect the 1997 numbers to show a sharp increase, perhaps double the 1996 total. And with Hong Kong now under Beijing's control and Asian economies in turmoil, the promoters hope to attract even greater numbers of wealthy Asians.

The program has spurred an industry of consultants and facilitators who link investors with business opportunities in the United States, handle the visa applications and even arrange financing for the required investment money. The industry leader is a Greenbelt-based firm called AIS Inc. (originally American Immigration Services) that specializes in pooling investors together to bankroll larger projects. It says it has obtained visa approvals for more than 1,000 investors who have committed more than $500 million to U.S. businesses since 1991.

The firm boasts a high-profile management team led by Diego C. Asencio, a retired senior U.S. diplomat, as president. Gene McNary, a former commissioner of the Immigration and Naturalization Service, is one of the company's top lawyers. Its board of directors includes former ambassadors Stephen W. Bosworth and Jack F. Matlock Jr., former assistant secretaries of state William Clark and Richard W. Murphy, retired Democratic congressman John Bryant of Texas and Prescott S. Bush, the brother of former president George Bush and chairman of the private USA-China Chamber of Commerce.

Among the projects to which AIS has channeled investments are restaurants, hotels, apparel and equipment manufacturing companies and a chain of retirement homes. The investors include businessmen, bankers, doctors and other professionals.

The visa program's advocates argue that it brings in immigrants with needed capital, saves troubled companies and creates or preserves jobs. By contrast, they point out, growing numbers of immigrants who enter the United States under the current system, which stresses family ties, are poor, unskilled and uneducated, and thus often a burden to society.

But critics of the scheme say there is something unsettling about marketing immigrant visas like a commodity. Although the green cards are ''conditional'' for two years under the program, pending verification that the investment has been made and the jobs created, the transaction is viewed by some as only one step removed from selling U.S. citizenship.

''If it's one step, it's a mile wide,'' said McNary, who disputes that view. The program lately has met with some recalcitrance within the INS and the State Department, just as it did in 1990 when congressional opponents charged it would allow well-off foreigners to ''buy green cards,'' he said. But that notion is misguided, McNary insisted, because the participants ''are investing in our economy and serving the national interest. These are good people who blend into American culture.''

In its literature, AIS describes the investor visa program as offering ''the best of both worlds'': the security and convenience of ''alternate residency'' in the United States, with no real requirement to live here full time. An AIS brochure touts the program as less restrictive and expensive than similar plans in other countries such as Canada, which requires investor immigrants to stay there at least 183 days of the year. The U.S. program also sets no requirements on age, prior business training or experience, education level or language skill, the brochure points out.

''The only requirement for the investor,'' it says, ''is that he have the required net worth and initial capital,'' which must come from a ''lawful source'' but may include gifts, inheritances and bank loans.

Mr. BUMPERS. 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. BUMPERS. 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. BUMPERS. Mr. President, I ask unanimous consent I be permitted to put in a quorum call and the time be equally charged to the proponents and opponents.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I seek the floor at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I have not spoken yet on this amendment by the Senator from Arkansas, but I think the points that have been made in opposition are ones that our colleagues should observe closely. I think if they do, they would argue in favor of a ''no'' vote on the amendment.

I would just say this, though, to the Senator from Arkansas. There obviously have been some concerns raised by the program. He has raised some of those concerns today, and they have been the subject of various articles. But we have not in the Immigration Subcommittee up until this point yet conducted any hearing or examination to determine the degree to which these concerns are appropriately warranted.

It is my understanding, though, that the Immigration and Naturalization

Service is currently making some significant internal changes to the program that many believe have been previously undermining the goal of the program. I want to look at what the INS is proposing. Based on what I have heard so far, I have some concerns about the approach they are taking, but I want to get a better feel from that before I believe we should move forward with a specific fix—whether it is the fix proposed here, of eliminating the program, or some modified approach.

This amendment, if accepted, would simply eliminate the use of these visas. I do believe there are a number of circumstances where we need to learn more before we would go forward. So, therefore, I don't think we should at this point simply hack off an important part of the immigration system without further deliberation and examination. I think the intention of the Immigrant Investor Program is a good intention. We have heard from the Senator from West Virginia of some of the benefits that have already taken place. The goal is of attracting and creating more jobs for Americans and so on. If refinements need to be made, I think we need to examine the program a little more extensively than we have done. I think we need to go beyond the reports in the media. And I think we need to see exactly what the INS' final proposal would be.

I say to my colleague from Arkansas, certainly we intend to exercise such oversight in our subcommittee, regardless of what the outcome is here today. But I think it would make sense for us to have that oversight before we simply move to eliminate this program.

Mr. President, I yield the floor at this time. Let me ask, before I do, what the status is with regard to time.

The PRESIDING OFFICER. The Senator from Michigan controls 10 minutes 35 seconds. The Senator from Arkansas has 5 minutes 22 seconds.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me just say to the distinguished floor manager, Senator HARKIN had a 5-minute statement. We are scheduled to vote at 5:45. I am not sure what other amendments are to be voted on besides mine. I assume after that, final passage?

Mr. ABRAHAM. The intent of the majority leader would be to have the votes on the amendments to begin at 5:45. I believe we already have an order entered into to that effect. And then final passage to follow on votes on the amendments for which votes were requested. I assume a vote will be requested on the amendment of the Senator from Arkansas. The Senator from Massachusetts has two amendments.

Mr. BUMPERS. Have the votes been ordered on the amendments of the Senator from Massachusetts?

Mr. KENNEDY. No, but we will.

Mr. ABRAHAM. And we also need to dispose of the managers' amendment prior to the beginning of the voting. We are hoping to begin the voting—the order calls for it to begin in 15 minutes.

Mr. BUMPERS. Mr. President, let me say to both floor managers, I was prepared to yield back my time, but Senator HARKIN came over and waited quite awhile. He had a statement he wanted to make for 5 minutes on something completely unrelated. I reserve my time.

Mr. KENNEDY. I had planned to put my two amendments in and make comments for about 4 minutes or so on both of those amendments. I expect Senator ABRAHAM to do about the same, and then we will be almost at the time for the vote. I have about 4 or 5 minutes.

Mr. BUMPERS. Is this as good a time as any to ask for the yeas and nays on my amendment? I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENTS NOS. 2417 AND 2418

Mr. KENNEDY. Mr. President, I send two amendments to the desk.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes amendments numbered 2417 and 2418.

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

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

The amendments are as follows:

AMENDMENT NO. 2417

(Purpose: To ensure that employers recruit qualified United States workers first, before applying for foreign workers under the H–1B program)

On page 41, after line 16, insert the following new section:

SEC. . RECRUITMENT OF UNITED STATES WORKERS PRIOR TO SEEKING TEMPORARY FOREIGN WORKERS UNDER THE "H–1B VISA" PROGRAM.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

''(E)(i) The employer, prior to filing the application, has taken timely, significant, and effective steps to recruit and retain sufficient United States workers in the specialty occupation in which the nonimmigrant whose services are being sought will be employed. Such steps include good faith recruitment in the United States, using procedures that meet industry-wide standards, offering compensation that is at least as great as that required to be offered to nonimmigrants under subparagraph (A), and offering employment to any qualified United States worker who applies.

''(ii) Clause (i) shall not apply with respect to aliens seeking admission or status as nonimmigrants described in section 101(a)(15)(H)(i)(b) who are—

''(I) aliens with extraordinary ability, aliens who are outstanding professors and researchers, or certain multinational executives and managers described in section 203(b)(1), or

''(II) aliens coming as researchers or faculty at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965; 20 U.S.C. 1141(a)) (or a related or affiliated non-profit entity of such institution) or a non-profit or Federal research institute or agency.''.

AMENDMENT NO. 2418

(Purpose: to ensure that participating employers cannot lay off United States workers and replace them with temporary foreign workers under the H–1B visa program)

Beginning on page 30, strike line 12 and for all that follows through line 21 on page 32.

On page 41, after line 16, add the following new section:

SEC. . PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

''(E) The employer has not replaced any United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c)—

''(i) within the 6-month period prior to the filing of the application,

''(ii) during the 90-day period following the filing of the application, and

''(iii) during the 90-day period immediately preceding and following the filing of any visa petition supported by the application.''.

(b) DEFINITIONS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended by adding at the end the following:

''(3) For purposes of this subsection:

''(A) The term 'replace' means the employment of the nonimmigrant, including by contract, employee leasing, temporary help agreement, or other similar basis, at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

''(B) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(C) The term 'United States worker' means—

''(i) a citizen or national of the United States,

''(ii) an alien who is lawfully admitted for permanent residence, or

''(iii) an alien authorized to be employed by this Act or by the Attorney General, if the individual is employed, including employment by contract, employee leasing, temporary help agreement, or other similar basis.''.

Mr. KENNEDY. Mr. President, do I have 5 minutes?

The PRESIDING OFFICER. The Senator has sufficient time.

Mr. KENNEDY. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are at the time where, in just a few minutes, we will be making a decision

about expanding a provision of the immigration law that provides for temporary workers. This is a provision now that has been, by and large, used for workers 85 percent of whom make $75,000 or less.

There is a small group of highly skilled, highly talented individuals who do a great deal better than that. They are really not an issue in this particular amendment, as far as I am concerned, because they only take a very small number of the green cards that will be issued.

There is a substantive question about how much of a problem there is. Under the Abraham amendment, we will temporarily be opening up this quota in a very significant way. Tens of thousands of new immigrants will be coming to the United States. In our particular proposal, that was not so.

Let me read two letters that indicate what the challenge is. One is from Sally Barnett. She is from Plano, TX:

> I just heard via the radio that several companies, including Texas Instruments, Microsoft, etc., wish to bring in immigrants to do high-tech engineering. I live in Dallas and have for 3 years. I graduated with a degree in mathematics and went back to school in the late 1980s and received my degree in computer programming. I have two positions in the field . . . I have applied all over Dallas but never get an interview. I have my resume on the Internet. I had a 4.0 average in my classes in the late 1980s . . . I do not even demand a high salary but I can't even get an interview for a job.

This is a computer technician who is unable to get a job. I had scores of letters that I read from earlier in this debate.

Jim Sizemore from Cupertino, CA, has a long letter:

> Do not increase the immigration quota for high-tech workers. This will force employers to act responsibly to get more from their high-tech talent . . . to invest in domestic training, to internally develop talent, and to take action to retain the talent they have. Don't let employers off the hook from taking such actions.
>
> Importing more foreign labor is a cheap and easy answer for companies who don't want to do what's right. Importing foreign labor is wrong for current workers . . . .

Wrong for American workers.

That gets to the heart of my two amendments. There are three different issues here. One is training, to make sure down the road that we provide adequate training so that American workers will have the skills to get all of these jobs and hopefully be able to do that in the next 3 or 4 years. We are working out that particular provision.

But the two amendments that I offer say something else. They say that we will not permit Americans who have those jobs today to be laid off from those jobs and to substitute for those Americans foreign workers. That is permitted today, and that is wrong. That is wrong, because we know what has happened. Foreign workers come on in, and they are forced to work longer and harder and are in the position where they refuse to complain because they know if they do complain, they are going to have their green card pulled and will be sent back to their country of origin. We have the record; that happens, and that is wrong. That amendment no. 1.

The second amendment says, before you go out and hire a foreign worker, you at least have to make a reasonable effort to try to hire an American worker. We do it by just saying any employer has to follow the industry standards for recruitment in that industry, and simply indicate on the application form that that is what they have done.

Basically, we are saying, what is wrong with American workers? Clearly, they can be trained to take these jobs. We believe they should be able to do so.

Secondly, we believe that there are tens of thousands of workers across this country who ought to be able to maintain their jobs and not be replaced by foreigners in this country. We also believe that Americans ought to be given a chance for these jobs in the United States before they go overseas.

Those are effectively the two amendments before us. We believe in American workers. We believe they can be trained. We believe they ought to be given the first opportunity for hiring. And we believe that they ought to be able to hold those jobs and not be displaced if they have the needed skills. Mr. President, I hope that we will have a vote in favor of my amendments.

I yield back what time I have, and I ask that it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to requesting the yeas and nays? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President. I will respond to the amendments that have finally been offered, as well as to speak about the bill in general.

With respect to these amendments, let me say this: Our whole intent in addressing this legislation from the beginning was to provide three things:

A short-term solution to meet the current, very significant shortage in high-tech workers which our high-tech industry is confronting, a shortage which, if not met, will severely hurt the American economy and, in my judgment, dramatically reduce our economic growth.

The second goal of the legislation is to address the long-term needs we will have for high-tech workers, skilled workers, information technology workers. We attempt to do that in this legislation. We do believe that American workers, American kids, have the skills and talent it takes. The goal is to have the right job training and educational opportunities so that people can develop these skills, and we are in the process, through this legislation, of setting in motion both a scholarship component as well as a job training component to assist in what is obviously a much broader, macro effort that must be undertaken to effectively, in a long-term sense, meet the challenges of the job market of the 21st century.

At the same time, we felt it was important in this legislation to protect American workers so that these programs cannot be abused. Let me begin by saying I think these amendments are a solution in search of a problem. For those Members watching and listening right now, in the entire history of this program there have only been eight willful violations of hundreds of thousands of cases—only eight willful violations in this program, and each has been punished.

Our legislation says even though that is a tremendous track record and a great expression of the fact that this is a program not being abused, we want to go further. We have dramatically toughened the penalties in such a way that if anybody willfully violates the provisions of using H–1B employees and H–1B visa holders and lays off someone—Mr. President, that has only happened one time in the entire history of the program—if it happens, if somebody is displaced for an H–1B employee, then the company involved will be debarred and prevented from even using the H–1B program for 2 years. In addition, they would pay a $25,000 penalty fine per violation.

In short, we have addressed each of the things that have been raised by Senator KENNEDY. In my judgment, we have addressed them in an effective way, considering the fact that in the history of the program there have been, in fact, so very few violations.

I also say this. The solution proposed by the Senator from Massachusetts would give the Department of Labor a dramatically increased role in the supervision of the high-tech community and other businesses and entities using skilled workers. I do not personally believe either of these amendments could be implemented without the Department of Labor creating massive new bureaucratic regulations and micromanaging these companies.

Indeed, I do not believe these companies would go forward and hire anyone on an H–1B program without getting some type of prior clearance from the Department of Labor.

We have an attestation process in place, a recruitment process in place for permanent workers. It takes 2 years before the various hoops and regulations can be met. I am not saying that is wrong, but I am saying it is unworkable in the context of temporary workers. We have dramatic needs today for these workers.

We have heard, as I said in my opening statement, about the year 2000 problem. We cannot wait 2 years to bring in additional workers to cure the

year 2000 problem because we will already be in the year 2000. In a similar sense, we simply cannot take the existing program and undermine it with these complicated bureaucratic Department of Labor regulations.

I have heard from the various companies and entities that are seeking an increase in the cap on H–1B visas. They have said an increase in the cap would be meaningless and totally nullified if these kinds of labor provisions are included. They go too far. They would undermine the whole program. And indeed, if they were to be enacted or passed in the form of these amendments, I would be inclined to encourage the majority leader to pull the bill down because I think it would create ultimately a greater problem than we already have today. We have a serious problem already.

So, for those reasons, Mr. President, I urge our colleagues to support my motion which I intend to make to table those amendments, and I urge them to pass the legislation. It is vitally needed. It is important to our economy. It is important to our ability to meet the year 2000 challenges, and it is important for us to bring the academics here to train American students so that we will produce these additional workers. That is why it has such broad-based support, bipartisan support in the Senate, academic support throughout the academic community, business support throughout the business community, support among heritage groups, and others.

Mr. President, this is not a situation where we are dealing in a zero sum game. People coming in under the H–1B program are not taking jobs away from Americans. In virtually every case, they are contributing to a business, a company, an organization that is growing; and they are creating more opportunities. That is the evidence we had before us in the committee. I think it is what will happen in the 5-year period for which we are seeking this increase, and that will give us time to solve the problem in the long term.

Mr. President, I ask unanimous consent that letters I have received from various business groups in opposition to the Kennedy amendments to S. 1723 be entered in the RECORD:

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

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, May 18, 1998.

Hon. SPENCER ABRAHAM,
Senate Dirksen Office Building
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 14,000 members of the National Association of Manufacturers (NAM), including approximately 10,500 small manufacturers we want to thank you for your continuing efforts to temporarily expand the number of highly skilled, foreign-born professionals allowed into the United States on a short-term basis. As you know, the cap on H1–B visas was reached over a week ago—nearly five months before the end of the fiscal year. If your bill, S. 1723, is not enacted soon, the ability of U.S. companies to compete in the global marketplace will suffer. With unemployment at a record low, and thousands of vacancies in the high-technology sector alone, we cannot emphasize enough the importance of temporarily raising the number of H1–B visas available.

While there is no question that raising the cap is a necessary short-term step so that U.S. companies can fill vital vacancies, we do not believe that the cap should be raised at all costs. Specifically, we strenuously oppose the Kennedy-Feinstein attestation amendments that would impose new mandates on all employers and fundamentally and permanently change the HI–B program. Instead, we believe that your bill, which would impose new and substantial penalties on those who break the law without burdening law-abiding employers, is the correct approach. If the Kennedy-Feinstein attestation amendments are adopted in their current form, all positive benefits from raising the cap would be negated and we would regretfully have to oppose final passage.

We have repeatedly urged your colleagues to vote for S. 1723 without amendment, even identifying it as a Key Manufacturing Vote in the NAM's Voting Record for the 105th Congress. As always, we are prepared to assist you in whatever manner possible to raise the H1–B cap in a way that will protect American workers while allowing U.S. companies to stay strong and keep their competitive edge.

Sincerely,

PAUL R. HUARD,
Senior Vice President.

CHAMBER OF COMMERCE
1615 H STREET, N.W.
Washington, DC, May 18, 1998.

Hon. SPENCER ABRAHAM,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region, I wish to make clear our opposition to the amendments we understand will be offered by Senator Kennedy to the American Competitiveness Act of 1998 which will add complex ''attestation'' procedures to the H–1B visa application process.

These amendments would seriously undermine the H–1B program. Their broad and ill-defined requirements would, as a matter of reality, empower the Department of Labor to second guess every hiring decision by an employer and to evaluate the nature of every job in an employer's workforce. The program would grind to a halt. Unfortunately, the employer community's experience with the Department under the permanent visa program has demonstrated that these fears are well-founded.

If these amendments are adopted, the Chamber would be forced to withdraw its support for the legislation.

SINCERELY,
R. Bruce Josten.

AMERICAN BUSINESS FOR LEGAL IMMIGRATION
May 18, 1998.

DEAR SENATOR: We write to express our continuing support for S. 1723, the American Competitiveness Act, and to oppose amendments scheduled to be offered by Senator Ted Kennedy on the floor of the Senate.

The Kennedy amendments on ''recruitment'' and ''non-displacement'' needlessly impose regulatory burdens on vital and competitive sectors of our economy. The attestation provisions contained in these amendments would gut a program that has helped our economy grow since 1990. The Senate Judiciary Committee, on a bipartisan basis, explicitly rejected this anti-business approach and instead embraced a tough enforcement regime directed at the abusers, and not the legitimate, law-abiding U.S. companies and universities that employ H–1B workers.

If you support the businesses and institutions that benefit from and utilize this program, you should not impose anti-business provisions that have no place or role in this legislation. Therefore, we strongly urge you to reject the Kennedy amendments to S. 1723.

Sincerely,

American Council on International Personnel; American Electronic Association; American Immigration Lawyers Association; Business Software Alliance; Computing Technology Industry Association; Electronic Industries Alliance; Information Technology Association of America; National Association of Manufacturers; National Technical Services Association; Semiconductor Equipment and Materials International (SEMI); Semiconductor Industry Association; Software Publishers Association; The Technology Network; U.S. Chamber of Commerce.

ITAA
MAY 18, 1998.

Senator Spencer Abraham,
Chairman Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN ABRAHAM: Thank you for your continued leadership on the need to bring highly skilled temporary foreign workers to the United States. We are very pleased the Senate is moving toward final action on this bill.

As you know, time is running out. the H–1B cap has been reached. The United States Senate needs to act now and pass S. 1723, the ''American Competitiveness Act of 1998.''

We want to express our very strong opposition to amendments that will make the H–1B program useless by adding unnecessary regulatory burdens. Providing more H–1B visas, as your bill does, while at the same time adding unworkable provisions relating to recruiting and layoffs, could harm critical projects, such as solving the Year 2000 challenge. As has been documented repeatedly, the IT workforce shortage is one of the reasons companies are not moving quickly enough to solve Year 2000 problems. One senior executive at a major company told me last week he is 350 IT workers short for Year 2000 projects.

We urge you and your colleagues to reject these negative amendments. Your bill, with a strong emphasis on enforcement and sanctions against violators of the H–1B program, has the appropriate tools for dealing with alleged H–1B violations.

We also hope your colleagues will note that delay on the H–1B cap increase While the H–1B program is not the only solution to the IT worker shortage, as I explained during your Subcommittee hearing, it is an important element of dealing with the shortage in the short-term.

It would be ironic of the Senate, just a short time after establishing a Special Committee to deal with Year 2000, did not take action to pass the H–1B, a direct element for addressing the Year 2000 challenge.

Thank you again for your leadership on this important issue.

Sincerely,

HARRIS N. MILLER,
President.

NATIONAL IMMIGRATION FORUM

PRO-IMMIGRANT ORGANIZATIONS CALL ON POLITICAL LEADERS TO REFRAIN FROM BASHING LEGAL IMMIGRANTS IN COMING DEBATE OVER H–1B VISAS

This week the full Senate and the House Judiciary Committee will take up proposed legislation to address the shortage of highly skilled workers in part by increasing the availability of H–1B visas. This is a category of temporary legal immigration in which high tech and other companies can sponsor talented foreign-born employees. Many of these skilled workers are top graduates of America's finest universities.

As the discussion unfolds in the coming days and weeks, and differences are debated, we call on our leaders to underscore, rather than undermine, America's great tradition as a nation of immigrants. For most of our history, the American people have extended a generous welcome to those willing to work hard and contribute their skills and talents to this society. It would be unfortunate if leaders in the heat of political battle did damage to this nation's spirit of tolerance and respect for diversity.

Furthermore, we urge our nation's political leaders to refrain from stereotyping and stigmatizing immigrants as harmful to the nation. Foreign-born professionals who enter the United States on H–1B visas come from a variety of ethnic backgrounds and as such are easy targets for those looking to ''blame foreigners.'' In recent weeks, for example, extreme anti-immigrant groups have used the occasion of the H–1B debate to aggressively pit immigrants against the native-born. Their attacks come dangerously close to legitimizing a climate of hostility directed at immigrants and refugees generally.

Individuals who come here on H–1B visas are not a threat to U.S. workers. Much like legal immigrants sponsored by families or those admitted as refugees, they make important contributions to our society and our economy. They fill important positions at high tech companies, universities, and in a variety of other fields. Rather than harming native-born Americans, these immigrants, many of whom become permanent immigrants to our country, strengthen America. We ask all of our leaders to bear this in mind as we proceed with this important debate.

Mr. ABRAHAM. Mr. President, I thank the Presiding Officer and I yield the floor at this time.

The PRESIDING OFFICER. Does the Senator yield back the time in opposition to the Kennedy amendments?

Mr. ABRAHAM. Yes. I yield back the remainder of my time on the amendments as well, except I believe you still have Senator BUMPERS' amendment.

At this point, Mr. President, I ask unanimous consent there be 2 minutes of debate equally divided between each of the stacked votes which I am about to propose; and I further ask unanimous consent the order of the votes be as follows: a vote on or in relation to the Kennedy amendment No. 2418, followed by a vote on or in relation to Kennedy amendment No. 2417, followed by a vote on or in relation to the Bumpers amendment 2416.

The PRESIDING OFFICER. No. 2416?

Mr. ABRAHAM. No. 2416.

The PRESIDING OFFICER. If there is no objection, the first vote will be on the Kennedy amendment No. 2418, followed by a vote on the Kennedy amendment No. 2417. Is there objection—Without objection, it is so ordered.

AMENDMENT NO. 2419

(Purpose: To set forth manager amendments.)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk on behalf of myself, Senator KENNEDY, and Senator MCCAIN in the form of a managers' amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] for himself, Mr. KENNEDY and Mr. MCCAIN, proposes an amendment numbered 2419.

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

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

The amendment is as follows:

On page 25, line 9, insert ''and for any other fiscal year for which this subsection does not specify a higher ceiling,'' after ''1997''.

Beginning on page 27, strike line 6 and all that follows through page 29, line 10, and insert the following: ''is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

''(3) MATHEMATICS, COMPUTER SCIENCE, AND DNGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.''.

On page 32, between lines 21 and 22, insert the following:

(d) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.''.

On page 32, line 22, strike ''(d)'' and insert ''(e)''.

On page 33, line 1, strike ''(e)'' and insert ''(f)''.

Beginning on page 36, line 25, strike ''the National'' and all that follows through ''methods'' on line 3 of page 37 and insert ''a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations,''.

On page 34, line 15, strike ''(f)'' and insert ''(g)''.

On page 35, line 20, strike ''(g)'' and insert ''(h)''.

On page 41, after line 16, insert the following:

SEC. 10. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

Mr. ABRAHAM. Mr. President, let me indicate the managers' amendment contains several components, one of which pertains to the issue of job training. We have worked very closely with Senator LIEBERMAN, as I said earlier, with Senator DEWINE, with a variety of other Members with respect to this issue. This amendment modifies the job training and scholarships sections authorized by S. 1723 as reported out of committee.

In the job training end, the end product is the result, as I said, of work with Senators KENNEDY, WELLSTONE, LIEBERMAN, ROBB, DEWINE, and the chairman of the Labor Committee, Senator JEFFORDS. And without giving all the details, it would allow the Secretary of Labor to provide demonstration projects through part D of title IV of the JTPA Program for private industry councils or their successors or regional consortia, private industry councils or their successors.

It would also allow the Secretary to support innovative technical skills training programs provided at the local level to help prepare workers with the skills necessary for the 21st century. In that sense, it conforms with the workforce development legislation we passed just last week. With respect to scholarships, I think we have already expressed during the discussion of Senator REED's amendment the actions we are taking there.

In addition, the managers' amendment, at the request of Senator KYL and the National Science Foundation, also makes some changes in the way the panel study in workforce issues is to be organized. It contains various technical fixes to address a pay-go issue raised by the transfer of authority to process labor condition applications from the Department of Labor to the Immigration and Naturalization Service. It handles other technical corrections as well.

Finally, it adds a prohibition. The Attorney General may not approve a petition for an H–1B petition if he or she concludes that the petitioning employer is assisting in the development of India's nuclear energy program or any other nation engaged in the development of weapons of mass destruction.

Obviously, a number of us in the Senate are concerned about the recent nuclear tests that have been conducted

and the concern about the proliferation of weapons of mass destruction, and so we have given the Attorney General the power to intervene if she were to conclude that someone attempting to use an H–1B visa would be somehow connected to a program of that sort.

I also indicate I will be working with all interested Senators—and a number of them have talked to us—about this to make sure these provisions are as effective as possible in preventing these visas from being used by anyone to assist in the development of weapons of mass destruction.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

I thank my friend and colleague from Michigan, first, for his overall leadership in introducing the underlying bill, which I am pleased to be a cosponsor of, and, secondly, for being very thoughtful and accommodating in including the language he has described in this managers' amendment which would authorize demonstration projects for technical skills training for workers, including incumbent workers through local and regional consortia of private sector groups.

Mr. President, this accomplishes two breakthroughs, I think. What it is aimed at, first, is to focus not only on folks who are out of work, but people who are in work but need training to hold their jobs and to upgrade themselves. The second is to stimulate companies to work together to train workers in a given area in which there is a regional or local shortage. I thank Senator ABRAHAM and the other cosponsors of this amendment and the bill for the work they have done.

Mr. President, I am one of many Senators who have cosponsored this bill, but I wish to recognize the singular achievements of my colleague, Senator SPENCER ABRAHAM, for introducing the bill and for advancing it so thoughtfully, so energetically, and so cooperatively.

In one sense we are called upon to pass legislation to respond to a crisis, as so often seems the case. Just last week the Immigration and Naturalization Service announced that the 65,000 person cap on H–1B visas for fiscal year 1998 had been reached. Unless we act, for the remaining five months of the fiscal year, American employers will be unable to hire the temporary foreign workers who help fill gaps in our very tight labor market for skilled professionals. With each successive year, the backlog would only grow. Skilled foreign professionals, many of them graduates of our finest universities, would be driven to jobs with our international economic competitors.

But this crisis is different from other crises, for it reflects the good news that we are in the midst of a period of unprecedented economic growth. The national unemployment rate last month was only 4.3%. Even more remarkable, the unemployment rate for college graduates was only 1.7%. The Bureau of Labor Statistics does not keep statistics for the information technology sector, but most experts estimate that the unemployment rate there has sunk to well below 1%. Various studies are reporting hundreds of thousands of unfilled positions in the high tech sector. Last month representatives of major American corporations like IBM could be found on the beaches of Florida, recruiting college seniors on their Spring Break.

In short, Americans looking for work are finding jobs like never before. But in certain sectors of the economy, and in certain parts of the country, there are not enough Americans able to fill all of the available jobs. The H–1B program allows employers to hire skilled foreign workers for six-year periods, provided that the employers pay them the same wages that other workers receive, and that the foreign workers are not employed in connection with a strike or a lock-out. All sorts of employers benefit from the H–1B program, from corporations to universities to non-profits, but at the moment it is the rapidly growing hi-tech companies that are most in need of additional skilled workers.

But it is not just those companies that benefit from the H–1B program: in some senses, all Americans do. That is because the growth of the high tech sector has been a crucial element of our recent economic resurgence. It is vitally important that we keep the jobs associated with this vibrant industry here in the United States and that we keep this industry growing with the innovative ideas of the brightest people we can find. Unfortunately, at the present time our educational system is not producing enough graduates in the relevant fields of math, science, computers and engineering to keep up with demand. The long term solution to this problem is obviously to encourage more education and job training of American citizens in high-tech fields, and S. 1723 does speak to that need by providing $50 million in matching funds for educational scholarships as well as $10 million per year to train unemployed workers in new skills. But in the short term, we must act quickly to ensure that American information technology companies are not forced to slow their domestic operations or, worse, move their operations overseas in search of the skilled foreign workers who would come to the U.S. if given the chance, The skilled foreign workers employed under the H–1B program will keep their employers strong and growing so that they can hire even more American workers.

Sentor ABRAHAM made an important accommodation in Committee when he modified his bill so that the increase in H–1B visas would sunset after five years. During the first years of that period, the bill calls for a study by the National Academy of Sciences to examine the future training and education needs of American students to ensure that their skills are matched to the needs of the information technology sector. The study would also assess the need by the high-tech sector for foreign workers with specific skills, and would examine the effects of increasing globalization. By the time the increase in visas is set to expire, Congress will have had an excellent opportunity to re-examine the H–1B program in light of additional information and new economic conditions, and hopefully there will be many more skilled American workers to fill these jobs.

A progressive new idea included in the bill is the authorization of demonstration projects for technical skills training for workers, including incumbent workers, by local and regional consortia of private sector groups. This is a very important addition to the bill, and I want to thank Senator ABRAHAM for including it. Two ideas behind the demonstration projects' authorization language in this bill can be particularly important. First, training our workforce with the skills needed for today's industry must include the training of incumbent workers. Training is now a lifelong process and should not be withheld from people because they already have a job. The Workforce Investment Partnership Act addressed this issue by eliminating the income requirement for some of the Labor Department's adult training programs. We need to turn Labor Department programs into programs that industry wants to partner with, and a large part of that metamorphosis must include incumbent worker training.

The second important element of these demonstration projects is stimulating companies to work together. We need to change the institutional mind set of American companies so that they will collaborate with each other on training skilled workers for their industry. Many small and medium-sized companies cannot afford to run training programs by themselves. Some of the larger corporations have substantially cut their training programs because skilled workers move quickly from one job to another in today's labor market. Yet, all these companies may be competing in a region for the same pool of skilled labor. It only makes sense for these employers to join together to train workers in these skills. It makes sense for the government to be the coalescing force in bringing these groups together to fill the regional community's needs. We hope that these demonstration projects will show industry how successful such regional skills alliances can be.

I thank Senator ABRAHAM and the other co-sponsors of the American Competitiveness Act for the time they have put into this bill, and I thank my colleagues Senators KENNEDY and FEINSTEIN for their very constructive efforts as well. All of us are interested in what is best for the American economy, and what is best for American

workers. I am supporting the American Competitiveness Act because I am convinced that the bill will strengthen economic opportunities for all Americans while we respond to the daunting but exciting challenges of this new high-tech age.

Mr. President, I want to again compliment my colleague Senator ABRAHAM for sponsoring S. 1723, the American Competitiveness Bill, which I joined as a cosponsor because I believe we need to address the issue of worker shortages in our high-tech industries. S. 1723 provides a short-term solution for the worker shortage by raising the cap for H1–B visas, thereby keeping the jobs here in the United States instead of forcing U.S. companies to move the jobs overseas. It also provides for the longer term solution of educating and training our workforce so that American workers can fill the jobs generated by this very fast growing segment of our economy.

One provision in S. 1723, as adopted in the Manager's Amendment, specifically allows for demonstration programs to provide technical skills training for workers, including incumbent workers, by consortia of private industry councils. As the lead sponsor of this provision in the manager's Amendment I want in these remarks to particularly address the intent and meaning of the provision.

These demonstration projects include two elements that I believe are essential to help us prepare our workforce with the skills they need for today's fast-paced economy and help update our training programs for the needs of the 21st Century. These are, first, including incumbent workers in training programs and, second, stimulating collaboration between companies to train a pool of skilled workers.

Employees now need to update their skills continually to remain competitive. The realty is that we have a global economy and there is, more and more, a global workforce. If companies cannot find skilled workers in the United States, they will find them in another country. Realistically, we must include workers who have jobs now in training programs to upgrade and update their skills so they can qualify for the changing needs of industry, instead of waiting until they lose their job or become dislocated workers from a declining industry.

The demonstration projects described in the Manager's Amendment to S. 1723 would allow the Secretary of Labor to award grants to consortia, made up of a number of companies in the same region, educational institutions, labor organizations, state and local governments, and private industry councils established under section 102 of the Job Training Partnership Act, or successor entities. These consortia would develop training programs for technical skills needed by a number of companies in that region. Only with industry leading the skills training can we be sure that workers are being trained for jobs that actually exist. That is why the provision in this bill as amended by the Manager's Amendment creates an industry-driven training program.

Why does this new provision indicate the federal government needs to be involved? Because industry does not normally cooperate in training workers. Small companies, and 90% of firms in the United States are small businesses, don't have the resources to invest in lengthy training. Larger companies used to provide training programs, but in the high-tech field, workers move quickly from one job to another chasing higher salaries. Many companies are reticent to invest in long-term training for employees that may quickly move on. Cooperation within an industry provides a solution to this program. This program is intended to specifically allow participation by small and medium-sized companies. The new provision in the manager's Amendment to S. 1723 would enable this approach.

The government's role under this new provision would be to provide the catalyst to bring the companies together to cooperate on training. The federal funds that would be available under this new provision should be matched by funds from the consortium. The Secretary of Labor would have the discretion to undertake this implementation approach. Of course, available federal funds are meant only to start the process—federal funding would end over time after which the consortia would continue the cooperative training programs alone.

In the last few years, a small number of regional and industry-based training alliances in the United States have emerged, usually in partnership with state and local governments and technical colleges, that exemplify the type of program on which this provision in the Manager's Amendment is modeled. In Rhode Island, with help from the state's Human Resource Investment Council, plastics firms developed a skills alliance. The Wisconsin Regional Training Partnership, metal-working firms in conjunction with the AFL–CIO, set up a teaching factory to train workers. Without some kind of support, such as created by the new provision in this bill, to create alliances, small- and medium-sized firms just don't have the time or resources to collaborate on training. In fact, almost all the existing regional skills alliances report that they would not have been able to get off the ground without an independent, staff entity to operate the alliance. Widespread and timely deployment of these kinds of partnerships is simply not likely to happen without the incentives established by a federal initiative, which would be created by this provision. This provision can help create successful models and templates that others can replicate across the nation.

I am very appreciative that Senator ABRAHAM has included the technical skills training provision in the manager's amendment to S. 1723.

Mr. DOMENICI. Mr. President, I wonder if I might have 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. DOMENICI. Mr. President, I rise to congratulate the Senator from Michigan. I believe the time for this bill and this change in the quotas has come and he has had the courage and the intelligence to see it and to bring us a bill that will truly enhance our productivity and our capacity to man the kind of high-tech programs that this country so desperately needs to stay up front.

Already in many parts of the country there are not the skilled workers necessary for many of these jobs. This bill won't take care of all of that, but it is a recognition that a small portion of it ought to take place as provided for in this legislation.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2419. The amendment (No. 2419) was agreed to.

Mr. MCCAIN. Mr. President, I would like to commend Senator ABRAHAM for the fine job he has done in guiding S. 1723 through the legislative process. The American Competitiveness Act is an important step forward in ensuring that America's high-technology companies have the skilled personnel they need to compete both domestically and globally.

There is one area that I regret we were not able to work out: the issue of the exploitation of visas, including H–1B visas, by foreign countries for training individuals in fields essential for the development of weapons of mass destruction. I attempted to negotiate language with the gentleman from Michigan that would ensure that countries like India, which recently detonated five nuclear weapons, would not be able to send individuals to work in the United States in a capacity that would enable them to return home with sensitive knowledge on developing nuclear, chemical, or biological weapons. Unfortunately, those negotiations ended without a satisfactory resolution, and I remain very concerned about this very serious problem.

When those of us who are original cosponsors of the American Competitiveness Act chose to support this bill, we did not envision the most glaring and ominous violation of international norms to occur: the testing of multiple nuclear weapons by the government of India. The repercussions of that series of tests are serious indeed; India's relations with Pakistan and China have long been confrontational, with four wars occurring between it and its neighbors since it attained independence from Britain. This ill-timed, ill-considered decision to conduct nuclear tests, emanating as it did from the most infantile and dangerous of motives—the desire to be respected as a nuclear power—fully warranted the immediate implementation of sanctions against India.

If there is a consensus about any aspect of U.S. national security policy since the end of the Cold War, it is the threat to international stability posed by the proliferation of weapons of mass destruction, especially nuclear weapons. By running on a platform of elevating its ''bomb in the basement'' capability to one of overtly brandishing its capability to inflict widespread destruction, India's new government has undermined our ability to contain the arms race in one of the world's most inherently volatile regions. It is now imperative that the United States adopt every measure to ensure we do not inadvertently contribute to India's ability to further refine its nuclear weapons capabilities. For this reason, I had hoped to have an amendment adopted that would have addressed this concern.

As a cosponsor of the American Competitiveness Act, I understand the requirements of U.S. industry for highly skilled workers. Raising the cap on H–1B visas will aid American companies in meeting that requirement. To the extent that India's military-industrial complex can benefit from sending technicians and scientists to the United States, however, the program can work against our own national security interests. My amendment would have helped to prevent that situation from coming about by prohibiting Indian nationals associated with its nuclear weapons program from attaining H–1B visas.

I hope to work with the chairman of the Immigration Subcommittee on the future to help the Congress attain a better understanding of any possible correlation between foreign technicians, engineers and scientists working in the United States and the problem of proliferation. In the meantime, I reiterate my strong support of S. 1723 and again thank the gentleman from Michigan for his hard and productive work on this legislation.

Mr. KYL. Mr. President, I support S. 1723, the American Competitiveness Act. Business, professional associations, and various governmental entities have presented convincing evidence of the need to raise the current 65,000 annual cap on H1–B workers. It is also true that there is significant conflicting evidence, which is why I believe the requirement in the bill for a non-biased report on high-technology labor needs is one of the most important provisions of the bill.

Over the past two years I have heard from numerous employers from around the state of Arizona, including such major employers as Intel Corporation, Motorola, the TRW, who have provided evidence and anecdotes about why more H1–B workers are needed. For example, TRW tells about a foreign student it hired from an American university because the foreign student was the only individual who could produce a formula to redesign a component of the ''air-bag'' to make it safer and better designed. If TRW had not been allowed to hire the foreign student, it believes it would still be searching for an engineer to perform the job.

This year and last, the 65,000 annual ceiling on H1–B workers has been reached. That means that for the next four months, until the end of the fiscal year, employers who cannot find American workers to perform certain specialty jobs, including computer programming, engineering, and other high-technology positions, will not have that work performed until the 1999 fiscal year begins, this October 1. For anyone who has ever run a business and experienced worker shortages, they know that not being allowed to hire necessary personnel can be devastating.

I support an increase in the cap for this year. I also support a short term increase, for five years, in the number of aliens granted H1–B visas. With the increasing number of high-technology jobs, including positions related to the Year 2000 problem, and, until this year, a decreasing number of students studying in high-tech-oriented majors, employers will be challenged in the near term to find enough qualified workers.

Having said this, however, I reiterate that there are conflicting issues surrounding the H1–B foreign worker debate that must be examined and addressed at the end of the five-year authorization. When the full Judiciary Committee considered S. 1723, the Judiciary Committee accepted my provision to limit the authorization to five years and require that various interests on both sides get together and issue a non-biased report within two years of enactment of the bill about labor market needs over the next ten years for high-technology workers. This study and report, to be overseen by the National Science Foundation, will include representatives with varying interests for academia, business, and government, and, among other issues, will assess the future training and education needs of American students to ensure that their skills match the needs of the IT industry over the next 10 years. It will also provide an analysis of progress made since 1998 by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer and engineering.

The report, and the requirement that the authorization be limited to five years, is clearly necessary. My office has been inundated with information from government agencies, the high-technology industry, and professional associations that represent particular high-tech industries. But the information has been inconsistent. For example, information we received from the Commerce Department indicates that the United States is currently experiencing a significant high-technology worker shortage and over the next 10 years, the U.S. will generate more than 100,000 information-technology jobs annually. An interest group study, conducted by Virginia Tech, found that there is a current vacancy rate of 346,000 high-technology positions in the United States. The Labor Department projects that our economy will produce more than 130,000 information-technology jobs in each of the next ten years, for a total of more than 1.3 million positions. The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the U.S. will result in a five percent drop in the growth rate of GDP.

On the other hand, information provided for the General Accounting Office about the Commerce Department's assessment of information-technology shortages indicates that the Commerce report contained serious methodological weaknesses. The GAO, however, also found that its assessment should ''not necessarily lead to a conclusion that there is no shortage. Instead, as the Commerce report states, additional information and data are needed to more accurately characterize the IT labor market now and in the future.

The GAO report also provided Bureau of Labor Statistics estimates on projected growth for high-technology jobs and found that, compared to the expected 13 percent growth in other jobs by the year 2005, IT occupations are expected to grow 60 percent over the same period.

Increasing wages of IT workers and the unemployment rate of IT workers also signal shortages in the IT field. But in these areas, there is also conflicting information. For example, reports conducted by consulting and interest groups found that salaries for IT workers rose higher than for other specialty occupations in 1996 and 1997. But, according to the GAO, the percentage changes for the IT industry over the period between 1983 and 1997 were comparable to, or lower, than other speciality occupations. Such statistics may support the high-technology sector's anecdotal evidence that demand, relative to other occupations in a period of relatively low unemployment, has grown substantially over the past couple of years.

There are also anecdotal stories in leading newspapers about the difficulty American college graduates are experiencing trying to enter the high-technology job market. But, statistics about specific high-tech professions paint a different picture. For example, the unemployment rate among electrical engineers nationally is below one percent. Anecdotal evidence points toward one assessment but statistics seem to point toward high demand for these U.S. workers.

So, the required repot will serve as an important tool in the reauthorization of the H1–B program, but regardless of the outcome of the report, it is very important for the private sector and for government, all the way up to the Executive Branch, to encourage young people to be fully prepared, first, for job markets where there is an abundance of jobs and, second, for the very

jobs that will keep America strong and competitive on a global basis. To that end, I am supportive of the bill's provision to authorize $50 million in scholarships for low-income students pursuing degrees in math, engineering, and science. It is my hope that the provision, coupled with related provisions in the Senate-passed job-training consolidation bill and the National Science Foundation reauthorization, will help young people go into high tech fields.

There are other aspects of this legislation that I want to highlight. As foreign workers continue to be admitted into the American workforce, and as the five-year reauthorization progresses, I will work with the State Department and the Immigration and Naturalization Service to scrutinize which workers really make up our population of H1–B workers. Let's make sure that the H1–B program only admits those workers who will perform a ''specialty occupation'' as defined by the Immigration and Nationality Act, including the following; the individual possesses unique knowledge or skills; the individual can localize a product based on native knowledge of language or culture of the foreign market; the individual will contribute to a company's global presence; or, an employer finds an inadequate number of highly qualified American workers to fill the job.

In addition, it is important to understand the dynamics by which H1–B employees come to stay in the United States permanently, instead of returning home after the six years they are authorized to work in this country under the visa. While it is true that in 1990, immigration reforms made it possible for H1–B workers to, with ''dual intent,'' enter the United States on an H1–B visa and then remain in the United States permanently, I believe it is important to know how many immigrants are entering the United States on an H1–B visa and then staying here permanently.

Finally, it is very important that the Labor Department respond to questions posed in March by Immigration Subcommittee Chairman SPENCER ABRAHAM about abuses in the H1–B program. It is important to understand why the number of complaints about the H1–B process are so few. I support the provisions of the bill that increase penalties to $25,000 per violation and provide for a two-year debarment from the H1–B program for employers who willfully violate the law, but we need to know more about whether or not a substantial number of employers do or do not violate H1–B immigration law.

Mr. President, I will support passage of S. 1723. Companies in the United States must not be impeded from hiring needed employees. I look forward to a comprehensive assessment of high-technology employer needs from the report included in the bill and to critically applying that assessment when we look at and reauthorize the H1–B program in five years.

AMENDMENT NO. 2418

Mr. ABRAHAM. I move to table the amendment by the Senator from Massachusetts and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HAGEL). The question is on the motion to table amendment 2418 offered by the Senator from Massachusetts, Mr. KENNEDY. The Yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote ''nay.''

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

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—60

Abraham	Frist	Mack
Allard	Gorton	McCain
Ashcroft	Graham	McConnell
Baucus	Gramm	Murkowski
Bennett	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Chafee	Helms	Sessions
Cleland	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kohl	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner

NAYS—38

Akaka	Feingold	Leahy
Biden	Feinstein	Mikulski
Boxer	Ford	Moseley-Braun
Breaux	Glenn	Moynihan
Bryan	Harkin	Reed
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NOT VOTING—2

Faircloth	Levin

The motion to table the amendment (No. 2418) was agreed to.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2417

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Massachusetts.

Mr. ABRAHAM. Mr. President, I move to table the second Kennedy amendment numbered 2417, and I also seek unanimous consent that the following rollcall votes be 10 minutes in duration.

The PRESIDING OFFICER. The Senators are advised that there are 2 minutes of debate.

Mr. LOTT. Mr. President, there was a unanimous consent request that the next votes be reduced to 10 minutes each.

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in my amendment we are basically saying let the best and the brightest come into the United States on the basis of their extraordinary contributions in our research facilities or universities or other places.

But the fact of the matter is that most of jobs for which employers seek H–1B workers pay $75,000 or less, and 75 percent of them are $50,000 or less. Those are good jobs for Americans. We are saying: Make sure you are going to offer it to an American before you are going to apply to hire a foreign worker.

We prescribe in our amendment that recruitment standard is whatever the industry does normally when recruiting workers. If employers follow that procedure, all they have to do is attest that they have followed those procedures and they are protected.

These are good jobs. Americans are qualified for these jobs, and we ought to put American workers first. That is what this amendment is about.

Mr. President, before we vote, I would like to thank Senator ABRAHAM for his courtesies in this debate, and his staff, Lee Otis, Stuart Anderson and Cesar Conda. I would also like to thank my own staff, Michael Myers, my staff director, and Sandy Shipshock, who has worked diligently for many months on my staff as a Pearson Fellow from the State Department. I am deeply grateful for their help.

Mr. ABRAHAM. Mr. President, our legislation puts America's workers first, and it severely punishes anybody who tries to do otherwise.

But the provisions in the regulations that would be necessary to implement this amendment would give the Department of Labor dramatic intrusive powers to intervene in hiring decisions of high-tech companies involving temporary workers. In the permanent worker category, these kinds of provisions typically delay a hiring decision by as much as 2 years. We oppose that in the temporary category. It would have the effect, Mr. President, of setting back the entire temporary worker program when we need it most—as we are trying to address the year 2000 problem and other immediate emergencies before us. For that reason, I propose that we vote to table.

The PRESIDING OFFICER. Is the Senator making a motion to table the amendment?

Mr. ABRAHAM. Mr. President, I did move to table earlier.

I guess the Presiding Officer did not hear.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH), is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN), is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote ''nay.''

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—59

Abraham	Gorton	McCain
Allard	Graham	McConnell
Ashcroft	Gramm	Murkowski
Baucus	Grams	Murray
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Chafee	Helms	Sessions
Cleland	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kohl	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Frist	Mack	

NAYS—39

Akaka	Durbin	Lautenberg
Biden	Feingold	Leahy
Bingaman	Feinstein	Mikulski
Boxer	Ford	Moseley-Braun
Breaux	Glenn	Moynihan
Bryan	Harkin	Reed
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Torricelli
Dodd	Kerry	Wellstone
Dorgan	Landrieu	Wyden

NOT VOTING—2

Faircloth	Levin

The motion to lay on the table the amendment (No. 2417) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2416

The PRESIDING OFFICER. The pending question is on agreeing to the Bumpers amendment, No. 2416.

The Senator from Arkansas.

Mr. BUMPERS. Could we have a little order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Mr. President, in 1989 this body adopted a provision that said anybody who will invest $500,000 or $1 million in this country and create or maintain 10 jobs can get a green card for 2 years and, 3 years later, have American citizenship. The program never took off, and since that time a cottage industry has grown up of people who were advertising in Taiwan and Oman and saying: ''$100,000 is all you need. You give us a $400,000 promissory note, you still get your green card.'' The INS says it is impossible to monitor. You don't know where these people are coming from; you don't know where their money is coming from.

Mr. President, what we are doing allowing this to continue —and the INS says it is a disaster—is cheapening American citizenship. You want foreign investment? Give them tax breaks. Do not—do not—cheapen American citizenship. These are not the tired, these are not the poor, these are not the huddled masses. These are people from Hong Kong, Korea, the Pacific rim, who don't even come here; they send $100,000. They don't even want our citizenship, because they have to pay taxes.

It is a terrible, shameful thing. It is downright vulgar. I plead with you, vote to strike that provision from the bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, this program is a very small program. It is a maximum of 1,000 visas a year. It means people who come to this country to create jobs will be given a chance to do so. We have not examined or studied some of the complaints that have been brought forth in both today's debate and in the news media in our subcommittee. Until we do, I urge the Senate not to eliminate this program. I believe it is creating jobs, not taking them away.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 5 seconds.

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

Mr. BUMPERS. The distinguished Senator from Michigan said 1,000 slots. It is 10,000 slots.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I move to table the Bumpers amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the motion to table amendment No. 2416 offered by the Senator from Arkansas, Mr. BUMPERS.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote ''nay.''

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—74

Abraham	Enzi	Lieberman
Akaka	Feinstein	Lott
Ashcroft	Ford	Lugar
Bennett	Frist	Mack
Bond	Gorton	McCain
Boxer	Graham	McConnell
Breaux	Gramm	Moseley-Braun
Brownback	Grams	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Reid
Byrd	Hagel	Robb
Campbell	Hatch	Rockefeller
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Sessions
Collins	Inouye	Shelby
Coverdell	Jeffords	Smith (NH)
Craig	Johnson	Snowe
D'Amato	Kempthorne	Specter
Daschle	Kennedy	Stevens
DeWine	Kerry	Thomas
Dodd	Kohl	Thompson
Domenici	Kyl	Thurmond
Dorgan	Lautenberg	Warner
Durbin	Leahy	

NAYS—24

Allard	Glenn	Murray
Baucus	Harkin	Reed
Biden	Hollings	Roberts
Bingaman	Hutchinson	Sarbanes
Bumpers	Kerrey	Smith (OR)
Cleland	Landrieu	Torricelli
Conrad	Mikulski	Wellstone
Feingold	Moynihan	Wyden

NOT VOTING—2

Faircloth	Levin

The motion to lay on the table the amendment (No. 2416) was agreed to.

Mr. ABRAHAM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

EXPLANATION OF ABSENCE

Mr. LEVIN. Mr. President, because of a flight cancellation and delays, I missed three votes this afternoon. If I were here, I would have voted against tabling all three amendments. While there are times when a temporary increase in High-Skilled Worker Visas is necessary, this bill doesn't adequately protect American workers, and I am therefore unable to support the bill on final passage.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Parliamentary inquiry.

Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. ABRAHAM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

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

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

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York (Mr. D'AMATO) and the Senator from North Carolinaa (Mr. FAIRCLOTH) are necessarily absent.

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—78

Abraham	Enzi	Lieberman
Allard	Feinstein	Lott
Ashcroft	Ford	Lugar
Baucus	Frist	Mack
Bennett	Gorton	McCain
Bingaman	Graham	McConnell
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Burns	Hatch	Robb
Campbell	Helms	Roberts
Chafee	Hollings	Roth
Cleland	Hutchison	Santorum
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kerrey	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wyden

NAYS—20

Akaka	Harkin	Moynihan
Biden	Hutchinson	Rockefeller
Bumpers	Kennedy	Sarbanes
Byrd	Kerry	Thomas
Durbin	Levin	Torricelli
Feingold	Mikulski	Wellstone
Glenn	Moseley-Braun	

NOT VOTING—2

D'Amato	Faircloth

The bill (S. 1723), as amended, was passed as follows:

S. 1723

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the ''American Competitiveness Act''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) American companies today are engaged in fierce competition in global markets.

(2) Companies across America are faced with severe high skill labor shortages that threaten their competitiveness.

(3) The National Software Alliance, a consortium of concerned government, industry, and academic leaders that includes the United States Army, Navy, and Air Force, has concluded that ''The supply of computer science graduates is far short of the number needed by industry.''. The Alliance concludes that the current severe understaffing could lead to inflation and lower productivity.

(4) The Department of Labor projects that the United States economy will produce more than 130,000 information technology jobs in each of the next 10 years, for a total of more than 1,300,000.

(5) Between 1986 and 1995, the number of bachelor's degrees awarded in computer science declined by 42 percent. Therefore, any short-term increases in enrollment may only return the United States to the 1986 level of graduates and take several years to produce these additional graduates.

(6) A study conducted by Virginia Tech for the Information Technology Association of America estimates that there are more than 340,000 unfilled positions for highly skilled information technology workers in American companies.

(7) The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the United States economy will result in a 5-percent drop in the growth rate of GDP. That translates into approximately $200,000,000,000 in lost output, nearly $1,000 for every American.

(8) It is necessary to deal with the current situation with both short-term and long-term measures.

(9) In fiscal year 1997, United States companies and universities reached the cap of 65,000 on H–1B temporary visas a month before the end of the fiscal year. In fiscal year 1998 the cap is expected to be reached as early as May if Congress takes no action. And it will be hit earlier each year until backlogs develop of such a magnitude as to prevent United States companies and researchers from having any timely access to skilled foreign-born professionals.

(10) It is vital that more American young people be encouraged and equipped to enter technical fields, such as mathematics, engineering, and computer science.

(11) If American companies cannot find home-grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related American jobs with them.

(12) Inaction in these areas will carry significant consequences for the future of American competitiveness around the world and will seriously undermine efforts to create and keep jobs in the United States.

SEC. 3. INCREASED ACCESS TO SKILLED PERSONNEL FOR UNITED STATES COMPANIES AND UNIVERSITIES.

(a) ESTABLISHMENT OF H1–C NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(A) by inserting ''and other than services described in clause (c)'' after ''subparagraph (O) or (P)''; and

(B) by inserting after ''section 212(n)(1)'' the following: '', or (c) who is coming temporarily to the United States to perform labor as a health care worker, other than a physician, in a specialty occupation described in section 214(i)(1), who meets the requirements of the occupation specified in section 214(i)(2), who qualifies for the exemption from the grounds of inadmissibility described in section 212(a)(5)(C), and with respect to whom the Attorney General certifies that the intending employer has filed with the Attorney General an application under section 212(n)(1).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 212(n)(1) is amended by inserting ''or (c)'' after ''section 101(a)(15)(H)(i)(b)'' each place it appears.

(B) Section 214(i) is amended by inserting ''or (c)'' after ''section 101(a)(15)(H)(i)(b)'' each place it appears.

(3) TRANSITION RULE.—Any petition filed prior to the date of enactment of this Act, for issuance of a visa under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act on behalf of an alien described in the amendment made by paragraph (1)(B) shall, on and after that date, be treated as a petition filed under section 101(a)(15)(H)(i)(c) of that Act, as added by paragraph (1).

(b) ANNUAL CEILINGS FOR H1–B AND H1–C WORKERS.—

(1) AMENDMENT OF THE INA.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read as follows:

''(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year—

''(A) under section 101(a)(15)(H)(i)(b)—

''(i) for each of fiscal years 1992 through 1997, and for any other fiscal year for which this subsection does not specify a higher ceiling, may not exceed 65,000,

''(ii) for fiscal year 1998, may not exceed 95,000,

''(iii) for fiscal year 1999, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, and

''(iv) for fiscal year 2000, and each applicable fiscal year thereafter through fiscal year 2002, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, plus the number of unused visas under subparagraph (C) for the fiscal year preceding the applicable fiscal year;

''(B) under section 101(a)(15)(H)(ii)(b), beginning with fiscal year 1992, may not exceed 66,000; or

''(C) under section 101(a)(15)(H)(i)(c), beginning with fiscal year 1999, may not exceed 10,000.

For purposes of determining the ceiling under subparagraph (A) (iii) and (iv), not more than 20,000 of the unused visas under subparagraph (B) may be taken into account for any fiscal year.''.

(2) TRANSITION PROCEDURES.—Any visa issued or nonimmigrant status otherwise accorded to any alien under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act pursuant to a petition filed during fiscal year 1998 but approved on or after October 1, 1998, shall be counted against the applicable ceiling in section 214(g)(1) of that Act for fiscal year 1998 (as amended by paragraph (1) of this subsection), except that, in the case where counting the visa or the other granting of status would cause the applicable ceiling for fiscal year 1998 to be exceeded, the visa or grant of status shall be counted against the applicable ceiling for fiscal year 1999.

SEC. 4. EDUCATION AND TRAINING IN SCIENCE AND TECHNOLOGY.

(a) DEGREES IN MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

''(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a

permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.''.

SEC. 5. INCREASED ENFORCEMENT PENALTIES AND IMPROVED OPERATIONS.

(a) INCREASED PENALTIES FOR VIOLATIONS OF H1–B OR H1–C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) by striking ''a failure to meet'' and all that follows through ''an application—'' and inserting ''a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application—''; and

(2) in clause (i), by striking ''$1,000'' and inserting ''$5,000''.

(b) SPOT INSPECTIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

''(D) The Secretary of Labor may, on a case-by-case basis, subject an employer to random inspections for a period of up to five years beginning on the date that such employer is found by the Secretary of Labor to have engaged in a willful failure to meet a condition of subparagraph (A), or a misrepresentation of material fact in an application.''.

(c) LAYOFF PROTECTION FOR UNITED STATES WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

''(F)(i) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application, in the course of which the employer has replaced a United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c) within the 6-month period prior to, or within 90 days following, the filing of the application—

''(I) the Secretary shall notify the Attorney General of such finding, and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Attorney General shall not approve petitions filed with respect to the employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

''(ii) For purposes of this subparagraph:

''(I) The term 'replace' means the employment of the nonimmigrant at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

''(II) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at the equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(III) The term 'United States worker' means—

''(aa) a citizen or national of the United States;

''(bb) an alien who is lawfully admitted for permanent residence; or

''(cc) an alien authorized to be employed by this Act or by the Attorney General.''.

(d) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.''.

(e) EXPEDITED REVIEWS AND DECISIONS.—Section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by inserting ''or section 101(a)(15)(H)(i)(b)'' after ''section 101(a)(15)(L)''.

(f) DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking ''with respect to whom'' and all that follows through ''with the Secretary'' and inserting ''with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General''.

(2) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)(1)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''Secretary of Labor'' and inserting ''Attorney General'';

(ii) in the sixth and eighth sentences, by inserting ''of Labor'' after ''Secretary'' each place it appears;

(iii) in the ninth sentence, by striking ''Secretary of Labor'' and inserting ''Attorney General'';

(iv) by amending the tenth sentence to read as follows: ''Unless the Attorney General finds that the application is incomplete or obviously inaccurate, the Attorney General shall provide the certification described in section 101(a)(15)(H)(i)(b) and adjudicate the nonimmigrant visa petition.''; and

(v) by inserting in full measure margin after subparagraph (D) the following new sentence: ''Such application shall be filed with the employer's petition for a nonimmigrant visa for the alien, and the Attorney General shall transmit a copy of such application to the Secretary of Labor.''; and

(B) in the first sentence of paragraph (2)(A), by striking ''Secretary'' and inserting ''Secretary of Labor''.

(g) PREVAILING WAGE CONSIDERATIONS.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

''(i)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 212(n)(1)(A)(i)(II) and section 212(a)(5)(A) in the case of an employee of—

''(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or

''(B) a nonprofit or Federal research institute or agency,

the prevailing wage level shall only take into account employees at such institutions, entities, and agencies in the area of employment.

''(2) With respect to a professional athlete (as defined in section 212(a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

''(3) To determine the prevailing wage, employers may use either government or nongovernment published surveys, including industry, region, or statewide wage surveys, to determine the prevailing wage, which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information.''.

(h) POSTING REQUIREMENT.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

''(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in a conspicuous location, or electronic posting through an internal job bank, or electronic notification available to employees in the occupational classification.''.

SEC. 6. ANNUAL REPORTS ON H1–B VISAS.

Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

''(3) Using data from petitions for visas issued under section 101(a)(15)(H)(i)(b), the Attorney General shall annually submit the following reports to Congress:

''(A) Quarterly reports on the numbers of aliens who were provided nonimmigrant status under section 101(a)(15)(H)(i)(b) during the previous quarter and who were subject to the numerical ceiling for the fiscal year established under section 214(g)(1).

''(B) Annual reports on the occupations and compensation of aliens provided nonimmigrant status under such section during the previous fiscal year.''.

SEC. 7. STUDY AND REPORT ON HIGH-TECHNOLOGY LABOR MARKET NEEDS.

(a) STUDY.—The National Science Foundation shall oversee a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations, to assess the labor market needs for workers with high technology skills during the 10-year period beginning on the date of enactment of this Act. The study shall focus on the following issues:

(1) The future training and education needs of the high-technology sector over that 10-year period, including projected job growth for high-technology issues.

(2) Future training and education needs of United States students to ensure that their skills, at various levels, are matched to the needs of the high technology and information technology sector over that 10-year period.

(3) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(4) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(5) The following additional issues:

(A) The need by the high-technology sector for foreign workers with specific skills.

(B) The potential benefits gained by the universities, employers, and economy of the United States from the entry of skilled professionals in the fields of science and engineering.

(C) The extent to which globalization has increased since 1998.

(D) The needs of the high-technology sector to localize United States products and services for export purposes in light of the increasing globalization of the United States and world economy.

(E) An examination of the amount and trend of high technology work that is outsourced from the United States to foreign countries.

(b) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit a report containing the results of the study described in subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

(c) AVAILABILITY OF FUNDS.—Funds available to the National Science Foundation shall be made available to carry out this section.

SEC. 8. LIMITATION ON PER COUNTRY CEILING WITH RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.

(a) SPECIAL RULES.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

''(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

''(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended by striking ''paragraphs (3) and (4)'' and inserting ''paragraphs (3), (4), and (5)''.

(2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking ''the proportion of the visa numbers'' and inserting ''except as provided in subsection (a)(5), the proportion of the visa numbers''.

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act, any alien who—

(1) as of the date of enactment of this Act is a nonimmigrant described in section 101(a)(15)(H)(i) of that Act;

(2) is the beneficiary of a petition filed under section 204(a) for a preference status under paragraph (1), (2), or (3) of section 203(b); and

(3) would be subject to the per country limitations applicable to immigrants under those paragraphs but for this subsection,

may apply for and the Attorney General may grant an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

SEC. 9. ACADEMIC HONORARIA.

Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

''(p) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or other nonprofit entity and is made for services conducted for the benefit of that institution or entity.''.

SEC. 10. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

(3) by adding at the end the following new subparagraph:

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.''.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

SEC. 11. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting '', or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph'' after ''a material fact in an application''; and

(2) by adding at the end the following new subparagraph:

''(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

''(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

''(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.''.

SEC. 12. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking ''Before'' and inserting ''(a) IN GENERAL.—Before'', and

(2) by adding at the end the following new subsection:

''(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

''(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

''(A) both parents of the child if the child lives with both parents;

''(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

''(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

''(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

SEC. 13. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

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

Mr. ROTH. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. WYDEN. Mr. President, I voted for S. 1723 because I am convinced that some high technology companies are facing critical labor shortages, which is in turn hampering growth in this important economic sector of Oregon's economy. It is critically important, however, that the final legislation contain additional protections for workers rights. Specifically, we should make certain that no qualified U.S. worker will be laid off simply to be replaced by a foreign worker. Further, we should ensure that employers who want to use this program have taken steps to find qualified American workers. I look forward to continued progress on this legislation as it proceeds to conference.

Mr. LOTT. First of all, I want to congratulate the Senator from Michigan

for his efforts on this very important legislation. I also appreciate the cooperation of Senators on the other side of the aisle that worked through the day, including Senator KENNEDY, so that we could get to a conclusion on this important legislation. I think it is good for the country. It is the fourth of the high-tech bills that we worked on last week. I thought the combination of those four bills were important and will make a difference in our high-tech community and having the workers and the opportunity for workers to be able to do these important jobs in the high-tech sector. I congratulate Senator ABRAHAM for his work, and Senator MCCAIN, who came up with the suggestion that we try to do several of these high-tech bills in a row.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance.

MODIFICATIONS TO COMMERCE COMMITTEE SUBSTITUTE

Mr. LOTT. Mr. President, on behalf of the chairman, the ranking member and a majority of the members of the Commerce Committee, I wish to modify the Commerce Committee substitute.

Before the Chair declares the amendment is modified, I announce to the Members that this is the text of the so-called managers' amendment that the chairman and ranking member have been working on for the last few days. The modification also incorporates the Finance Committee reported amendments as part of the new Commerce Committee substitute.

Mr. HOLLINGS. May I make an inquiry of the majority leader?

Mr. LOTT. We have a series of things we need to do in a row, if I could get through those.

The Chair needs to rule, I believe.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. On behalf of the chairman and a majority of the members of the Commerce Committee, I wish to further modify the Commerce Committee substitute. Again, before the Chair declares that the amendment is further modified, I announce to the membership this modification would delete some of the Finance Committee amendments from the text of the Commerce Committee modification.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. Finally, again on behalf of the chairman and a majority of the members of the Commerce Committee, I further modify the committee substitute. Again, before the Chair announces the modification, this last change would incorporate the Lugar Farmer's protection amendment as part of the Commerce Committee substitute.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. For the information of all Senators, as a result of this action, the pending Commerce Committee Substitute contains the following: The so-called managers' amendment; all of the Finance Committee reported amendments, except the $1.50 increase; Title 14, with respect to declaring the price increase a tax increase; the three deletions with respect to the LEAF Act; the lookback and the compliance fund and tobacco tax trust fund; and the Lugar-Farmer's protection amendment.

Finally, I ask unanimous consent that the modified committee substitute be printed as a Senate amendment and the final version incorporating all of the modifications only be printed in the RECORD.

Mr. HOLLINGS. I object.

Mr. LOTT. At this point, Mr. President, I ask the Senate if they would allow me to go through this.

Mr. HOLLINGS. I do object.

Mr. LOTT. I wanted to give you a chance to inquire, but by objecting you certainly can inquire.

Mr. HOLLINGS. I do object. Mr. President, this has been a long, hard road, as you well know. Almost a year ago the White House, health community and the States, and the States' attorneys general all met and everyone was provided for except the person who really depended on his living—that is, the tobacco farmer. So I got together during the fall with the distinguished Senator from Kentucky, Senator FORD, and he and I worked diligently over the fall period developing what we call the LEAF Act, which not only took care of the farmer but the farm community; namely, the warehousemen, the bank that is financing, the equipment dealer, and everything else of that kind.

There is no question that if this so-called tobacco bill works, there can't be any tobacco farmer unless they are tobacco companies. This is going to diminish the tobacco companies to a great extent and limit the tobacco farmers, as they go down or out of business. We have included the LEAF Act as sort of a safety net. Now, we met in the Commerce Committee on that basis. I know the distinguished chairman, Senator MCCAIN, came to me, and on the basis of him going along with the LEAF Act, we made it a bipartisan bill and voted it out 19–1.

The distinguished chairman also went to South Carolina before thousands of farmers and represented: Don't worry about the LEAF Act. Mr. President, I have been in five conferences now—two actually in my own hideaway in the Capitol—with the White House, the majority leadership, Senator MCCAIN, and others, on this pack of bills. It included Senators on both sides of the aisle, with staffs and everything else. In the five meetings, including the one at 4 o'clock this afternoon, I was always counseled: Don't worry, the LEAF Act is intact.

Don't give me the double talk that it is still intact, not when you put in the Lugar bill by a majority vote. The Lugar bill, by a majority vote, puts that farmer out of business. That is the one thing that the distinguished Senator from Kentucky, and others, have worked and counseled against, and everything else of that kind.

I question, respectfully, that the majority leader identified the majority of the Commerce Committee members. That is all your Republicans; is that what you say?

Mr. LOTT. Yes, it is.

Mr. HOLLINGS. I am dismayed. About a half-hour ago, I had a chance to talk, of course, just a bit with the majority leader. Until now, nothing has been said, and this kind of conduct and course of conduct is just the worst I have seen in my 30-some years up here. There is nothing you can do if they want to change their votes. They all voted for the bill, and I know how they felt because I talked to various Members. I have been talking to them intermittently over the past several months, and over the past 1 month in conferences with the White House. And now, to come at the last minute and have the ground cut from under you with this particular request on the premise that you want to be fair and give everybody a fair vote, that isn't what I worked for. I worked to give this a particular priority that no one else has given it—and certainly not to tobacco companies. I think the tobacco companies have the pressure on at this point to go along with the Lugar amendment and save them billions of dollars. That could be the case.

I yield to my distinguished friend from Kentucky.

Mr. FORD. Mr. President, reserving the right to object, I say this with all respect to the majority leader and to my colleague. It is very difficult to understand what has developed. I thought I understood the rules very well and worked diligently, along with the distinguished Senator from South Carolina, and others, including Senator FRIST, who worked hard to work out the FDA amendment that is in the bill; all of us worked hard to put this together.

I understand the 60-vote rule. I understand that very well, because this amendment by Senator LUGAR cannot raise the money. They talked about a lump sum payment and had to change it today because it is 3 years or more. There is no lump sum payment here. You are fooling the farmers, misrepresenting things to the farmer, if the Lugar amendment gets in here. It is

the farmer versus the manufacturer. The manufacturer, under the Lugar amendment, will save a billion dollars a year, minimum—a billion dollars a year. You are going to see that check signed tomorrow. You are going to see the press conference tomorrow. You are going to see the farmers come in here tomorrow, because they are opposed to Lugar. You can have all the misgivings you want. There could be ghosts behind every tombstone about the future, but you have to lay groundwork.

I say to the majority leader, with all respect, if this is done to us, I am going to make it as difficult as I can to see that the bill is not passed this week, and probably not in June. I believe my responsibility here is to the farmer, not to the manufacturer and not to misrepresent that 40 percent of all the money raised by the McCain bill will go to the farmers under 3 years.

Think about that 40 percent. What are you going to reduce? Research? What are you going to reduce? Advertising? What are you going to reduce in order to get that money? Sure, you have to raise it $1.50 to pay for Lugar, and you may not be able to do it then. So here we are, saying to those of us who have worked for months—and I have been on the front porches of grocery stores, in kitchens of farmers, I have been in six States talking to farmers, and this is what the farmers wrote—the LEAF Act. They didn't write the Lugar amendment.

I am sorry that the chairman of the Agriculture Committee is not going to have a vote. I feel sorry for him, but this is the nature of this institution. This is the nature, this is the rule, and this is the precedent. You are following the rules, that is true. But when it comes down to the farmer versus the manufacturer—and this Lugar amendment will give billions to the manufacturer—then I think that the Senate will have a question of whether they want to support the farmer or whether they want to support the tobacco manufacturer.

I know there is nothing I can do, Mr. President. I can object to the unanimous consent, but eventually we will vote on it. Everybody is working hard on the other side to get a bill out of here—just get it out of here. We don't want to touch it, we don't want to fool with it anymore, because what comes out of conference is going to be a minuscule bill. You will have a hard time getting that bill through this body. So rather than starting to take the hide off of folks in the beginning before you even bring the bill up, it seems to me it is a little bit disconcerting.

The chairman of the Commerce Committee has been as straight with me and with us as he could be. I find no fault with what he has attempted to do, because some things we can't agree on. But we were not disagreeable. Everything has always been on top of the table with us, and his word has been as good as gold; his word has been his bond. And now the majority leader takes over all this hard work he has done and say to the chairman of the committee, and to us who worked to cooperate, that what you did and your cooperation is for naught.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the majority leader?

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, there is objection. Before I renew the request that I made, which was merely that this substitute be printed as a Senate amendment and the final version only be printed in the RECORD, I want to note that all this means is that we would have to print all three of these documents, which are all pretty substantial in size. We can do that, but there is a cost involved and there is time involved. I hoped that there would not be objection to having this document printed. It would be available to the Members to review. But if there is objection to that, it won't stop anything. We will go forward.

Let me respond to a lot that has been said because I thought it was important that the former chairman of the Commerce Committee, the Senator from South Carolina who worked with Senator MCCAIN, be heard, and I thought it was very important that the Senator from Kentucky make his case. But let me also explain what is going on here.

Everybody knows this has not been easy to get through the committee process to get at this point on the floor of the Senate with a lot of give and take and a lot of Senators who had to take positions that were hard for them, including the Senator from Arizona, Senator MCCAIN. And other Senators who are going to be involved in this have had to accept some things they didn't go along with. I acknowledge that the Senator from South Carolina has worked very carefully with the Senator from Arizona. But also it is my job as majority leader to try to find a responsible way to move this forward to get it to the floor in the fairest possible way. There is no way to do that without some people feeling like, ''Well it is not exactly the way I wanted it,'' or ''It doesn't give me a fair position,'' or ''It doesn't give me more than a fair position. All I want is an advantage.''

Now the Senator from Indiana is chairman of the Agriculture Committee. It seems rational to me that you would understand that as majority leader I would be interested and concerned in the position, or an amendment to be offered on this important piece of legislation by the chairman of the Agriculture Committee, and, if we didn't do it this way, he would be disadvantaged in that he would have to have 60 votes, not 51—not a majority, a supermajority of 60 votes. I understand that the Senator from Kentucky wanted to require that, and he has used his influence to get it in the position where that could have occurred. He also understands that what I am doing here is perfectly within the rules. I am trying to get everybody on a fair and equal footing. I don't know how the votes are going to go.

Mr. FORD. Will the majority leader yield?

Mr. LOTT. If I could, because I didn't interrupt the Senator from Kentucky.

I don't know how the voting is going to go. Senator LUGAR might get 51 votes. Senator FORD might win and prevail because 51 votes cannot be achieved for the Lugar amendment. There are a lot of people who don't think either one of these are all that hot. Quite frankly, they would like a whole different arrangement to be of assistance legitimately to the tobacco farmers. These are not the only two solutions in the world. There might be some other ones.

I do not want to disadvantage anybody. But this is an amendment that has been around on this subject for quite some time. Senator LUGAR has never made it a secret of the fact that he would want this to be offered, or as an alternative available to him to be offered. There are others who do not like this provision or that provision that is included or not included. But, in other instances, the Senators would have to offer an amendment only to get 50 votes.

So I think this is a fair way to go. I am sorry the Senator doesn't agree with it. But I have been very meticulous to make sure that everybody was aware of what we were trying to do here. I have not been in all of these substantive negotiations. I have been strictly looking at how we can move this forward and what the process is to have it come up and considered in a fair way.

The chairman of the Finance Committee is standing here now wanting to ask some questions of the Chair about what this means for the Finance Committee and what they did. They had a tough time. They came up with some improvements. They came up with some things certainly I don't agree with, and I don't think the chairman does, either. But he is willing to get a clarification of what it means for him, and to go forward. I think he has taken the right position.

So I just wanted to take this opportunity to say that I understand where everybody is coming from but that I think this is the fair way to do it.

I don't think we ought to start over by saying, ''Well, if we don't get this, or don't get that, we are going to kill it.'' I don't think anybody wants that to happen on your side of the aisle. Let's go forward. Let's have some amendments. And let's see where the votes are. That is the way to do this.

Mr. FORD. Mr. President, continuing to reserve the right to object.

Mr. LOTT. I believe there is no reservation.

The PRESIDING OFFICER. An objection was heard, and the majority leader is recognized.

Mr. LOTT. Let me do this, Mr. President, so that the Senator can respond. I yield to the Senator from Kentucky so he can respond.

Mr. FORD. I say to the majority leader that I understand that Senator LUGAR is chairman of the Agriculture Committee. I understand that Senator LUGAR has been around here more than a week or two. I understand that Senator LUGAR should understand the rules. And I understand that he has been working diligently, along with others, to make this work. I have been doing the same. And then when I get it to a point where you have it where you think you are safe and that you are protected, then in order to be fair about it, in order to be fair about it, you change everything we have done for the last 10 months, except that I get a vote up and down. But I had the position—or we had it in a position where it would take 60.

So I think that the fairness now in all of the work that you do that is not fair, and so, therefore, the work you do is out the window because it is not fair. I thought when you made it through here, and you got it through the committee, and you got it on the floor, that was pretty fair after 10 months. Now because another Senator doesn't have an opportunity to bring it up——

Mr. LOTT. The only time there would be a guarantee of that is when it has gone through the Senate, the House, then a conference, and the President puts pen to paper.

Mr. FORD. I understand you are talking about fairness here and you are being unfair to those of us who worked so hard.

Mr. LOTT. Mr. President, I renew my request with respect to the subcommittee substitute.

Mr. KERRY. Reserving the right to object.

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized under the reservation.

Mr. KERRY. Mr. President, nobody needs to speak for either the Senator from Kentucky or the Senator from South Carolina. They have done it for many years here, and they are as capable as anybody. But I would like to say that I understand the difficulties in which the majority leader finds himself. He gets approached by people on both sides, from all sides, and it is difficult to bring this piece to the floor. But there is a process by which we have been working and by which, I think, most of us understood that we were sort of teeing this legislation up for the floor. I think it has been an exceptional process. I applaud the Senator from Arizona, the chairman of the Commerce Committee, for the way in which he has tried to meld those forces over the course of the last months.

The truth is that the Senator from Kentucky and the Senator from South Carolina, who is the ranking member and who could have stood in the way, significantly along the way here, of progress, has moved along the way to get us to where we are with an understanding of where he stood with respect to critical issues. Everybody here understands how you approach any of these negotiations. There is a certain amount that you are willing to give up with an understanding of what you are getting and that you are where you are.

Through all of these meetings, through all of the interventions to this point in time, neither the Senator from South Carolina nor I have been part of those meetings, nor any of my colleagues have had any knowledge whatsoever that this ''rule'' might be invoked. They have had no opportunity to think about an alternative process to work with their colleagues, or otherwise.

I simply say that suddenly at 4 o'clock in the afternoon the entire ground has shifted. That is within the rules. The Senator from Kentucky has acknowledged that. I acknowledge that. That may be one of the very difficult decisions that the majority leader has to make.

But if fairness is what we are really looking for here, it seems to me that maybe there is a way to find some alternative method of including the Senator from Kentucky and the Senator from South Carolina and the chairman of the Agriculture Committee to find out how you might resolve this other than to do it in this sort of fairly unilateral fashion. I don't know if that is possible. But I would certainly say that in the context of the way in which the negotiations have been conducted to reach this point that also strikes me as being fair.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KERRY. I am happy to yield.

Mr. LOTT. The Senator from Massachusetts is speaking under reservation.

Let me assure him that I have looked at all of the alternatives. I have looked at the best possible way to bring this up. I didn't know it was going to wind up having to be done this way. We didn't know 2 weeks ago that we would have the Finance Committee angles. I have said all along that Senator LUGAR, chairman of the Agriculture Committee, was going to have a fair shot, along with anybody else, to offer his amendment and win or lose by majority vote. I am surprised that some people are surprised by this. But I understand. But I just say that I have been having people on this side of the aisle complain about this, too. There are a lot of people on my side of the aisle who do not want this brought up under this concept, or any other.

But I will say this to Senators on both sides of the aisle: Anybody who wants to stand in the way of this bill, if you don't want us to try to find a way to deal with children's porn, and drug abuse by children, if you don't want us to find a way to try to deal with the health problems caused by tobacco—all I am trying to do is get a 51-vote majority for an amendment—go right ahead. There are people on both sides of the aisle threatening to do just that.

Now, I know the Senator from Massachusetts is trying to contribute by saying let's keep calm and can we find a way to work this out. I think this is a fair way, and I admonish everybody to stay calm, too, and keep our eye on what is the target here. It is bigger than the sum of its parts, and we ought to keep that in mind. We may not be able to do it this week. We may never be able to do it. The odds are very strong that this thing is going to implode by the weight we are placing on it. Every time we tested it, it has gotten bigger, fatter and more difficult to get through. So it is OK with me however it works out. But I believe we have here a reasonable way to begin this process, and I urge my colleagues, hold your fire. Let's go ahead with the opening statements by the Senators. Let's get some amendments going. Who knows for sure how it is going to work out?

Mr. MCCAIN. Will the Senator yield?

Mr. KERRY. I would be happy to yield after I finish my comment.

I will not object, Mr. President. But I would simply say that I think the Senator from Arizona would agree that in the judgment of most of us we thought we made it smaller and slimmer and easier, but that will be proven over the course of the next days. I appreciate what the majority leader has said, and I think hopefully we can find some way to resolve this as we go through the next days.

Mr. MCCAIN. Will the Senator yield?

Mr. KERRY. I will yield the floor.

The PRESIDING OFFICER. Is there objection to the majority leader's——

Mr. MCCAIN addressed the Chair.

Mr. HOLLINGS. Reserving the right to object.

Mr. KERRY. I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Massachusetts has not had the floor—

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. And thereby does not have the authority to yield. The majority leader has the floor.

Mr. MCCAIN. Will the majority leader yield to me for a brief comment? The majority leader has the floor.

Mr. LOTT. Mr. President, I had a request pending, but if I have the time——

The PRESIDING OFFICER. Is there an objection?

Mr. MCCAIN. Reserving the right to object.

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MCCAIN. This is a difficult situation and not the first that we have been through in this process, nor regrettably, I feel, will it be the last. I

have great sympathy for my two dear friends—one from Kentucky, one from South Carolina—who fought very hard for the people they represent. I also understand, and I think we all should, the position of the majority leader, who, despite the predictions of many, has been steadfast throughout as far as saying this bill would come to the floor and we would resolve it, if there was anything within his power to do it.

It was my understanding I would be managing this bill with the distinguished Senator from South Carolina. I will make every effort to make sure that fairness is the order of the day, which has been the way we have conducted our relationship and our negotiations throughout this bill. I will do everything in my power.

I understand very well how concerned the Senators from South Carolina and Kentucky are. I also understand that the majority leader has the right to do these things. We saw them when the other side of the aisle was in the majority. I saw it on several bills where modifications were put into bills which made it no longer a 60-vote proposition but 51–49. I didn't like that at the time. But it is perfectly correct in the parliamentary fashion.

I would, again, like to echo the words of the majority leader. We are going to hear attacks. There are people waiting right now to attack this bill in the most vociferous and passionate fashion, and there are people on the other side who will say: You guys aren't tough enough on these tobacco companies; you have got to do more. The first amendment is going to smack them for a buck 50 instead of a buck ten. We will hear over here: This is the biggest tax increase in history; you are doing way too much.

But I believe the great center will hold on this bill, and I believe that a fair procedure will follow. And I want to commit to my colleagues that will happen. I am sorry, I say to my friends from South Carolina and from Kentucky, this has been distressing to them, but I hope we can move forward in a fair and equitable fashion.

The PRESIDING OFFICER. Is there objection to the majority leader's——

Mr. HOLLINGS. Reserving the right to object.

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I have not wanted to get into this until now, but I must say I applaud what the distinguished chairman has said in a couple of aspects. First of all, I think that it is true; up until now, there has been a good deal of effort on both sides to bring this bill to the floor. We wouldn't be here today were it not for the leadership of the Senator from Arizona and the tremendous work put forth by the Senator from South Carolina, as well as the Senator from Kentucky. It is the only way we got to this point. We got here because the ranking member and the chairman concluded that this bill needed to get to the floor, and we were under a timeframe within which to do that.

That has now happened. It was only through that effort that we were able to get this far. And I think it is fair to say both sides have been working in good faith to bring us to this point.

So there is really two questions here. No. 1, is it within the right of the majority leader to amend his legislation as he has proposed to do? And clearly he is within his rights to do that. The real question is, Is it in keeping with what we have established as the working order here? Are we in the same kind of partnership that we thought we had all the way through this process as we moved procedurally to the floor?

The answer clearly is no; this was a surprise. Senator HOLLINGS has been in the meetings discussing what would go in the managers' amendment until at least 4 o'clock this afternoon. Senator HOLLINGS, the administration and others have signed off on every single piece of what was to go into the managers' amendment.

I just left the floor to check with the administration to see if they knew that this was in the managers' amendment, and the answer was emphatically no. No one told them this was going to be included. No one gave them any indication.

So clearly we start this debate with a very serious misunderstanding and a very serious violation of good faith. It is within the right of the majority to take steps of this kind, but, unfortunately, it comes at a price. That price is the cooperation needed to complete our work. The price is coming to terms with all the other procedural questions we have to face.

How is it possible to get unanimous consent under these circumstances? How is it possible to get any understanding about the degree to which we can agree on amendments with this problem?

So, Mr. President, we have compounded the problem this afternoon, unnecessarily it seems to me. The majority leader has a job to do. He has to make choices, and I understand that. But I hope as those choices are made, we clearly demonstrate the appreciation for the kind of communication that is going to be absolutely essential if we get anything done at all. I hope we can work through this. I hope before the night is out, or at the very latest tomorrow morning, we can resolve this matter, because if we are going to move forward adequately, successfully, it has to be resolved. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). Is there objection?

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, there is not any question about the majority leader's right to proceed as he does and make that request. But he only does that with the majority vote of the Commerce Committee. That is the dismaying thing to this particular Senator, because when you meet as the ranking member, you represent not only yourself but the committee members and other Senators interested, of course, in the tobacco farmer. And you are not just wanting to assure yourself. You are wanting to assure others you represent because they are constantly asking these questions. So everyone, the White House, the health community, everyone now has gotten in step as of 4 o'clock on the LEAF Act, and to come now with this procedure and say they have the majority, which would include the distinguished chairman of the committee, is a shocking surprise to me. I can tell you that right now because I have been with him. I got with him only on this understanding. And to come now and put the LEAF Act in jeopardy with this particular procedure, I just had to stand up here and register my objection.

Now, I don't want to object in a silly fashion to the printing, so I will withhold it, but the bipartisanship is ended.

Mr. ROTH. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Without objection, the majority leader's request is agreed to.

(The committee substitute, as modified to incorporate the text of amendment No. 2420, will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to make a parliamentary inquiry on behalf of my distinguished ranking member, Senator MOYNIHAN, and myself, as chairman of the Finance Committee.

The Senate has before it a modification to the Commerce Committee substitute and Finance Committee amendment to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act. If the modification were introduced as a bill, would it be referred to the Finance Committee?

The PRESIDING OFFICER. Yes, it will.

Mr. ROTH. Mr. President, further parliamentary inquiry——

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Yes, it would.

Mr. ROTH. The modification contains settlement payments and health fees. Is it true that these provisions, no matter how they are designated, are revenue measures, and, thus, within the jurisdiction of the Finance Committee?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, Senator MOYNIHAN and myself would like to note for the record that the modification of the Commerce Committee substitute violates Rule 15 of the Standing

Rules of the Senate. Neither Senator MOYNIHAN nor I will raise the point of order because, even if we did raise the point of order, the leaders or managers could accomplish the same result by offering the identical text as a floor amendment.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD. This material is the technical explanation that describes the amendments made by the Committee on Finance to S. 1415, as reported by the Committee on Commerce, Science, and Transportation.

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

TECHNICAL EXPLANATION OF FINANCE COMMITTEE AMENDMENT TO S. 1415 (AS APPROVED ON MAY 14, 1998)

I. TOBACCO EXCISE TAX AND TRUST FUND PROVISIONS

A. PRESENT-LAW TAX AND TRUST FUND PROVISIONS

Excise taxes on tobacco products. Excise taxes imposed on cigarettes, cigars, chewing tobacco and snuff, pipe tobacco, and cigarette papers and tubes (Code sec. 5701). In addition, tax will be extended to ''roll-your-own tobacco'' at the same rates as pipe tobacco, effective on January 1, 2000. These taxes are imposed upon removal of the taxable tobacco products by the manufacturer, or on importation into the United States.[1] The current tax rates are shown in the table below:

Tobacco product	Tax rate
Cigarettes:	
Small cigarettes[2]	$12.00 per thousand (24 cents per pack of 20 cigarettes).
Large cigarettes	$25.20 per thousand.
Cigars:	
Small cigars	$1.125 per thousand.
Large cigars	12.75% of manufacturer's price, up to $30 per thousand.
Chewing tobacco	$0.12 per pound.
Snuff	$0.36 per pound.
Pipe tobacco	$0.675 per pound.
Cigarette papers	$0.0075 per 50 papers.
Cigarette tubes	$0.15 per 50 tubes.

Effective on January 1, 2000, the tax rate on small cigarettes is scheduled to increase by $5 per thousand (to 34 cents per pack of 20 small cigarettes), and the tax rates on other taxable tobacco products are scheduled to increase by proportionate amounts. Effective on January 1, 2002, a further increase of $2.50 per thousand (to 39 cents per pack of 20 small cigarettes) is scheduled to become effective. (Tax rates on other taxable tobacco products will increase proportionately on that date as well.)

Generally, excise taxes on tobacco products that are removed during any semimonthly period must be paid by the 14th day after the last day of such semimonthly period. Late payment of tobacco excise taxes is subject to interest charges and penalties in the same manner as the late payment of other types of taxes. In addition, a failure to pay penalty equal to 5 percent of the tax due, but unpaid, is assessed under section 5761(b).

Revenues from the current tobacco products excise taxes are deposited in the General Fund of the Treasury.

Tobacco occupational excise tax. An annual excise tax of $1,000 per premise generally is imposed on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors (Code sec. 5731). The occupational tax is $500 per premise for taxpayers with annual gross receipts less than $500,000. Revenues from the occupational tax are deposited in the General Fund of the Treasury.

Penaly excise taxes. In addition to excise taxes imposed primarily to raise revenue, the Internal Revenue Code (the ''Code'') includes several excise taxes imposed as ''penalties'' for taking (or failing to take) certain required actions. Examples of these excise taxes include taxes on excess lobbying expenditures by charitable organizations, certain ''self-dealing'' activities by officers and others involved with private foundations, failures by private foundations to distribute required percentages of income, and numerous regulatory excise taxes imposed with respect to specified activities of qualified pension plans. Present law does not establish any underage smoking reduction goals or impose any penalty excise tax with respect to such goals.

Overview of Internal Revenue Code Trust Funds. Most Trust Funds that are financed with dedicated excise tax revenues are established in the Code (secs 9501 et. seq.). Examples of these Trust Funds are the Airport and Airway Trust Fund, the Highway Trust Fund, the Black Lung Trust Fund, the Aquatic Resources Trust Fund, the Inland Waterways Trust Fund, the Hazardous Substance Superfund, the Leaking Underground Storage Tank Trust Fund and the Oil Spill Liability Trust Fund. Each of these Trust Funds includes provisions dedicating specified revenues to the Trust Fund and provisions approving expenditure purposes of the Trust Fund (generally as those purposes are in effect on the date of enactment of specific authorizing legislation). The Code also contains general provisions relating to the management of these Trust Funds. In general, Trust Fund expenditures are subject to the annual appropriations process. Under present law, there is no Federal trust fund relating to tobacco taxes and spending programs.

B. DESCRIPTION OF FINANCE COMMITTEE AMENDMENT RELATING TO TOBACCO TAXES AND TRUST FUND

Increase in tobacco products excise tax rates. In lieu of the payments (including the initial $10 billion payment) required of tobacco manufacturers under S. 1415, as reported by the Committee on Commerce, Science, and Transportation (the ''Commerce Committee''), the current Federal excise tax rate on small cigarettes is increased by $1.50 per pack of 20 small cigarettes. The tax rates on all other taxable tobacco products are increased proportionately to the increases specified for small cigarettes. In addition, the effective date for imposition of tax on ''roll-your-own'' tobacco is accelerated from January 1, 2000, to January 1, 1999. Each of these rate increases will be phased-in ratably over a three-year period (calender years 1999, 2000, and 2001). Thus, for example, the tax rate on small cigarettes will increase by 50 cents per pack of 20 cigarettes on January 1, 1999, by an additional 50 cents per pack on January 1, 2000, and by an additional 50 cents per pack on January 1, 2001. (These increases are in addition to the rate increases currently scheduled to take effect in 2001 and 2003.)

On each January 1 beginning in calendar year 2002, all tobacco excise tax rates will be adjusted for inflation, as measured by changes in the CPI occurring during the 12-month period ending on the preceding August 31.

Floor stocks taxes comparable to those imposed when tobacco excise tax rates previously have been increased will be imposed on each tax increase date. Floor stocks taxes must be paid no later than July 1 of the year of tax increase.

As stated above in the description of present law, the current tobacco products excise taxes apply to tobacco products manufactured in, or imported into, the United States. Solely for purposes of these increased tax amounts, the term United States includes U.S. possessions as well as the 50 States and the District of Columbia. Accordingly, no amount of the increase will be covered-over to U.S. possessions under Code section 7652.

Further, the effective date of certain compliance provisions relating to exported cigarettes is accelerated from January 1, 2000, to January 1, 1999.

Impose penalty excise tax for failure to meet underage smoking reducing goals. Both the National Tobacco Proposed Resolution (the ''Proposed Resolution'') and S. 1415, as reported by the Commerce Committee, would establish goals for the reduction of underage smoking and would impose lookback ''surcharges'' or ''assessments'' on tobacco manufacturers if these goals are not met. In lieu of the lookback surcharges or assessments, the Finance Committee amendment imposes a non-deductible penalty excise tax on all manufacturers and importers of cigarettes and smokeless tobacco.

All manufacturers and importers of cigarettes and smokeless tobacco are subject to the penalty excise tax. Imposition of this penalty excise tax is governed by the smoking reduction goals and imposed at the rates specified in S. 1415, as reported by the Commerce Committee. In addition, the Finance Committee amendment provides that the determination of whether underage smoking goals are met is determined under rules prescribed by the Secretary of the Treasury (in consultation with the Public Health Service). Beginning in that year, the Secretary of the Treasury is directed to publish by February 15 of each calendar year the amount of tax allocated to each cigarette and smokeless tobacco manufacturer and importer based on their prior year's excise tax liability.

The penalty excise tax is payable in full no later than April 1 of each calendar year. Cigarette manufacturers and importers are jointly and severally liable for payment of this tax imposed with respect to cigarettes as provided in the Proposed Resolution and S. 1415, as reported by the Commerce Committee. Smokeless tobacco manufacturers and importers similarly are jointly and severally liable for payment of tax attributable to smokeless tobacco. Other Code administrative and enforcement provisions applicable to excise taxes generally apply to this tax.

Deletion of Federal requirements relating to ''pass through'' of payments. The provisions in S. 1415, as reported by the Commerce Committee, requiring that tobacco manufacturers use their best efforts to pass through to consumers the amount of any payments on a per unit basis are deleted.

Deletion or modification of miscellaneous ''fees'' contained in S. 1415. The provisions of S. 1415, as reported by the Commerce Committee, that impose separate ''fees'' to support the Tobacco Community Revitalization Trust Fund programs, the ''fees'' and operative Trust Fund provisions related to international tobacco control, the ''fees'' and ''assessments'' on nonparticipating manufacturers, the Tobacco Asbestos Trust Fund and related programmatic provisions, the Compliance Bonus Fund, and the provision relating to child care and early childhood development spending are deleted from the bill.

The Finance Committee amendment provides that, notwithstanding any other provision of law, all charges or user fees imposed under the titles of the bill other than the revenue title must be set in amounts that recover only costs attributable to providing services to the party paying the fees (i.e.,

[1] Footnotes appear at end of article.

must be true, or cost-based, user fees rather than disguised taxes).

Establishment of National Tobacco Settlement Trust Fund. In lieu of the multiple separate Trust Funds provided for under the Commerce Committee titles of S. 1415, as reported, a National Tobacco Settlement Trust Fund (the ''Tobacco Trust Fund'') is established in the Treasury Department pursuant to provisions enacted into the Trust Fund provisions of the Code. Amounts equal to the net revenues[4] from the changes made by the Finance Committee amendment are to be deposited in the Tobacco Trust Fund.[5] The Tobacco Trust Fund further will receive amounts equal to all penalties imposed under S. 1415.

Amounts in the Tobacco Trust Fund generally are available for expenditure as provided in subsequently enacted appropriations Acts.[6]

Amounts in the Tobacco Trust Fund are available for expenditure for the programs provided in S. 1415, as those programs are in effect on the date of the bill's enactment.

The Tobacco Trust Fund includes a separate account, the State Tobacco Settlement Account (the ''State Account''), to administer distribution of Trust Fund monies to States. The State Account will receive revenues equal to 30 percent of the net revenues produced by the increases in tobacco taxes during the five calendar years, 1999 through 2003. In calendar year 2004 and thereafter, this percentage will increase to 45 percent. These revenues are not available to finance any other Trust Fund expenditure purposes. States are eligible for payments from the State Account and the Tobacco Trust Fund generally only if they waive their rights to any future payments under State settlements with the tobacco manufacturers or importers.

Each State is eligible to receive the portion of the monies in the State Account shown in the table entitled ''Distribution of Funds to States'' below, except the States of Mississippi, Florida, Texas, and Minnesota are guaranteed that amounts those States receive will not be less than the amounts they would have received under their previously negotiated settlements with the tobacco companies, determined on a year-by-year basis.

In general, there are no requirements or restrictions on the use of funds appropriated to the States from the Tobacco Trust Fund; however, the Finance Committee amendment clarifies that the Medicaid cost recovery provisions apply to States that use Tobacco Trust Fund payments in their Medicaid programs. Cost recovery is waived for States that use the Tobacco Trust Fund for other purposes.

Provisions further are included ensuring that no tax revenues are deposited into the Tobacco Trust Fund if any monies are spent other than as authorized under these provisions.

General administrative provisions applicable to Code Trust Funds apply to the Tobacco Trust Fund, except no interest would accrue on unspent balances in the Tobacco Trust Fund. As with other Code Trust Funds, the Tobacco Trust Fund is not permitted to borrow from the General Fund.

DISTRIBUTION OF FUNDS TO STATES

State	Percentage
Alabama	1.237
Alaska	0.400
Arizona	1.709
Arkansas	0.954
California	8.695
Colorado	0.990
Connecticut	1.548
Delaware	0.400
D.C.	0.474
Florida	4.768
Georgia	2.735
Hawaii	0.800
Idaho	0.400
Illinois	3.930
Indiana	1.490
Iowa	0.932
Kansas	0.800
Kentucky	1.664
Louisiana	1.723
Maine	0.800
Maryland	1.425
Massachusetts	3.802
Michigan	3.586
Minnesota	1.246
Mississippi	1.701
Missouri	1.701
Montana	0.400
Nebraska	0.400
Nevada	0.400
New Hampshire	0.400
New Jersey	3.755
New Mexico	0.800
New York	12.812
North Carolina	1.977
North Dakota	0.400
Ohio	4.205
Oklahoma	0.800
Oregon	1.353
Pennsylvania	4.421
Rhode Island	0.800
South Carolina	1.090
South Dakota	0.400
Tennessee	2.851
Texas	5.930
Utah	0.400
Vermont	0.400
Virginia	1.348
Washington	1.726
West Virginia	0.782
Wisconsin	1.841
Wyoming	0.400

DISTRIBUTION OF FUNDS TO STATES—Continued

II. TRADE PROVISIONS

1. Section 1107—Ban on distribution of tobacco products produced by child labor. The Finance Committee amendment to Section 1107 clarifies that the amendment to Section 307 of the Tariff Act of 1930 contained in S. 1415 applies to imports of tobacco products produced by forced or indentured child labor.

2. Section 1133—Limits on the authority to promote the exportation of tobacco. The Finance Committee amendment codifies current policy set out in the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 1998, which prohibits any officer, employee, department or agency of the United States from promoting the sale or export of tobacco products, or from seeking the removal of nondiscriminatory barriers to trade in tobacco. The Finance Committee amendment clarifies that ministerial or clerical functions, such as the collection of export documents by Customs Service officials upon export through a U.S. port, would not constitute promotion of the sale or export of tobacco products within the meaning of section 1133. The Finance Committee clarifies further that United States Trade Representative (USTR) retains the authority to seek redress from discriminatory barriers to U.S. market access, with the proviso that USTR must consult with the Department of Health and Human Services prior to taking such action. Finally, in the Committee's view, nothing in section 1133 should be construed to prohibit the reduction of tariffs or other trade barriers through comprehensive trade negotiations that incidentally include tobacco products, provided that such reductions are not primarily directed at reducing tariffs or trade restraints on tobacco products.

3. Section 1134—Report on impact on U.S. international obligations. The Finance Committee amendment strikes Section 1134 from the bill.

4. Section 1145—Anti-smuggling provisions/prohibition on imports except under a permit. The Finance Committee amendment ensures that the bill imposes identical permit requirements on persons engaged in the production or marketing of tobacco products, regardless of the country or origin of the product and irrespective of their role in the distribution chain, whether through the manufacture, import, sale, distribution or warehousing of tobacco products. The Finance Committee amendment clarifies that the legislation does not create a separate import licensing regime for imports. The legislation does not affect the administration of tariff rate quotas the United States currently imposes on imports of tobacco and manufactured tobacco.

5. Section 1147—Ships stores, duty-free shops, and foreign trade zones. The Finance Committee amendment would permit the continued use of duty-free stores and foreign trade zones for the import, sale, manufacture, distribution, and export of tobacco products, provided that such activities comply with all applicable U.S. laws relating to the import, sale, distribution and/or marking of tobacco products in the customs territory of the United States, including restrictions on sales to minors. The Finance Committee amendment would also prohibit the importation of tobacco or tobacco products previously sold for export and exempt from excise tax as ships stores or in duty-free shops.

III. ELIMINATION OF LIMITATION ON MEDICAID COVERAGE OF SMOKING CESSATION AGENTS

Under the committee amendment, states will not be allowed to exclude from coverage or restrict agents when used to promote smoking cessation. States will maintain the authority to exclude from coverage or restrict nonprescription drugs when used to promote smoking cessation.

IV. MASTECTOMY HEALTH CARE PROVISION

A. PRESENT LAW

Under present law, group health plans must meet certain requirements with respect to limitations on exclusions of preexisting conditions and must not discriminate against individuals based on health status. An excise tax of $100 per day during the period of noncompliance is imposed on the employer sponsoring the plan if the plan fails to meet these requirements. The maximum tax that can be imposed during taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

B. DESCRIPTION OF FINANCE COMMITTEE AMENDMENT

The Finance Committee amendment requires that certain group health plans satisfy two additional requirements: (1) provide for impatient coverage with respect to the treatment of breast cancer, and (2) provide inpatient coverage for reconstructive surgery following mastectomies. Failure to comply with these requirements would result in the same exercise tax applicable to failure to comply with the limitations on exclusions of preexisting conditions and discriminating against individuals based on health status.

The amendment requires a group health plan that provides medical and surgical benefits to ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as determined by the attending physician to be medically appropriate following: (1) a mastectomy; (2) a lumpectomy; or (3) a lymph node dissection for the treatment of breast cancer.

The amendment requires a group health plan that provides medical and surgical benefits with respect to a mastectomy to ensure that, in a case in which a mastectomy patient elect breast reconstruction, coverage is provided for: (1) all stages of reconstruction

of the breast on which the mastectomy has been performed; (2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and (3) the costs of prostheses and complications of mastectomy including lymphodemas, in the manner determined by the attending physician and the patient to be appropriate.

The amendment requires a group health plan to provide notice to all participants and beneficiaries under the plan of the inpatient coverage available with respect to the treatment of breast cancer and reconstructive surgery following mastectomies.

The amendment does not pre-empt any State law in effect on the date of enactment with respect to health insurance coverage that: (1) requires coverage for a minimum length of hospital stay following a surgical treatment for breast cancer; (2) requires coverage of at least the coverage of reconstructive breast surgery required under the proposal; or (3) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

FOOTNOTES

[1] The term United States includes the 50 States and the District of Columbia.

[2] A significant majority of taxable cigarettes, and of taxable tobacco products, is small cigarettes.

[3] These rules may be, but are not required to be, based on the University of Michigan's National High School Drug Use Survey, ''Monitoring the Future'' (the specified source under the Proposed Resolution and S. 1415, as reported by the Commerce Committee.

[4] The term ''net revenues'' means the gross payments received less an income tax offset.

[5] These amounts would be reduced by any refunds of tax previously paid that were properly allocable to revenues deposited into the Tobacco Trust Fund.

[6] As reported by the Commerce Committee, S. 1415 provides that spending for certain programs is to be direct spending. This provision in the Finance Committee amendment supersedes those direct spending provisions (except in the case of amounts deposited into the State Account, described below, and S. 1415's provisions for payments to tobacco farmers).

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I concur in the judgment of our distinguished chairman on the important question of the jurisdiction of the Committee on Finance and I thank him for insisting that it be made clear for the record, as indeed has been done thanks to the distinguished Presiding Officer.

Mr. President, S. 1415, the tobacco legislation now before the Senate, was ordered referred to the Committee on Finance on May 13, 1998. It was so referred because the Senate Parliamentarian determined that the bill is in the jurisdiction of the Finance Committee. That action preserved the jurisdiction over tax legislation for which the Finance Committee has been responsible for 181 years.

The RECORD should be clear that this is indeed a tax bill. The Parliamentarian has so determined; the Joint Committee on Taxation has concurred.

One may refer to certain provisions of this legislation as ''annual payments,'' ''lookback assessments,'' or ''fees,'' but they are taxes. As Richard Cardinal Cushing said, ''When I see a bird that walks like a duck and swims like a duck and quacks like a duck, I call that bird a duck.'' Call it whatever you like, but this bill raises taxes on tobacco, and we're not fooling anybody to suggest otherwise.

And as I have said, taxes have been the jurisdiction of the Committee on Finance for going on two centuries now. In the case of excise taxes, which figure prominently in this bill, the Finance Committee's jurisdiction has been recognized since 1817, the year after the Committee was established. That was the 14th Congress. George W. Campbell of Tennessee, was Chairman; Senator Rufus King, of New York, was Ranking Member.

Likewise our jurisdiction over income taxes has been recognized since the first income tax was enacted in 1861. And the Standing Rules of the Senate have explicitly provided for our jurisdiction over ''revenue measures generally''—tax bills—since 1946, the year that the jurisdictions of all Senate Committees were first set forth in the Rules. I might add that our jurisdiction over international trade matters, which also arise in this bill, is equally clear and equally longstanding.

Our revered Chairman, Senator ROTH, last week insisted—with the full support of our Committee Members—that this legislation be considered by the Finance Committee before it went to the floor. It was referred to us on Wednesday, and we marked it up on Thursday. The vote to report favorably the Finance Committee amendments was 13–6.

The Finance Committee made several important improvements to the bill. First, we converted the assorted ''payments'' and ''assessments'' to taxes. Second, we approved an increase of $1.50 per pack in the tax on tobacco, to be phased in over three years. Third, we struck from the bill a tax on exports that was a clear violation of Article I, Section 9 of the U.S. Constitution. And finally, we adopted an amendment by Senator D'AMATO to require that health plans provide coverage for minimum hospital stays and reconstructive surgery associated with the treatment of breast cancer.

Some of these changes have now been included in the pending Commerce Committee substitute. Owning to the parliamentary situation, some of the other Finance Committee amendments will require separate votes. But thanks to our Chairman, the essential point has been made; the jurisdiction of the Committee on Finance has been preserved and affirmed.

I thank the Chair and yield the floor.

Mr. MCCAIN. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business until 8 p.m., with Senators permitted to speak for up to 10 minutes each.

Mr. ASHCROFT. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, the Senator from Missouri is not recognized for suggesting the absence of a quorum, is that right?

The PRESIDING OFFICER. The Senator from Arizona does not lose the floor when he makes a unanimous consent request.

Mr. MCCAIN. Thank you. Mr. President, the Senate will now take up the National Tobacco Policy and Youth Smoking Reduction Act (S. 1415). Six weeks ago, the Senate Commerce Committee approved this measure by an overwhelming vote of 19–1.

I want to thank the Majority Leader and Senator DASCHLE, and all Senators for allowing this bill to come to the floor. Thanks to the work of so many people including the medical community, especially Dr. Koop, Dr. Kessler; the attorneys general, and so many of our colleagues on both sides of the aisle over many years, Congress has a rare and historic opportunity to put an end to what the American Medical Association calls a ''pediatric epidemic.''

Mr. President tobacco is a legal product that adults may acquire if they choose to do so. Under this bill it will remain so. But the widespread use of tobacco in this country presents a problem every responsible adult would concede will not go away on its own.

Three thousand American children take up the smoking habit every day. For one thousand of them the decision will prove to be fatal. Those children will be among the 460,000 Americans a year who die early—substantially early—from smoking related disease including cancer, emphysema, stroke and heart disease. Warnings about the lethal effect of tobacco have not discouraged juvenile smoking. Sadly, the Center for Disease Control reports that teen smoking is on the rise today.

In recent years, we have learned how callously indifferent tobacco companies are to the loss and suffering their product causes. We have learned how tobacco companies will undermine any public good if it serves their commercial interests. We have learned that nothing, not even the health of children, is off limits to tobacco companies if it serves their bottom line. What profits the nation is a matter of no consequence to tobacco companies if it does not profit them.

Mr. President, we have learned that the tobacco companies, well aware that kids make up the vast majority of their ''replacement'' market have, for years, intentionally and systematically targeted children in their marketing and advertising—kids as young as 13 years old, and even younger.

The disclosure of truckloads of internal industry documents have exposed once and for all the appallingly malicious lie that tobacco executives have for years sworn, often under oath, to be true—that they do not market to children.

They not only have marketed to children, they have thrived on it. And I am

entirely confident that they will continue to do so unless we who are elected to protect the national interest, stand up, at long last, to the tobacco interests. That is what this legislation is intended to do.

Studies show that children are particularly susceptible to the industry's marketing pitches. So effective have these companies been at appealing to youth, many children can identify Joe Camel as readily as they do Barney or cartoon characters.

We have come to learn that as part of their strategy to hook kids early, at any cost, tobacco companies manipulated nicotine levels to enhance its addictive qualities; engaged in sham medical research; quashed information about the danger and addictiveness of tobacco; abused the nation's laws to cloak their activities and lied to Congress and the American people.

Tobacco companies have long hoped that money, in the form of campaign contributions, would enable them to maintain the status quo, and insulate them from the consequences of their actions. For too long, I fear, they have been right.

We are all too familiar with the influence of tobacco money. I appeal to my colleagues, now is the time to stop tobacco companies from buying political indulgence of their intentional sacrifice of our children to the imperatives of preserving a market for their product.

It is illegal for children to purchase tobacco in every state in the country. And in every state in the country, tobacco companies have invested enormous sums of money and time to encourage widespread law breaking.

Now is the time to put an end to it. And, Mr. President, now is also the time to stop the endless drain on taxpayers, which amounts to an annual tax of $50 billion imposed on taxpayers to underwrite tobacco related health care costs—an estimated $1.7 trillion over the life of this bill.

Over the past 3 weeks, the tobacco companies have launched a massive campaign of diversion. Once again, they hope to use their vast resources to divert the country from the truth, and to frustrate us in our task to defend against the threat they pose to our children. As they have so often in the past, the tobacco companies are lying to all of us again, and using their wealth to frighten us all into submission.

I would like to quote Dr. C. Everett Koop who said about this campaign.

When you see the advertising from the tobacco industry consider the source. These people are experts at manipulation and have been lying to the American people for decades.

Dr. Koop called on all Members of Congress to support tough tobacco legislation. Mr. President, the bill we are presenting to the Senate is indeed tough medicine, for a tough problem. Every expert medical witness who has testified before Congress, as well as every living Surgeon General has called on Congress to pass tough, comprehensive tobacco legislation. The measure we will now consider is exactly that—tough, comprehensive legislation.

The bill is based on the framework of the June 20th settlement between the industry and the state attorneys general and contains the six major elements experts agree are essential if we are to stop kids from smoking.

These include restrictions on marketing aimed at youth; stronger youth access prohibitions; deterrant price increases; regulatory oversight of tobacco ingredients; and counteradvertising campaigns to educate youth.

I would like to address each of these in greater detail. First, like the June 20th settlement, the bill imposes advertising restrictions to eliminate marketing appeals to youth. The bill would implement the FDA rules banning tobacco billboard and outdoor advertising around schools, playgrounds and other areas frequented by children.

It would restrict point-of-sale advertising to ensure that cigarette pitches aren't directed at children and would require bold new warning labels on cigarette packaging.

Second, as contemplated in the June 20th agreement, the bill will raise cigarette prices sufficient to deter youth consumption. Experts say the most important step to deter youth consumption is a substantial hike in the price of tobacco products. I want to say that again, Mr. President. Experts say the most important step to deter youth consumption is a substantial hike in the price of tobacco products.

The Centers for Disease Control reports that smoking less than 100 cigarettes can result in clinical addiction, and that higher pricing is essential to deter underage use. Accordingly, the bill would increase the price per pack of cigarettes by a minimum of $1.10 over five years with a commensurate rise in the price of smokeless tobacco. The administration believes that this hike, included in the President's budget request, would cut youth consumption in half.

Three, the bill establishes the same youth smoking reduction targets agreed to by the industry last summer. Four and one-half million underage Americans use tobacco and the number is growing. The bill calls for a 60 percent reduction in youth consumption within 10 years and levies heavy financial assessments on the industry if they are not achieved. Tobacco companies have skillfully determined how to induce kids to smoke. With ample motivation they can apply those skills to help reverse their handiwork.

Four, stronger enforcement of youth access rules. While smoking by minors is prohibited in every state, kids continue to buy tobacco. The bill would require retailers to be licensed by the state and card tobacco purchasers in the same manner as alcohol sales. And it requires that tobacco products be stored in areas inaccessible to youth. In addition, the bill would ban cigarette sales from vending machines, a major conduit of tobacco products to kids. all of these restrictions were part of last year's settlement.

Five, cigarette ingredient regulation. Cigarettes contain numerous active ingredients harmful to health including nicotine, tar and ammonia. Evidence suggests that the tobacco industry has manipulated these ingredients to enhance their addictive qualities, and in some instances added benign substances such as molasses to sweeten the taste for introductory users, which is how the industry refers to children.

The bill would permit the FDA to oversee and regulate tobacco products to protect public health, and promote the development of safer cigarettes. In rulemaking two years ago, FDA asserted authority over tobacco under its existing ''drug device powers.'' This bill, thanks to the Presiding Officer, Senator FRIST—Dr. FRIST establishes basically the same authorities, but in a separate and distinct chapter of law that addresses tobacco products only.

The legislation, however, imposes several important checks on the FDA authority. Any ban on nicotine or class of tobacco product could not go into effect for two years, enabling Congress market potential of any modification to cigarettes that would push smokers to contraband.

Again, the attorneys general, in their agreement with the industry called for greater FDA oversight of tobacco.

Six, the bill provides funding for smoking prevention and cessation programs; counter-advertising campaigns, and vital health research. These initiatives are financed by annual payments made by the industry.

Smoking related health care costs exceed $50 billion per year. The bill would require the industry to pay $526 billion over the next 25 years to reimburse taxpayers for costs to Medicare and state health care programs. Last summer's agreement called on the industry to pay $368.5 billion. This would have raised the price per pack of cigarettes by $68 cents over 5 years, an amount public health authorities found insufficient to effect youth usage. And the sums would not have been sufficient to pay for assistance to farmers, who were left out of last year's agreement by the industry.

Finally, the bill would place a cap on the tobacco industry's yearly liability exposure without barring any individual or group's ability to sue or receive compensation. The tobacco industry has successfully fended off lawsuits for years. However, the trend is changing and as massive new judgments are awarded against the tobacco industry, bankruptcy is always a possibility.

Experts agree that bankruptcy is an undesirable outcome for the nation economically, legally and medically. Involving bankruptcy would permit the industry to shield themselves from

their financial responsibilities including compensation to victims. When the asbestos companies went bankrupt and left a financial and legal mess that is still with us, only the lawyers made out. Moreover, the extinction of domestic manufacturers would simply push tobacco users to foreign brands or unregulated contraband which would constitute a public health crisis.

We have heard many opinions about whether the industry will submit to this legislation. Legal challenges, of course, would delay reforms, so industry cooperation would be advantageous. While, according to public health authorities, price hikes are essential, they, alone, won't do the job. The proposed advertising restrictions and youth usage penalties, which industry is threatening to challenge, are also essential parts of the solution.

The National Tobacco Policy and Youth Smoking Reduction Act, however, was never intended to be a ''deal'' with the tobacco industry. Our mission was to pass the best possible legislation to stop children from smoking.

As I said, tobacco is a legal product and the decision to use it, though risky, is a choice for adults to make. Nevertheless, the Nation requires that the tobacco industry join us in the fight to protect our children. If they choose not to, the American people will respond accordingly, Congress will act, and the States will resume their lawsuits to extract in court what we might more efficiently achieve through cooperation.

Mr. President, we sent a modification to the bill to the desk in the form of a committee substitute. I would like to take a moment to explain how it would modify the bill as passed by the committee.

First, the amendment addresses the concern expressed by some that the bill was too ''bureaucratic.'' Although the bulk of the panels and boards were temporary, advisory and entailed little or no additional federal costs, and the majority were contemplated in the June 20th Agreement, the Committee substitute eliminates all but three: an unpaid Scientific advisory board at FDA to help assess lower risk tobacco products; a part time board to help formulate counter-advertising strategies; and a three judge panel to assess attorney client privilege claims.

Second, all receipts and disbursements under the act are routed through a single, on-budget, trust fund operated by the Secretary of the Treasury. The amendment eliminates, the role of special trustees; the international trust fund, the farmers trust fund as well as the asbestos trust funds and associated trustees. All funding under the act will come from the single Tobacco trust.

Third, the amendment toughens enforcement against contraband smuggling by requiring that manufacturers and wholesalers be licensed; that records be kept for large transactions. These and other anti-smuggling measures were worked out with the administration.

Four, the amendment drops certain provisions with respect to international marketing that had constitutional problems, or were violations of international law. Among the items dropped was the special licensing fee, the designated trust fund; prohibitions with respect to duty free shops, extra-territorial criminal provisions.

Five, the amendment imposes tougher look-back assessments on the industry. The Committee reported bill capped look-back assessments at $3.5 billion per year. The amendment raises the ceiling to $4 billion, and establishes a company-specific penalty of $1,000 per underage user of a particular tobacco brand beyond the target level.

Six, the amendment modifies the committee bill with respect to second hand smoke. Under the bill as reported, states were given the opportunity to opt out of the federal program. Under the amendment, negotiated with the White House, state can only opt out if they implement their own program that is as effective in protecting public health, based on the best available science.

Seven, the amendment eliminates the asbestos trust fund. In its place the modification authorizes appropriations from the main fund to assist asbestos victims should Congress establish a program to do so.

Eight, the amendment ensures that with certain deminimus exceptions, all tobacco companies, whether it choses to settle its state cases or not, are responsible for the annual payments to effect the $1.10 price increase.

The requirement that non-participating manufacturers pay 150% of the annual payment has been dropped. Instead, manufacturers that wish to settle their state cases must pay the upfront payment they agreed to last year, and sign the state protocols binding them to the additional requirements they agreed to with the state attorneys general, including tougher advertising and marketing restrictions. In return for agreeing to the broader restrictions, and not to challenge their obligations under the protocols, participating companies would receive a yearly liability cap of $8 billion.

In addition, the committee modification drops several civil liability provisions, including a requirement that civil actions be directed at the tobacco manufacturer not its parent company.

Finally, the Committee modification sets out funding parameters for the trust fund.

The Joint Committee on Tax anticipates receipts into the trust fund of nearly $65 billion over five years. Because the payments are volume adjusted, this number could rise or fall depending upon the volume of tobacco sales.

For this reason, the amendment expresses annual funding in terms of percentage of yearly receipts and, except for state funding, places a dollar ceiling should receipt exceed expectations. Any amount above the ceiling would be transferred to the Medicare Trust funds.

Under the modifications, the States would receive 40 percent of the yearly receipts; health research—22 percent; public health programs—22 percent; and farmer assistance—16 percent.

The Office of Management and Budget estimates that under this prescription, States would receive a total of $26 billion over five years. In a modification agreed to by the National Governors Association, 50 percent of the state funds—regarded as the federal share of Medicaid recoupment—will be made available to the states for a menu of purposes, including safe and drug free schools, Child Care and Development Block Grants, substance abuse grants and others. As I said, this menu was agreed to by the National Governors Association.

The other half of the State money would have no menu attached and would be used at the sole discretion of the State.

Mr. President, I would like to briefly comment on the chief criticism of this bill launched by the industry—that it is all about tax and spend Government.

The industry agreed last summer to pay $368 billion and to submit itself to almost every aspect of the legislation we are debating. The agreed to increase the price per pack of cigarettes to reduce youth consumption. They agreed to abide by advertising restrictions. They agreed to submit themselves to lookback assessments. They agreed to enhanced FDA authority over their products. They agreed to stiffer youth access rules and they agreed to open up their documents to the public. And they agreed to finance smoking prevention and cessation programs and health research.

Are the measures tougher than they agreed to? Yes, without question.

Now because the industry fears that the bill may actually achieve what it purports to, the effort has been transmuted from enlightened public policy to tax and spend Government.

Let us be clear, those who vote against this measure because they believe it is tax will merely kill the ability to settle State suits collectively and efficiently so that we can move on to the job at hand—protecting the health of our kids.

If this bill is killed, the States will merely resume their suits, at great cost in terms of money and time, and the outcome will be the same as it has been in Mississippi, Florida, Texas and Minnesota. If we take that unwise course, the ultimate prices in cigarettes will be little different from what might result from this bill, but we will pay an awful price in terms of the 3,000 children a day who will become regular users of tobacco and consign themselves to the consequences before they are adult enough to make that life or death decision.

Mr. President, I asserted earlier that tobacco companies have long sought

refuge in lies. They have lied about the effects of their product and about the strategies they use to market them. They are lying about the purposes and effect of the bill we are now considering. They have spared no expense to cover their purposes with lies. They have lied, no matter the cost to public health. They have sacrificed the truth and our children to their greed. They have lied, because lying has been profitable, Mr. President, because lying worked. No more. No more. The lying stops today.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished chairman, the manager, for his eloquent comments with respect to the debate that now begins in the U.S. Senate.

Senator HOLLINGS has asked me to open on behalf of the committee, and I do so with great respect for his leadership and his involvement in helping to bring the U.S. Senate to a point where we can engage in this consideration. He continues to fight extraordinarily for what he believes in very deeply, and particularly, along with the Senator from Kentucky, for the farmers who may be impacted by this legislation. And that is a fight that we will continue to have over the course of the days ahead.

This is not just the opportunity, Mr. President, for a historic debate; it is an extraordinary opportunity for historic action by the U.S. Senate.

For years, many people across this country have worked hard for this moment. For years, we have waited for the opportunity for the Senate to be able to step up to bat and exercise its responsibility to protect the children of the country. And literally we have the opportunity, whether it is this week, which we hope it might be, or in the next weeks, when it might inevitably be, we have the opportunity to act on behalf of the children of this country in a very direct way that expert after expert, Surgeon General after Surgeon General, pediatrician after pediatrician, cancer specialist after cancer specialist, all have said is necessary for the better health policy of our Nation.

It is a tribute to the outrage in this country that by now millions of Americans understand that 3,000 children will start smoking today and will get hooked—some 6,000 will try it, but 3,000 children will wind up smoking. And of those, 1,000 of them will die early because of the habit they get that they could not kick. Every American has now come to understand the way in which children have been manipulated, aggressively marketed to, in order to suck them into this addiction which ultimately can cost their lives.

That is what we are voting on on the floor of the U.S. Senate. That is what this debate will be about over the course of the next few days. There is a growing awareness now in America that we lose the lives of over 400,000 of our fellow citizens each year because of smoking-related illnesses—more people than we lost in all of World War II, more people than we lost in all of Vietnam and all of Desert Storm combined. And we lose this every year. And it costs us billions of dollars in the health care system of our Nation, in our insurance, in the hospital wards where some people who have no insurance are paid for by the rest of their fellow Americans.

So this week in the Senate, we are moving beyond the point of simply articulating a threat to the children of our country. No one, I think, now disputes the notion that there is harm associated with smoking. And now the U.S. Senate and the Congress need to act with legislation that carries the imprints of both parties, of Senators of both parties, of Governors of both parties, of 44 very tenacious and courageous attorneys general. Now is the time to follow through on their efforts.

I urge all my colleagues—Democrat, Republican, liberal, conservative, no matter what particular passion politically brings them to the U.S. Senate—I urge them over the course of the next days to put aside that partisanship and to try to set aside the inclination to make the perfect the enemy of the very good and to focus today and throughout this week on passing effective legislation that puts America's children out of harm's way and secures for the Senate's legacy one of cooperation and accomplishment, something that many people have felt has been too absent in the workings of the Senate these recent years.

There is a growing feeling that unless we act with a sense of bipartisan and a real dedication to doing what is in the national interest on smoking, that somehow we might let this historic opportunity slip through our fingers. I do not dispute the possibility of that, but, on the other hand, I believe that the Senate clearly has shown its willingness on many occasions in the past to rise to this kind of occasion, to ignore those that Senator MCCAIN just referred to who will spend billions and billions of dollars, who have a long record of misleading America and the Congress with respect to this issue—that we will ignore those special, narrow interests in favor of the larger common interests of our fellow citizens. That is precisely what most of us came here to see this Senate do. And now we can take pride in the possibility of being part of that.

I believe that when my colleagues read the managers' amendment, the bill that is before them, they will find that there is in this a mainstream concept, that there is in this a view that really does represent common sense. I think it is a rare occasion that, on a subject as ripe for dissent as the subject of tobacco, any committee in the Senate could conceivably send a bill to the floor of the Senate by a vote of 19–1.

The Commerce Committee is, in point of fact, a microcosm of the whole Senate. There are the extremes that we have on both sides, the hard-line points of view on both sides; and there is, of course, every point of view in between that somehow finds a center. And I believe that in the end, when all of the debate and all of the anguish over this bill has been worked through, we will find that we will be somewhere relatively close to what the managers' amendment proposes and to what the Senate has advocated.

As I say that, I personally believe there are improvements that can be made. There are things in this bill with which I don't agree. There are things that we have all reserved the right to try to change. What is important, Mr. President, that we permit the Senate, at this moment, to affect that change, that we permit it to work its will and to ultimately vote on a bill.

Senator MCCAIN, I might say, has approached this task by reaching out all across party lines, reaching out to every sector of interest group that is represented in this debate. I know that he and others on the committee have tried to listen hard. It is my belief that when Senators examine the bill, while they will undoubtedly find a particular point of view here or there with which they could find disagreement and make suggestions for improvement, I believe the fact is that they will have a renewed respect for the way in which Senator MCCAIN and the Commerce Committee and Senator HOLLINGS reached out to demonstrate some tough decisionmaking under difficult pressures.

I also believe that in the end the changes that have been made, most of those in the managers' amendment, clearly make this a stronger and better bill than it was when it did leave the Commerce Committee. I remind my colleagues that the Commerce Committee, at the time we sent it out of committee, reserved the right at that point, knowing there were some issues that weren't quite completely vetted, to make changes in a managers' amendment as we brought it to the floor. The structure of the bill has now been changed so that the provisions that are most critical—for reducing youth smoking, the annual payments, the look-back assessments, and the advertising restrictions—will be implemented without the tobacco industry's assent, if that is our only choice.

I think every member of the committee, I am sure every Member of the Senate, would prefer that the tobacco companies were part of the solution and not a continued part of the problem. We would prefer that they were, in fact, signing on to all, everything, that we may embrace here in the Senate. I believe that the industry's participation in youth smoking reduction efforts is obviously preferable, but I think we have made a genuine effort to try to respond to most of their needs. As the chairman pointed out and I will

underscore, almost every concept in this bill was embraced by the tobacco companies in their settlements that they arrived at with the attorneys general. In fact, most of the concepts are arrived at in the settlements they have still reached, most recently last week in Minnesota, with a few exceptions.

The fact is there are some aspects of this that are tougher—but tougher in fact, not tougher in total concept. They do reach farther in amount of money. There are greater limitations on liability because many people believe those liability provisions were too great. But the fundamental principle that there should be some restraints, that there should be some kind of look back, that there should be advertising restraints, that there should be an increase in the price, were all accepted by the companies themselves, and it is certainly subject to debate and to discretion within the Senate to ultimately agree on what those levels ought to be.

When first presented to the Commerce Committee, the tobacco settlement would have provided the tobacco companies with what most people believe was an unprecedented level of immunity from civil action—elimination of class actions, punitive damages. Aggregation of claims would not have been allowed. Claims based on addiction would not have been allowed. It would have allowed parent companies to shield their tobacco profits from liability. It would have risked the ability of injured persons to file State claims. It would have kept those State claims in State courts.

Mr. President, those restraints on the ability of our citizens to be able to seek redress were plain and simply excessive. These liability restrictions are especially dangerous to the public health because this kind of liability threat is, in the final analysis, the strongest and most important insurance that the tobacco companies will take public health concerns seriously, finally, after so many years of ignoring them.

Let me be clear: The bill before the Senate no longer contains special protections for the industry. That, I believe, was an important step towards a workable piece of legislation.

We also must pass legislation that contains high compliance standards to ensure that retailers will stop selling cigarettes to minors. We believe we have strengthened this element of the bill. We penalize States which do not achieve a 90-percent compliance rate after a 5-year grace period. When 62 percent of 12-to 17-year-old children in this Nation report they could succeed in buying their own cigarettes, that nearly half of them have never been asked to provide a positive identification, it seems to me it is time for us, as a nation, to get serious about compliance. This bill does that.

In order to ensure that the tobacco companies actually have sufficient incentives to reduce youth smoking, they and their shareholders must now know that they will pay significantly if youth smoking rates do not decrease dramatically, which means they must join in the efforts to help us reduce smoking among our youth. That is why the look-back assessments are so important.

Under the managers' bill, the cap on industry-wide assessments has been raised to $4 billion, and there are new uncapped company-by-company payments of $1,000 per child who smokes. That is an incentive to be helpful. Not only have the assessments been significantly increased but they are no longer tax deductible. That is, in fact, a greater incentive for people to understand that this bill means business.

In addition, and this is very important to many who have been part of the process, the look-back assessments are now tied to the liability provision so that companies which continue to entice minors will lose any liability protections whatever—that is to say the cap particularly or any other protections in the aggregation preemption.

I think it is nearly universally agreed that we cannot fundamentally regulate tobacco without a strong and effective FDA authority over tobacco products. The distinguished Presiding Officer has played a critical role, along with Dr. Koop and Dr. Kessler, the White House, and the Department of Health and Human Services, in helping to come together in a considerable effort of negotiation in order to come up with FDA authority within this legislation.

The FDA will have specific and broad new authority to regulate tobacco products. Indeed, Dr. Koop has publicly praised the provision as a substantial improvement over the provision in the proposed settlement. I am confident that Dr. Koop, Dr. Kessler, and others will continue to work with Congress on this matter to ensure that the FDA has the authority it needs to protect kids and to promote public health.

What we have before the Senate is not perfect legislation. None of us has ever known a perfect piece, I think, to come to the floor of the Senate. We will have a critical debate in the days ahead about whether or not we can find room for improvement. There are many ideas that different Senators will offer. I look forward to that debate with respect to children, with respect to farmers, with respect to liability, attorney's fees, and other issues.

Finally, we owe a great deal to the leadership and hard work of our colleague, Senator KENT CONRAD, who has spoken out on tobacco with a great deal of passion, but more importantly, who helped, through a long process of working with the task force, to shape and fold what is in front of the Senate today. I appreciate how sensitive Senator CONRAD has been toward passing legislation in this Congress and how seriously he has fought to make certain that Congress will find a middle ground place where all of us can, hopefully, ultimately come to agreement.

In the managers' amendment there are several improvements that reflect Senator CONRAD's priorities and the great work that he has performed as leader of the Democratic task force on tobacco.

So now the full Senate has the opportunity to work its will, to pass this bill with the managers' amendment, to send America into the next century with the knowledge that we are a Nation not just with a responsible policy toward an addictive substance, not just with a responsible policy toward our children, but that we know how to translate our conscience into public legislation, that we can reach beyond partisanship in order to find the common ground.

To my colleagues, I say simply that history has finally put this legislation on the floor of the Senate in a decade-long fight to protect our children. We weren't fighting for party. No one in this fight ought to have an ideological ax to grind.

In the final analysis, the one priority that will bring us together is fundamental: This debate is about our children and it is about our responsibility of raising a generation of healthy children who will live up to their potential, free from the grasp of a dangerous drug. That is our challenge, and I believe that the Senate can meet it.

I join with my colleague, the Senator from Arizona, in suggesting that this is the moment for the Senate to break away from the mendacity, the deception and willful effort to try to undercut the health of our kids over such a long period of time. I hope we are going to do that.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, over the next several days, we will be discussing a comprehensive piece of legislation that many of us have participated in drafting over the last really 9, 10 months—a piece of legislation, which I think is a superb start to accomplishing the goal on which I hope we will continue to focus. I think we are going to see, over the next several days, a lot of debate and probably a number of amendments. We will see a lot of arguing back and forth and a lot of turf wars will be expressed here on the floor.

I just make a plea to my colleagues that, throughout that period of time, we keep coming back to what our true focus is, the reason for having this bill. It really goes back to some of the data and statistics that have already been mentioned, which I am sure we will mention again and again. But we are here in order to reduce the number of kids smoking, teen smoking, under-age smoking.

We have heard over the last several months about the number of kids who start smoking every day; 3,000 kids start smoking every day. And 1,000, or

1 out of every 3 of those kids who start today, will die prematurely. That means they will die earlier than they would if they had never started smoking. That means a thousand children today, over the last 24 hours, have started smoking and will die before their time because they started smoking today. Ninety percent of all adult smokers began smoking at or before age 18. In fact, 50 percent of all adults smoking today started under the age of 14—maybe 8, 10, 12, or 13 years of age.

The problem we face today—and, of course, I speak as a Senator now, but I also speak as a physician who has taken an oath to dedicate my life to improving the quality of life of others—is that of premature death. It is as simple as that. However, the problem is not getting better, it is actually getting worse. In fact, the percentage of teens smoking every day has increased by 40 percent—these are teenagers, children—from 17 percent of 12th graders smoking in 1992 to 24 percent in 1997. If you look at the teenagers smoking from the 8th grade to the 12th grade, it climbed from 13 percent in 1992 to 18 percent in 1997. So this problem right now is becoming worse.

Really, the statement I want to make and urge all my colleagues to keep in mind is that our focus has to be on the health of the next generation and to keep in mind the challenges that youngsters face as they travel from that very tricky path from childhood to adulthood, surrounded by these temptations. Really, what we need to do is address over the next several days, using the template of this bill now on the floor, and ask the question: What can we do to make it more likely that these children will arrive at adulthood without crippling addictions?

Mr. President, I would like to briefly comment on one aspect of this bill, on which I have spent a great deal of time. I want to comment on it this evening, as this bill is introduced. It is a part of the bill that is greatly misunderstood by many because they haven't yet read the bill or had it presented to them. It has to do with the Food and Drug Administration authority in this bill. I am not going to walk through the provisions, but I want to briefly explain what we set out to do and what is in the bill.

Right now, drugs and medical devices are regulated by the FDA in a single chapter. An attempt has been made by the current administration to regulate tobacco through this chapter, chapter 5 of FDA law, with the authorities given the devices. How and why? It basically is a way, through existing regulation, existing statute or authority, to regulate tobacco as a drug delivery device; but to me it is like taking a round peg and trying to put it in a square hole or taking a square peg and trying to put it in a round hole—it just doesn't fit. It just doesn t fit to try and say that tobacco should be regulated as a drug delivery device. The attempt has been made to regulate tobacco by using the restrictive device authority in chapter V. I point this out because it is the reason we have created a whole new chapter for the regulation of tobacco. This new chapter reflects that tobacco is a unique product, very different from drugs and very different from devices.

Chapter 5 of the Federal Food, Drug and Cosmetic Act is that chapter that, heretofore, an attempt has been made to regulate tobacco through. It is the drug and device chapter. Tobacco just does not fit there. Here is one brief example, so that people will understand why we created a new chapter. Chapter 5 calls on the Secretary to determine whether the regulatory actions taken will ''provide reasonable assurance of the safety and effectiveness'' of the drug or the device.

Well, clearly, tobacco is not safe or effective; we know that. It is dangerous to one's health. That has clearly been demonstrated over the last 20, 25 years. You can talk about the effectiveness of a pacemaker or a heart valve or an artificial heart; you can talk about those devices as being safe and effective. You really cannot apply that to tobacco. Therefore, instead of taking tobacco and ramming it through the drug and device provisions, we felt it was important to look at the unique nature of tobacco, write a separate chapter, and that is what is in the bill today. It is called chapter 9. This gave us the flexibility to create a new standard that was appropriate for tobacco products. The bill states that the Secretary may find that regulations and other requirements imposed on tobacco products ''are appropriate for the protection of public health.'' This is the standard we use instead of the safety and effectiveness standard found in chapter 5.

There are a number of other provisions in the device section that are duplicative or not well-suited when you are attempting to regulate tobacco. Yes, they are appropriate for drugs and devices, but not for tobacco. This chapter 9, which is in the underlying bill, the managers' amendment, contains certain new provisions that grant the secretary explicit authority to undertake regulatory measures particularly relevant to tobacco. It requires manufacturers to submit to the secretary information about the ingredients, components and substances in their products. It requires reporting of the content delivery and form of nicotine in their products. It requires reporting of their research on the health, behavioral, and physiological effects of tobacco products. It requires reporting on the reductions in risks associated with available technology, as well as research on the marketing of tobacco products. Yes, this bill does create a new, separate chapter for regulation of tobacco products. But the reason it is important is because it does not fit, it does not make sense to regulate tobacco as safe or effective.

With that, Mr. President, the only primary change made to the FDA provisions in the underlying McCain bill is a revision which I support. In the managers' amendment there is a prohibition of the FDA from banning tobacco sales from a particular type of retail outlet such as convenience stores. In the managers' amendment, we limit the FDA authority to the removal of the license of individual operators for failure to comply with a licensing agreement. This addresses the concerns by many of the retailers who came forward concerned that the FDA could ban sales from good operators who are not selling to kids because of a few bad actors. I support that revision in the initial FDA provisions of the bill.

In closing, Mr. President, I do have concerns with the McCain bill. I will be open minded when considering amendments to it. I think it is a very good starting point. But it is a starting point. We can and should work on improving it over the next several days as long as we do not lose sight of our ultimate objective. And that is a comprehensive approach that looks at public health initiatives, that looks at youth access issues, that looks at the advertising and marketing, because, I believe, that it is only by having a comprehensive approach that we will achieve the objective of preventing teen smoking.

I will be employing one criterion as I look at each of the amendments as they come forward. And that is, Is this amendment likely to complement a comprehensive campaign to prevent youth smoking? In other words, does it help restrict advertising, promote public health, and address youth access to tobacco with the end result of a reduction in youth smoking?

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

HONORING THE AMERICAN AUTOMOBILE ASSOCIATION LIFESAVING MEDAL RECIPIENTS

Mr. DASCHLE. Mr. President, I am proud to announce to the Senate today the names of the two young men who have been selected to receive the 1998 American Automobile Association Lifesaving Medal. This award is the highest honor given to members of the school safety patrol.

There are roughly 500,000 members of the school safety patrol in this country, helping over 50,000 schools. Every day, these young people ensure that their peers arrive safely at school in the morning, and back home in the afternoon.

Most of the time, they accomplish their jobs uneventfully. But on occasion, these volunteers must make split-

second decisions—placing themselves in harm's way to save the lives of others. This year's honorees exemplify this selflessness, and richly deserve recognition.

The first AAA Lifesaving Medal recipient comes from Kensington, Maryland.

On October 1, 1997, Rock View Elementary School Safety Patrol Joseph Coggeshall was preparing to end his shift at the busy intersection of Connecticut Avenue and Denfeld Road.

Getting ready to go home himself, Joseph noticed one last group of children heading home. He decided to stay at his post a little longer. As they reached the intersection, two boys, ages 6 and 7, attempted to go around Joseph's outstretched arms and into traffic. Reacting quickly, Joseph grabbed both children, pulling them back onto the curb just before they would have entered into rush-hour traffic on a six-lane highway. Joseph probably saved those boys' lives.

This year's second AAA Lifesaving Medal honoree comes from San Mateo, California.

On January 5, 1998, St. Timothy School Safety Patrol Christopher Aquino stood his usual post at the north gate crosswalk.

Close by, a father led his two young daughters, ages 3 and 6, toward the crosswalk. Spotting the family car parked across the street, the 3-year-old broke free from her father's hand, sprinted into the road and into the path of an oncoming truck. On instinct, and with no regard for his own safety, Christopher ran after her, grabbed her by the hand and returned her safely to her father.

Mr. President, on behalf of the Senate, I wish to extend congratulations and thanks to these two young men. They are an asset to their communities, and their families, and neighbors should be very proud of their courage and dedication.

I would also like to recognize the American Automobile Association for providing the supplies and training necessary to keep the safety patrol on duty nationwide.

Since the 1920's, AAA clubs across the country have been sponsoring student safety patrols to guide and protect younger classmates against traffic accidents. Easily recognizable by their fluorescent orange safety belt and shoulder strap, safety patrol members represent the very best of their schools and communities. Experts credit school safety patrol programs with helping to lower the number of traffic accidents and fatalities involving young children.

We owe AAA our gratitude for their tireless efforts to ensure that our Nation's children arrive to and from school safe and sound.

And we owe our thanks to Joseph Coggeshall and Christopher Aquino for their selfless actions. The discipline and courage they displayed deserves the praise and recognition of their schools and their communities.

TRIBUTE TO KIMBERLY SCHUBERT, A GIRL SCOUT GOLD AWARD RECIPIENT

Mr. DASCHLE. Mr. President, I would like to salute an outstanding young woman who has been honored with the Girl Scout Gold Award by Girl Scouts of the Black Hills Council in Rapid City, SD. Kimberly Schubert of Rapid City was honored yesterday for earning the highest achievement award in U.S. Girl Scouting.

The Girl Scout Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning and personal development. The award can be earned by girls ages 14–17, or in grades 9–12.

Girl Scouts of the USA, an organization serving over 3 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must earn 4 interest projects patches, the Career Exploration pin, the Senior Girl Scout leadership award, and the Senior Girl Scout Challenge, as well as design and implement a Girl Scout Gold Award project. A plan for fulfilling these requirements is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Girl Scouts of the Black Hills Council, Kim Schubert began working toward the Gold Scout Award in 1996. She completed her project in the areas of sports and leadership, and she richly deserves the public recognition for this significant service to her community and her country.

HONORING THE FLOYDS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Margaret and Tom Floyd of Charleston, Illinois, who on June 12, 1998, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Floyds' commitment to the principles and values of their marriage deserves to be saluted and recognized.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business Friday, May 15, 1998, the federal debt stood at $5,496,348,505,044.25 (Five trillion, four hundred ninety-six billion, three hundred forty-eight million, five hundred five thousand, forty-four dollars and twenty-five cents).

One year ago, May 15, 1997, the federal debt stood at $5,344,063,000,000 (Five trillion, three hundred forty-four billion, sixty-three million).

Twenty-five years ago, May 15, 1973, the federal debt stood at $452,610,000,000 (Four hundred fifty-two billion, six hundred ten million) which reflects a debt increase of more than $5 trillion—$5,043,738,505,044.25 (Five trillion, forty-three billion, seven hundred thirty-eight million, five hundred five thousand, forty-four dollars and twenty-five cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to Burma is to continue in effect beyond May 20, 1998.

As long as the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma, this situation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to maintain in force these emergency authorities beyond May 20, 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 18, 1998.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4876. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated May 13, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–4877. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Post Bankruptcy Loan Servicing Notices'' (RIN0560–AE62) received on May 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4878. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Special Combinations for Tobacco Allotments and Quotas'' (RIN0560–AF14) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4879. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pine Shoot Beetle; Quarantined Areas'' (Docket 97–100–2) received on May 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4880. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mediterranean Fruit Fly; Addition to the Quarantined Area'' (Docket 97–056–11) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4881. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Gypsy Moth Generally Infested Areas'' (Docket 98–025–1) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4882. A communication from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding the sale and disposal of national forest timber (RIN0596–AB41) received on May 11, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4883. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Investment and Deposit Activities; Corporate Credit Unions'' received on May 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4884. A communication from the Acting Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Privacy Act of 1974'' (RIN2550–AA05) received on May 13, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4885. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, three reports concerning direct spending or receipts legislation within seven days of enactment dated May 6, 1998; to the Committee on the Budget.

EC–4886. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Lipase Enzyme Preparation From Rhizopus Niveus; Affirmation of GRAS Status as a Direct Food Ingredient'' (Docket 90G–0412) received on May 7, 1998; to the Committee on Labor and Human Resources.

EC–4887. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits'' received on May 13, 1998; to the Committee on Labor and Human Resources.

EC–4888. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Personal Development functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4889. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Cadet Subsistence functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4890. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of Civil Engineering functions at Cheyenne Mountain Air Station, Colorado; to the Committee on Armed Services.

EC–4891. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Logistics functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4892. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, the report of a rule entitled ''Tolls for Use of Canal; Rules for Measurement of Vessels'' (RIN3207–AA45) received on May 11, 1998; to the Committee on Armed Services.

EC–4893. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on proposed obligations for weapons destruction and non-proliferation in the former Soviet Union; to the Committee on Armed Services.

EC–4894. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report on Reserve component equipment and military construction requirements not included in a fiscal year's budget request; to the Committee on Armed Services.

EC–4895. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer'' received on May 13, 1998; to the Committee on Armed Services.

EC–4896. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's annual report for calendar year 1997; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–421. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 141

Whereas, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104–193, bars legal, noncitizen immigrants from receiving assistance under the federal Food Stamp Program; and

Whereas, food stamp eligibility is barred until legal immigrants become citizens, can demonstrate forty qualifying quarters of work in the United States, or meet five-year or military exemptions; and

Whereas, immigrants who lost their food stamp benefits under PRWORA are legal immigrants, residing in the United States under one of several immigration provisions that permit noncitizens to reside in this country permanently; and

Whereas, with most immigrant households that lost benefits, at least one child is a United States citizen; and

Whereas, a large proportion of the legal immigrants who lost food stamp benefits were the most vulnerable, including children, the elderly, and disabled; and

Whereas, between August 1996 and July 1997, the number of immigrants in Hawaii receiving assistance decreased from 10,332 to 2,285 individuals, a decrease of 8,047 individuals; and

Whereas, based on an average household size of 2.4 individuals, the Hawaii State Department of Human Services estimates that there are approximately 2,900 fewer immigrant families receiving food stamp assistance; and

Whereas, last year's Balanced Budget Act began to restore other types of benefits to legal immigrants, such as disability payments and indigent health care to disabled legal immigrants who were in this country in 1996; and

Whereas, progress towards restoring the nutritional safety net to some of the most vulnerable groups of legal immigrants must be continued to make it possible for all working families to meet the responsibilities of health and economic self-sufficiency; and

Whereas, the Clinton Administration, as a part of its 1999 budget proposal, will propose to restore federal food stamp benefits to 730,000 legal immigrants who lost their benefits as a result of PRWORA; now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the Senate concurring, That the United States Congress is strongly urged to restore food stamp benefits to legal, noncitizen immigrants who have been denied participation in the federal Food Stamp Program due to Public Law 104–193, PRWORA; and be it

Further resolved That certified copies of this Concurrent Resolution be transmitted

to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, and Hawaii's Congressional Delegation.

POM–422. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 43

Whereas, a strong and viable agricultural industry is vital to Hawaii's economic base; and

Whereas, as many as twenty-four new alien species are introduced into the State each year, placing a dire threat on Hawaii's environment and agriculture industry; and

Whereas, the cost to the State to eradicate or mitigate the harmful effects of these alien species would be monumental; and

Whereas, vegetables and fruits can carry salmonella if they are tainted by sewage water or unclean hands; and

Whereas, E. coli has been found on lettuce; and

Whereas, in 1996, Guatemalan raspberries that were contaminated with the parasite Cyclospora cayetanensis resulted in a rash of poisoning that sickened thousands of people in twenty-nine states; and

Whereas, this outbreak occurred again in 1997; and

Whereas, the U.S. Federal Drug Agency (FDA) has seven hundred inspectors and lab personnel to monitor fifty-three thousand food processing plants in the U.S. and all imported fresh and processed produce; and

Whereas, plant inspections have decreased from one inspection every three to five years in 1992, to one inspection every ten years today; and

Whereas, of the nearly two-thirds of all winter produce eaten in the U.S., about six hundred million servings comes into the U.S. through the Nogales, Arizona, checkpoint each day; and

Whereas, about seventy percent of the trucks go through the Nogales entry gates without any inspection of the cargo; and

Whereas, although the FDA is the agency that is primarily responsible for food safety, its purview is mostly limited to testing for excessive pesticide residue and cursory random examination of about thirty percent of the trucks coming through Nogales, of which samples are taken from about three percent of the trucks; and

Whereas, the FDA has no on-the-spot testing for pathogens such as cyclospora, cryptosporidia, or E. coli, which are all linked to food borne illnesses; and

Whereas, globalization of the food marketplace is exposing some consumers to a host of strange microbes, and therefore, legislation has been introduced in Congress to create a billion-dollar-a-year Food Safety Administration; now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the Senate concurring, That Congress is urged to require that the importation of all agricultural products into Hawaii have a designation of country or origin and a certification of inspection based on United States Department of Agriculture standards to verify that each imported product has passed all U.S. health and agricultural requirements; and be it

Further resolved, That Congress support the creation of a federal Food Safety Administration; and be it

Further resolved, That certified copies of this Concurrent Resolution be transmitted to the President and Vice President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor.

POM–423. A resolution adopted by the Mayor and City Council of the City of LaFollette, Tennessee relative to postal services; to the Committee on Governmental Affairs.

POM–424. A petition from the Demographer of the State of Michigan relative to the year 2000 census; to the Committee on Governmental Affairs.

POM–425. A resolution adopted by the Council of the City of Oak Ridge, Tennessee relative to U.S. Department of Energy missions in Oak Ridge; to the Committee on Governmental Affairs.

POM–426. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the U.S. Postal Service; to the Committee on Governmental Affairs.

POM–427. A resolution adopted by the Senate of the Legislature of the State of Tennessee; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 106

Whereas, under the provisions of legislation recently passed by the U.S. Senate, each of the fifty (50) states would stand to lose twenty-one and one-half percent (21.5%) of their annual highway funding if their respective legislatures failed to enact federally prescribed laws on three (3) public safety issues; and

Whereas, specifically, S. 1173 would compel state legislatures to enact the following three (3) sanctions or else lose a significant amount of their state's share of federal highway dollars:

(1) the establishment of .08% as the legal blood alcohol content level for the offense of driving while intoxicated;

(2) a prohibition on open containers of alcoholic beverages in moving motor vehicles; and

(3) the enactment of mandatory sentences for drivers who repeatedly operate a motor vehicle while intoxicated; and

Whereas, although these three (3) public safety objectives are indeed worthy, past experience has proven that federal mandates are not in the best interests of the people of Tennessee and our system of government as enunciated by the 10th Amendment to the United States Constitution, which limits the federal government's powers to those specifically delineated in the U.S. Constitution, with the remaining powers and duties falling under the province of the states' legislatures; and

Whereas, these three (3) public safety objectives are presently being carefully and exhaustively considered by state legislatures, as they should be; and

Whereas, these public safety objectives are strictly state issues, as they encompass precisely the type of powers envisioned by our founding fathers to be reserved to the states by the 10th Amendment; and

Whereas, State legislatures should act to accomplish these public safety objectives only after pertinent data has been accumulated and verifiable results have been demonstrated for their respective state; no two (2) states are exactly alike and different approaches to accomplish these goals may be necessary in each state; and

Whereas, past experience has also conclusively demonstrated that incentive grants are far more effective than federal mandates; and

Whereas, the incentive grant approach permits state and federal governments to collaborate in order to achieve shared public safety objectives; and

Whereas, in addition to allowing the states and the federal government to work respectfully together as equals, instead of operating as opposing and divisive forces, the incentive grant approach does not require any preemption of state rights or prerogatives, does not impose any federal mandates upon state governments, and does not threaten states with the loss of transportation dollars (in a bill, ''BESTEA'', that allegedly provides for increased funding from the highway and other transportation funds and restoration of integrity to those same funds); and

Whereas, this General Assembly is most fervently opposed to federal mandates of any kind and requests the U.S. Congress to respect the 10th Amendment, as well as their counterparts at the state level; now, therefore, be it

Resolved by the Senate of the One-Hundredth General Assembly of the State of Tennessee, That this General Assembly hereby memorializes the United States Congress (and specifically the Tennessee Congressional delegation) to refrain from enacting into law the mandates and sanctions imposed on the several states by S. 1173 (or H.R. 2400, if amended to reflect the Senate Bill) of the One Hundred Fifth U.S. Congress and to instead maintain the incentive grant approach to accomplishing public safety objectives shared by state and federal governments. Be it

Further Resolved, That the Chief Clerk of the Senate is directed to transmit enrolled copies of this resolution to the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and to each member of Tennessee's Congressional delegation.

POM–428. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 173

Whereas, hunting and fishing are important activities for millions of Americans. Hunting and fishing afford people an opportunity to enjoy the beauty of the outdoors and to pursue activities strongly associated with our pioneer heritage of generations past. For some people the woods and waters are much more than an occasional recreational diversion. For these citizens, hunting and fishing represent a way of life; and

Whereas, through intense study, hunting and fishing have become key tools in managing our wildlife resources. Regulations balance the population levels of game animals and fish. This has enormous benefits for our environment; and

Whereas, in recent years, there are increasing numbers of conflicts between those who hunt and fish and certain groups that are committed to halting hunting and fishing. There have been instances of individual and organized efforts to obstruct hunting and fishing. In response to growing concerns, Michigan enacted legislation in 1996 to make it a crime to harass a person lawfully engaged in hunting or fishing; and

Whereas, in 1996, the citizens of Michigan voted on statewide ballot questions related to hunting. Michigan voters strongly supported a proposal affirming scientific management of hunting while rejecting a proposal that sought to impose restrictions on certain hunting practices. In other states, however, voters have approved significant restrictions on hunting. In the public discussions on these questions, it is clear that many aspects of hunting and fishing are misunderstood by a growing number of people. Changes in where people live, as urban and suburban acreage engulfs more of our rural areas, likely contribute to misinformation about hunting and fishing and

Whereas, responsible hunting and fishing practices, like those exercised by the millions of people who enjoy Michigan's outdoor

bounty each year, enrich us all. Even those who may never know the joys of these sports benefit in the efficient and humane treatment of animals and fish that scientific management offers. We must ensure that these time-honored and productive pursuits are available for future generations; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to recognize the right of all citizens to hunt and fish; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–429. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Environment and Public Works.

HOUSE RESOLUTION

Whereas, many municipalities own antiquated sewerage treatment facilities which face substantial and sometimes complete reconstruction to meet Environmental Protection Agency standards, the cost of which can place extreme hardship on the municipality; and

Whereas, the Environmental Protection Agency has levied significant fines on various muicipalities and their authorities for failure to comply with sewerage treatment standards in the operation of these outdated systems; and

Whereas, municipalities have limited funds from which to draw for both the fines and penalties and the repair and construction and thereby have been or will be forced to raise local taxes on residents to pay these fines and penalties; and

Whereas, the funds to pay for such fines and penalties were raised at the local level, thereby seriously depleting resources available for the municipalities and their authorities to take full corrective action for the noncomplying systems; and

Whereas, these fines have posed a great hardship on those municipalities by forcing them to divert funds needed for the actual repair and restoration of the noncomplying systems toward paying for the fines and penalties; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation directing the Environmental Protection Agency to return no less than 80% of all fines and penalties collected from any municipality, its authorities or agencies to some for the rehabilitation of the existing facilities to bring those facilities to required environmental standards, which may include expenditures for equipment and materials to correct operating deficiencies at the facilities involved in the violation; and be it

Further resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–430. A concurrent resolution adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works.

HOUSE JOINT MEMORIAL NO. 13

Whereas, the Intermodal Surface Transportation Efficiency act (ISTEA) of 1991, Public Law 102–240, expired on September 30, 1997, and federal surface transportation programs are now being temporarily authorized under the Surface Transportation Extension Act (STEA) of 1997, which expires on May 1, 1998; and

Whereas, delay or disruption of federal surface transportation funds to the states and local governments would cause serious transportation and economic problems for the states and their citizens; and

Whereas, the United States Congress is currently considering various bills and amendments concerning a multiyear reauthorization of ISTEA; and

Whereas, the Legislature of the State of Idaho recognizes the many positive aspects of ISTEA which should be retained in any new federal surface transportation authorization act, including: the need for development of intermodal transportation systems; the development of partnerships between federal, state, local and tribal governments for the delivery of transportation systems and services; and an increased level of responsibility and flexibility given to state, local and tribal governments to address their unique transportation needs and characteristics; and

Whereas, ISTEA does need revision in order to eliminate programs that are no longer needed or are unproductive and to remove or revise those provisions which are overly restrictive on the states. Now, therefore, be it

Resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, That the Congress of the United States adopt, in as timely a manner as possible, a multiyear federal surface transportation program reauthorization legislation which:

1. Increases total federal funding for highways to the maximum level sustainable by federal law, including spending authority for funds derived from transfer of 4.3¢ in motor fuel taxes from the General Fund to the Highway Trust Fund;

2. Includes fair and equitable formulas for distribution of federal highway funds, based on the extent and use of the highway system, both rural and urban;

3. Recognizes the national interest in federal lands and the economic impact on states with a large percentage of federal lands;

4. Streamlines and simplifies ISTEA by reducing regulations and mandates on the states;

5. Provides greater flexibility for state and local highway programs to spend funds in accordance with their unique transportation characteristics and priorities. Be it

Further resolved That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, Secretary of Transportation Rodney Slater, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation of the State of Idaho in the Congress of the United States.

POM–431. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 76

Whereas, a safe and efficient highway system is essential to the nation's international competitiveness, key to domestic productivity, and vital to our quality of life; and

Whereas, Hawaii has critical highway investment needs that cannot be addressed with current financial resources. The Federal Highway Administration rates 313 miles of Hawaii's most important roads in either poor or mediocre condition and judges 51 per cent of our bridges to be deficient; and

Whereas, the current level of federal funding for the nation's highway system is inadequate to meet rehabilitation needs, to protect the safety of the traveling public, to begin solving congestion and rural access problems, to conduct adequate transportation research, and to keep the United States competitive in a global economy; and

Whereas, the federal highway program is financed by dedicated user fees collected from motorists to improve the highway system and deposited into the federal Highway Trust Fund. The Taxpayer Relief Act of 1997 transferred all federal motor fuel taxes into the Highway Trust Fund but provided no mechanism to ensure the funds are spent; and

Whereas, the 1998 congressional budget would constrain federal highway spending well below the level of highway tax receipts, allowing the Highway Trust Fund's cash balance to grow from just over $22 billion today to more than $70 billion by 2003; and

Whereas, Hawaii and other states will be prohibited from obligating any federal highway funds after April 30, 1998, unless Congress and the President enact new highway legislation by that date; and

Whereas, without federal highway funds, many states will be forced to delay life-saving safety improvements, congestion relief projects, and other road and bridge improvements; now, therefore, be it

Resolved by the Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, That the United States Congress enact legislation reauthorizing the federal highway program by May 1, 1998; and be it

Further resolved, That the reauthorization bill should fund the federal highway program at the highest level that the user-financed Highway Trust Fund will support; and be it

Further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and Hawaii's congressional delegation.

POM–432. A resolution adopted by the Board of Commissioners of the Town of Manteo, North Carolina relative to the Cape Hatteras Lighthouse; to the Committee on Energy and Natural Resources.

POM–433. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor was established by the Congress of the United States in 1988 pursuant to the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100–692, 102 Stat. 4552); and

Whereas, The Corridor was established to define the boundaries of these historic waterways and to coordinate efforts to preserve their unique and historic character in recognition of the important role that the Delaware Canal and the Lehigh Navigation Canal played in transporting coal from the anthracite region of Pennsylvania's northeast to the industrial regions of New York, New Jersey and Philadelphia, which helped to transform Pennsylvania from an economy based on agriculture to an economy based on industry and trade; and

Whereas, Congress established the Corridor for the purpose of assisting the Commonwealth of Pennsylvania and its local governments in developing and implementing integrated cultural, historical and natural resource policies that will preserve the Delaware Canal's and the Lehigh Navigation Canal's unique contributions to our national heritage; and

Whereas, Congress established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission to organize

these efforts, to coordinate the development of a Cultural Heritage and Corridor Management Plan and to facilitate the distribution of funds to projects undertaken in the Corridor; and

Whereas, The Cultural Heritage and Corridor Management Plan authorized by Congress to coordinate Federal, State and local efforts in this regard has been completed with the cooperation of many Federal, State and local agencies; and

Whereas, Consistent with the purposes of the act, the implementation of the Cultural Heritage and Corridor Management Plan has resulted in a strong regional coalition that has sparked dozens of community revitalization, economic development and resource preservation projects in Luzerne, Carbon, Lehigh, Northampton and Bucks counties; and

Whereas, The existence of the Corridor has encouraged individual communities to interpret their heritage in the context of a nationally significant story of settlement and industrialization and has assisted those communities in the development of educational public programs for people of all ages and interests; and

Whereas, The Corridor has received $2.7 million in Federal funds and has stimulated $29.1 million in State, local and private matching dollars at a rate of greater than ten to one, creating new investment and improvements to the natural, cultural, scenic and historic resources of the Corridor; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission is scheduled to terminate on November 18, 1998; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, recognizing the continued relevance of the commission's activities to preserve the Corridor, has requested that Congress authorize a ten-year extension of the commission to the year 2008 and authorize additional Federal funds for the completion of the goals set in the Cultural Heritage and Corridor Management Plan; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to authorize a ten-year extension of the Delaware and Lehigh Navigation Canal National Heritage Corridor Act and to authorize continued Federal support for Corridor projects; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–434. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor was established by the Congress of the United States in 1988 pursuant to the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100–692, 102 Stat. 4552); and

Whereas, The corridor was established to define the boundaries of these historic waterways and to coordinate efforts to preserve their unique and historic character, in recognition of the important role that the Delaware Canal and the Lehigh Navigation Canal played in transporting coal from the anthracite region of Pennsylvania's northeast to the industrial regions of New York, New Jersey and Philadelphia, which helped to transform Pennsylvania from an economy based on agriculture to an economy based on industry and trade; and

Whereas, Congress established the corridor for the purpose of assisting the Commonwealth of Pennsylvania and its local governments in developing and implementing integrated cultural, historical and natural resource policies that will preserve the Delaware Canal's and the Lehigh Navigation Canal's unique contributions to our national heritage; and

Whereas, Congress established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission to organize these efforts, to coordinate the development of a Cultural Heritage and Corridor Management Plan and to facilitate the distribution of funds to projects undertaken in the corridor; and

Whereas, The Cultural Heritage and Corridor Management Plan authorized by Congress to coordinate Federal, State and local efforts in this regard has been completed with the cooperation of many Federal, State and local agencies; and

Whereas, Consistent with the purposes of the act, the implementation of the Cultural Heritage and Corridor Management Plan has resulted in a strong regional coalition that has sparked dozens of community revitalization, economic development and resource preservation projects in Luzerne, Carbon, Lehigh, Northampton and Bucks Counties; and

Whereas, The existence of the corridor has encouraged individual communities to interpret their heritage in the context of a nationally significant story of settlement and industrialization and has assisted those communities in the development of educational public programs for people of all ages and interests; and

Whereas, The corridor has received $2.7 million in Federal funds and has stimulated $29.1 million in State, local and private matching dollars at a rate of greater than ten to one, creating new investment and improvements to the natural, cultural, scenic and historical resources of the corridor; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission is scheduled to terminate on November 18, 1998; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, recognizing the continued relevance of the commission's activities to preserve the corridor, has requested that Congress authorize a ten-year extension of the commission to the year 2008 and authorize additional Federal funds for the completion of the goals set in the Cultural Heritage and Corridor Management Plan; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize Congress to authorize a ten-year extension of the Delaware and Lehigh Navigation Canal National Heritage Corridor Act and to authorize continued Federal support for corridor projects; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–435. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 5035

Whereas, Each state is able and has the right to determine if there should be competition in retail sales of electricity within the state and the time period for implementation of competition; and

Whereas, Each state has unique electric power supply sources and demand requirements that cannot readily be accommodated by a federal mandate; and

Whereas, Availability of reliable electric energy at affordable prices has a tremendous impact on the public health and welfare in each state; and

Whereas, The Legislature of the State of Kansas created the Retail Wheeling Task Force, composed of legislators and representatives of all interested parties, to study and make recommendations regarding competition in retail sales of electricity in Kansas; and

Whereas, The Task Force devoted long hours for 18 months to understanding the issue of competition in retail sales of electricity, its potential impact on the citizens of this state and means of addressing the issue to benefit the greatest number of Kansans; and

Whereas, The federal government does not have the knowledge, time or money necessary to similarly assess the needs of each individual state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: The Legislature of the State of Kansas strongly urges the Congress of the United States not to take action to mandate competition in retail sales of electricity and to leave that responsibility to the individual states; and

Be it further resolved: The Secretary of State is directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, each United States Senator and each United States Representative representing Kansas, the secretary of the United States Department of Energy and the President of the United States.

POM–436. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL NO. 9

Whereas, Idaho was admitted to the Union on July 3, 1890; and

Whereas, the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, provides that the Congress would grant certain lands to the state for the support of public schools and did grant those lands; and

Whereas, Section 5 of the Idaho Admission Bill, 26, Stat. L. 215, ch. 656, requires that the proceeds from the sale of those lands shall constitute a permanent school fund, only the interest of which can be used to support public schools; and

Whereas, the restrictions on the use of proceeds and interest are inconsistent with modern concepts of prudent investment; and

Whereas, the restrictions can be modified to reflect modern business practices without undue risk to the state or the beneficiaries of the funds:

Now therefore, be it resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, That the Congress expeditiously amend the Idaho Admissions Bill, 26 Stat. L. 215, ch. 656, as follows: Section 5. Sale or lease of school lands. (a) Except as provided in subsection (b) all lands herein granted for educational purposes shall be disposed of sold only at public sale, the proceeds to constitute a permanent public school permanent endowment fund. Proceeds from the sale of school lands may be deposited into a land bank fund to be used to acquire other lands in the state for the benefit of the endowment beneficiaries, under such laws as may be prescribed by the legislature. If the land sale proceeds are not used to acquire other lands in the state within a time provided by the legislature, the proceeds and any earnings on the proceeds shall be deposited into the public school permanent endowment fund. The interest earnings of which only the public school permanent endowment fund shall be deposited into

an earnings reserve fund and distributed expended in the support of said public schools of the state in the manner prescribed by law. Such lands may, under such regulations laws as the legislature shall prescribe, be leased, for periods of not more than ten years, and in the case of an oil, gas, or other hydrocarbon lease or a geothermal resource and associated byproducts lease, for as long thereafter as such product is produced in paying quantities or the lessee in good faith is conducting well drilling or construction operations provided any such lease secures the maximum long-term financial return, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only. (b) Such lands may be exchanged for other lands, public or private. The values of such lands so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of money by the appropriate party. If any such lands are exchanged with the United States, such exchange shall be limited to Federal lands within the State that are subject to exchange under the laws governing the administration of such lands. All such exchanges heretofore made with the United States are hereby approved;

Be it further resolved that the Secretary of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–437. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL NO. 10

Whereas, on January 22, 1998, U.S. Forest Service chief Michael Dombeck proposed a major overhaul of the forest road system, including a proposal to halt all road construction in roadless areas of national forests; and

Whereas, forests occupy some ¾ billion acres, or ⅓ of the land area of the United States and the change would effectively create the largest de facto wilderness bill in history which would close public access to in excess of 47% of the national forest land base outside established wilderness, as well as limit access to wilderness; and

Whereas, this proposed policy change will result in an eighteen-month moratorium on road building within roadless areas currently defined as areas over 5,000 acres, roadless areas identified and inventoried within their forest plans, roadless areas over 1,000 acres that are adjacent to other roadless areas of 5,000 acres or larger which are congressionally designated wilderness or ''wild river'' corridors, roadless or very low density areas designated for inclusion by regional foresters because of their unique ecological or social values, and decommissioning of ''unneeded'' existing roads; and

Whereas, a moratorium by administrative fiat circumvents the public participation and environmental documentation requirements of the National Environmental Policy Act and the National Forest Management Act, as well as the Congress of the United States; and

Whereas, Idaho Code sections 40–107 and 40–204A define ''federal lands rights-of-way'' within the context of Revised Statute 2477, codified as 43 United States Code 932, and Idaho House Joint Memorial No. 6 of 1993 affirms Idaho's interest in maintaining Revised Statute 2477 authorization and grants, in rights-of-way access to unreserved, or formerly unreserved public lands; and

Whereas, as counties are entitled to receive 25% of receipts from national forest lands, the new policy has the potential of eliminating $100 million dollars in desperately needed moneys for local schools; and

Whereas, the administration has only evaluated the devastating economic effect on timber harvest and is ignoring the negative impact on mining, grazing, commercial and private recreationists and local economies; and

Whereas, unemployment rates could rise up to 33% in 7 western states and in some eastern and southern states; and

Whereas, forest roads are an integral part of maintaining forest health, as well as an integral part of a socioeconomic base that would shortchange rural counties of millions in revenue for having federal forests within their boundaries; and

Whereas, a road moratorium would preempt all state and local laws and regulations; now, therefore, be it

Resolved, by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States is urged to recognize state and county rights-of-way under Revised Statute 2477 and take appropriate action to invalidate the proposed policy change for forest roadless areas; and be it further

Resolved that the Congress of the United States is urged to do all within its statutory authority to deny funding for the implementation of the proposed policy change by administrative fiat; and be it further

Resolved that the Chief Clerk of the House of Representatives be, an she is hereby authorized and directed to forward a copy of this Memorial to the Honorable William Clinton, President of the United States, to the Honorable Dan Glickman, Secretary of Agriculture, to Chief Michael Dombeck, United States Forest Service, to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, and to the Honorable Phil Batt Governor of the State of Idaho.

POM–438. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL NO. 14

Whereas, the United States Department of Agriculture, in concert with the United States Department of the Interior, has been actively involved for the last three and one-half years in the promulgation of a $35–40 million dollar land management project involving virtually all of the Northwestern States, named the Interior Columbia Basin Ecosystem Management Project (ICBEMP); AND

Whereas, ICBEMP has not been properly authorized by the United States Congress, nor coordinated with the state of Idaho, notwithstanding the inevitable involvement of intermingled state and private lands; and

Whereas, representatives of a number of federal wildlife, natural resource and land management agencies have been engaged in the preparation of an ICBEMP Draft Environmental Impact Statement (DEIS) without sufficient regard to or consideration of state concerns and interests; and

Whereas, there is no definitive description of an ecosystem or ecosystem management contained in the ICBEMP DEIS as drafted, and associated documents; and

Whereas, implementation of ICBEMP will have major impacts on the management of federal lands and therefore major impacts on the counties of this state including a reduction in human economic use of public lands, delays in land use decision-making and new restrictions on both commodity and noncommodity public land outputs, including recreation; and

Whereas, the preferred alternative in the DEIS, while supposedly designed to aggressively restore ecosystems and support people, in reality focuses on ecosystem protection to be achieved by minimizing human impacts to the environment; and

Whereas, the DEIS's Desired Range of Future Conditions reflect the personal values of its authors and are not necessarily based on a sound scientific information; and

Whereas, ecological considerations have been given more weight than providing predictable levels of goods and services from federal lands while procedures and standards for measurement have not been developed for ecosystem health and ecological integrity; and

Whereas, the ICBEMP DEIS fails to explicitly identify the economic or social needs of people, cultures, and communities in the Columbia River Basin as they pertain to federal lands and fails to define sustainable and predictable levels of products and services from U.S. Forest Service and Bureau of Land Management lands; and

Whereas, the DEIS contains no significant legal justification for shifting to ecosystem based management while at the same time nullifying the many years of cooperative effort contained in existing land management plans; now, therefore, be it

Resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the Congress of the United States to take action immediately to terminate the Interior Columbia Basin Ecosystem Management Project with no Record of Decision being approved. We request that all funding enabling further action toward the implementation be terminated and withdrawn from all federal agencies involved. All valid science based information developed by this project should be communicated to BLM district managers and National Forest supervisors for consideration of public input in statutorily scheduled environmental land and resource management plan revisions; be it further

Resolved that the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, strongly support natural resource planning and environmental management featuring site-specific management decisions made by local decision-makers, local citizenry and parties directly and personally affected by environmental land and resource management decisions; and be it further

Resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the Secretary of the United States Department of Interior, to the Chief of the Forest Service of the United States Department of Agriculture, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

POM–439. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

SUBSTITUTE HOUSE JOINT MEMORIAL 4035

Whereas, The citizens of Washington State place great value upon their natural heritage and desire to protect and enhance it; and

Whereas, The growing population of Washington State is placing growing demands on the state's natural resources available for recreation; and

Whereas, Because of this growing demand and its attendant impacts on the environment, the federal government is considering restrictions on public access to popular recreation sites in Washington's central Cascade Mountains; and

Whereas, Plum Creek Timber Company, L.P. presently owns numerous sites near the Alpine Lakes Wilderness Area which are of surpassing recreational and environmental value; and

Whereas, Such lands are located in a ''checkerboard'' pattern of alternating sections, and configuration that presents both private and public land managers with difficulties in meeting their respective objectives; and

Whereas, Both sectors have stated a willingness to exchange lands to accommodate mutual interests; and

Whereas, The federal government and Plum Creek Timber Company are completing an environmental impact statement for an exchange of private and public lands in the Cascade Mountains; and

Whereas, This process has involved extensive public participation; and

Whereas, This exchange complements the President's Forest Plan; and

Whereas, This exchange, if completed as currently proposed, would transfer into public ownership up to 60,000 acres of private land while transferring into private ownership up to 40,000 acres of public land; and

Whereas, The United States Forest Service and Plum Creek Timber Company L.P., have worked toward this land exchange for over a decade, expending more than two million dollars in environmental studies and land analysis; and

Whereas, Time is of the essence because the longer it takes to complete the exchange, the less private land will be precluded from harvest activities;

Now, therefore, Your Memorialists respectfully pray that the United States Government promptly complete the proposed Interstate 90 land exchange, thus securing the greatest possible environmental, recreational, and land-management benefits at the earliest possible time; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the United States Secretary of Agriculture Dan Glickman, and each member of Congress from the State of Washington.

POM–440. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 16

Whereas, the coastal regions of the United States are fragile environmentally and under intense pressure from storms and natural disasters, population growth and, in some states, from onshore support activities that are necessitated by the development of the nation's oil and natural gas resources on the federal Outer Continental Shelf; and

Whereas, each year the federal government receives billions of dollars in revenues from the development of oil and natural gas resources on the federal Outer Continental Shelf, a capital asset of this nation; and

Whereas, the federal government does not share directly with the coastal states a meaningful share of these revenues, while the federal government does share with states fifty percent of the revenues from onshore federal mineral development; and

Whereas, at least a portion of the revenues from this capital asset of the nation should be reinvested in infrastructure and environmental restoration in the coastal regions of this nation; and

Whereas, states that host onshore activities in support of the offshore federal Outer Continental Shelf mineral development should receive a share of these revenues to offset state impacts of this development; and

Whereas, the Outer Continental Shelf Policy Committee of the United States Department of the Interior has recommended that all states, and the territories, should receive a portion of these revenues as an automatic payment annually pursuant to a formula based on proximity to offshore production, miles of shoreline and population; and

Whereas, members of Congress representing coastal states are preparing federal legislation to enact the proposal to share a portion of federal Outer Continental Shelf revenues with all coastal states and the territories; therefore, be it

Resolved that the Legislature of Louisiana memorializes the Congress of the United States to support and adopt legislation to provide for the sharing of revenues generated through mineral exploration on the federal Outer Continental Shelf with coastal states and territories pursuant to a formula recommended by the Outer Continental Shelf Policy Committee; and be it further

Resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. BOND, from the Committee on Small Business:

Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2087. A bill to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 2088. A bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mrs. FEINSTEIN):

S. 2089. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. GRAHAM, Mr. SMITH of New Hampshire, and Mr. JEFFORDS):

S. 2090. A bill to extend the authority of the Nuclear Regulatory Commission to collect fees through 2003, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENNETT:

S. Res. 231. A resolution to make a technical amendment to Senate Resolution 208; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. DODD, and Ms. LANDRIEU):

S. Con. Res. 97. A concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2087. A bill to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes; to the Committee on Energy and Natural Resources.

WELLTON-MOHAWK TITLE TRANSFER ACT OF 1998

● Mr. KYL. Mr. President, today I introduced a bill to transfer title to the Wellton-Mohawk Irrigation and Drainage District in Yuma, Arizona from the Federal Government to the project beneficiaries. The repayment obligation for construction costs was fully satisfied as of May 30, 1987. This bill is the product of intensive negotiations between the project beneficiaries and the Bureau of Reclamation and will be the subject of a hearing in the Water and Power Subcommittee on June 9. At

that time, I will hear from all interested parties about how to successfully complete this project transfer.

As you may know, Mr. President, numerous project transfers have been proposed, both in this session of Congress and the 104th Session. Thus far, none have been completed. With this bill, we in Arizona hope to reverse that trend. In March of this year, I met with Patty Beneke, Assistant Secretary of the Interior for Water and Science, and Bob Johnson, Regional Director for the Bureau of Reclamation, and they assured me that the Wellton-Mohawk project was a perfect example of the kind of project that should transfer under the administration's 1995 Framework for Transfer. I believe Bob Johnson referred to this project as ''low-hanging fruit.'' I assume by that, he meant that it could transfer quickly and easily. I hope this is the case.

The Wellton-Mohawk project is located in Yuma County, Arizona and irrigates approximately 63,000 acres of prime agricultural lands. This irrigation district is a major contributor to the economy of Yuma County—the largest agriculturally developed county in Arizona—and posts approximately three-quarters of a billion dollars in annual agricultural sales. Transfer of title from the Federal Government will affect neither the productivity nor the efficiency of the irrigation district. I believe that transfer would only enhance the District's productivity.

Both sides stand to benefit from this title transfer. The District looks forward to a reduction in Federal Government involvement; would benefit from better land-management opportunities; and would have the opportunity to assure increased protection of the environmental values of the Gila River riparian habitat. The Federal Government benefits, too. A successful title transfer would advance the administration's stated goal of reduction in government as well as eliminate the responsibility for managing the patchwork of lands that make up the District. The Bureau of Reclamation would be relieved of the administrative and financial burden of facilities oversight currently required due to Federal ownership.

In negotiations, the Bureau of Reclamation has raised several issues that need to be addressed in order to effect a successful transfer. These issues include environmental mitigation, administrative costs, identification and valuation of lands, and agricultural return flows. One of the benefits of my legislation is that it provides a Memorandum of Agreement, to be negotiated between the Bureau and the District, that will address all of these concerns in an open and mutually beneficial process.

I am pleased thus far by the cooperation of all stakeholders. I look forward to continuing the process at the Water and Power subcommittee hearing on June 9, 1998. I thank Senator MCCAIN for his cosponsorship of this bill, and I look forward to his support, as well as that of the rest of my colleagues, on this measure.

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. 2087

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wellton-Mohawk Title Transfer Act of 1998''.

SEC. 2. CONVEYANCE OF TITLE TO WORKS, FACILITIES AND LANDS.

(a) DEFINITIONS.—

(1) MEMORANDUM OF AGREEMENT.—The term ''Memorandum of Agreement'' means the agreement between the Secretary and Wellton-Mohawk, relating to the transfer, dated on or before July 1, 1998.

(2) RECLAMATION.—The term ''Reclamation'' means the Department of the Interior, Bureau of Reclamation.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) WELLTON-MOHAWK.—The term ''Wellton-Mohawk'' means the Wellton-Mohawk Irrigation and Drainage District, an irrigation and drainage district created, organized, and existing under and by virtue of the Laws of the State of Arizona.

(5) WESTERN.—The term ''Western'' means the Department of Energy, Western Area Power Administration.

(b) IMPLEMENTATION. The Secretary shall carry out the provisions of the Memorandum of Agreement. If transfer has not occurred by the date set forth in the Memorandum of Agreement, but review under the National Environmental Policy Act has been completed and fair market value has been established, then upon tender of fair market value to the Secretary by Wellton-Mohawk, all right, title, and interest of the United States in and to the works, facilities, and lands described in the Memorandum of Agreement shall transfer to and vest in Wellton-Mohawk by operation of Law. The Secretary shall provide such evidence of title as may be requested by Wellton-Mohawk. In the event that no Memorandum of Agreement is agreed to by July 1, 1998, this Act shall be considered null and void.

(c) WATER AND POWER DELIVERY.—Notwithstanding the transfer of title to works, facilities, and lands, the Secretary is authorized and shall continue to deliver water to Wellton-Mohawk in accordance with the terms of the Amendatory and Supplemental Consolidated Contract with Wellton-Mohawk Irrigation and Drainage District for Delivery of Water, Construction of Works, Repayment, and Project Power Supply (Reclamation's Contract Number 1–07–30–W0021 Amendment No. 1) including any renewals, amendments, supplements, or extensions thereof. Notwithstanding the transfer of title to works, facilities, and lands, the Secretary and Western are authorized and shall continue to provide Wellton-Mohawk with project reserved power from the Parker Reclamation Power Plant and Davis Reclamation Power Plant, in accordance with the terms of the Consolidated Contract and the Power Management Agreement (Reclamation's and Western's contract Numbers 6–CU–30–P1136, 6–CU–30–P1137 and 6–CU–30–P1138) including any renewals, amendments, supplements, or extensions thereof.

(d) LIABILITY.—Effective on the date of conveyance of the project works, facilities and lands, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed works, facilities, and lands, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors as provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

(e) AGRICULTURAL RETURN FLOWS.—As a condition of transfer, Wellton-Mohawk shall agree that: (1) the volume of agricultural return flows from Wellton-Mohawk delivered to Reclamation's Main Outlet Drain at Station 0+00 shall comply with applicable law and contracts and shall not exceed 175,000 annual acre feet; and (2) Wellton-Mohawk and Reclamation shall work cooperatively to attempt to limit return flows to the design capacity of the Yuma Desalinization Plant.

(f) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this Act, and the anticipated date for such transfer.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as necessary for the purposes of this Act.

Mr. MCCAIN. Mr. President, I rise today in support of legislation to authorize the Secretary of the Interior to transfer certain works, facilities, and titles of the Gila Project, and designated lands to the Wellton-Mohawk Irrigation and Drainage District. This legislation will allow the Bureau of Reclamation to carry out a transfer under the terms and conditions of a cooperative agreement between the Bureau and the District.

I am pleased that my colleague from Arizona, Senator JON KYL, has taken the lead in crafting this important proposal. It will enable the Bureau of Reclamation to divest its responsibility for the operation, maintenance, management, and regulation of Wellton-Mohawk. The Wellton-Mohawk project includes 375 miles of irrigation/drainage canals and laterals, and three major pumping plants, all of which support 63,000 acres of prime agricultural lands. This transfer will eliminate Federal government oversight of Wellton-Mohawk and will empower the District management to take over the title.

Mr. President, the Wellton-Mohawk District is a major contributor to the economy of Yuma County, which is the most agriculturally developed county in Arizona. The farms in the region provide an estimated economic impact of three-quarters of a billion dollars every year. Conveyance of the project to the local management would help to sustain the economic viability of area agricultural interests.

The cooperation by the administration and the district over the last few years, especially at the regional level, has spurred this privatization initiative. This legislation anticipates an aggressive time line for the Bureau of Reclamation and the District to lay out the terms and conditions of the conveyance under a Memorandum of

Agreement (MOA), During a hearing before the House Subcommittee on Water and Power Resources, the Commissioner of the Bureau of Reclamation called the Wellton-Mohawk project a ''good candidate for transfer'' and furthermore stated that the administration would endorse legislation that allows the District and the Secretary to negotiate the terms of a transfer pursuant to a Memorandum of Agreement.

Under the terms of the legislation, the parties will establish a process by which the fair market value of the transfer will be assessed. The Memorandum will also lay out a plan for an environmental impact analysis in compliance with the National Environmental Policy Act (NEPA). The Secretary of the Inferior is expected to carry out the transfer if the terms are decided upon in the Memorandum of Agreement by a set date, However, the conveyance may not go forward if the appraisal or the NEPA process have not been completed.

I want to make clear that this legislation is not a directed transfer, but simply implements the MOA as decided upon between the Administration and the District. If consensus cannot be reached in the form of an MOA, this legislation to privatize Wellton-Mohawk will have no effect and will not require the government to transfer total or otherwise divest itself of any assets.

Mr. President, I laud the considerable efforts of the Wellton Mohawk District in forgoing this agreement. I look forward to working with Senator KYL to see this initiative through to smooth and expedient completion.

By Mr. MURKOWSKI:

S. 2088. A bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

CHUGACH ALASKA CORPORATION SETTLEMENT IMPLEMENTATION ACT

● Mr. MURKOWSKI. Mr. President, this morning I introduce legislation to implement a settlement agreement between the Chugach Alaska Corporation (CAC) and the United States Forest Service.

Pursuant to section 1430 of the Alaska National Interest Lands Conservation Act (ANILCA), the Secretary of the Interior, the Secretary of Agriculture, the State of Alaska, and the Chugach Alaska Corporation, were directed to study land ownership in and around the Chugach Region in Alaska. The purpose of this study was two-fold. First, was to provide for a fair and just settlement of the Chugach people and realizing the intent, purpose, and promise of the Alaska Native Claims Settlement Act by Chugach Alaska Corporation. Second, was to identify lands that, to the maximum extent possible, are of the like, kind, and character of those traditionally used and occupied by the Chugach people, and, to the maximum extent possible, are coastal accessible and economically viable.

On September 17, 1982, the parties entered into an agreement now known as the 1982 Chugach Natives, Inc. Settlement Agreement in order to set forth a fair and just settlement for the Chugach people pursuant to the study directed by Congress. Among the many provisions of this agreement the United States was required to convey to Chugach Alaska Corporation not more than 73,308 acres of land in the vicinity of Carbon Mountain. The land eventually conveyed contained significant amounts of natural resources; however, they were inaccessible by road. Therefore, a second major provision of the Settlement Agreement granted Chugach Alaska Corporation rights-of-way across Chugach National Forest to their land and required the United States to also grant an easement for the purpose of constructing and using roads and other facilities necessary for development of that tract of land on terms and conditions to be determined in accordance with the Settlement Agreement. It is obvious that without such an easement the land conveyed to CAC could not be utilized or developed in a manner consistent with the intent of Congress as expressed in ANILCA and ANCSA.

More than fifteen years after the Settlement Agreement was signed the much needed easement has still not been granted and the CAC remains unable to make economic use of their lands. It seems absurd to me that Congress passed a Settlement Act for the Benefit of Alaska Natives; then the federal government entered into a Settlement Agreement to implement that Act where the CAC was concerned; and today, we find ourselves once again in a position of having to force the government to comply with these agreements.

I have spoken directly to the Regional Forester about this issue and to the Chief of the Forest Service. While they assure me the issue is being addressed and, in fact, have signed an MOU to keep it moving forward, they cannot give me any assurance that it will conclude. Therefore, I find it necessary to once again have Congress rectify inaction on behalf of the Forest Service.

The legislation is simple and straightforward. It directs the Secretary of Agriculture to grant an easement to the CAC by December 11, of this year. It does not prevent the current process from going forward, it simply assures that there will be an end to it.

It is my intent to hold a hearing on this issue in the Energy and Natural Resources Committee as soon as possible.●

By Mr. CONRAD (for himself and Mrs. FEINSTEIN):

S. 2089. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

INVESTMENT TAX CREDIT LEGISLATION

● Mr. CONRAD. Mr. President, today we are considering legislation, S. 1723, to respond to the difficulties that many American companies are experiencing in recruiting skilled workers to fill key positions in the information technology (IT) field. I commend my distinguished colleague from Michigan for focusing attention on this critical IT worker shortage issue.

Last September, the Department of Commerce released an important study, ''America's New Deficit: The Shortage of Information Technology Workers'', alerting us to the severe shortage of information technology workers. Shortly after the Commerce report was released, the Information Technology Association of America (ITAA) released a study by Virginia Tech—''Help Wanted 1998: A Call For Collaborative Action For the New Millennium:—which estimated that there are more than 340,000 highly skilled positions in the information technology field that are not filled. Moreover, the Department of Labor projected that our economy will require more than 130,000 information technology jobs in three fields—computer scientists and engineers, systems analysts, and computer programmers—every year for the next ten years.

Mr. President, according to the Department of Commerce, information technologies are the most important enabling technologies in the economy today. They affect every sector and industry in the United States, in terms of digitally-based products, services, production and work processes. Thus, severe shortages of information technology workers could undermine U.S. innovation, productivity and competitiveness in world markets.

Concern over this IT worker shortage was expressed very clearly in recent testimony before the Senate Judiciary Committee by Michael Murray, Vice President for Human Resources and Administration at Microsoft. Mr. Murray commented, ''As a leader in the American IT industry, we are deeply concerned that the current skills shortage will threaten our competitiveness in global markets, thereby jeopardizing the $1 trillion this industry contributes to the U.S. economy''. According to the Commerce Department, the problem is compounded by the fact that there is also a global shortage of skilled IT workers, in part the result of many developing countries like Malaysia pursuing IT-based economic development growth plans.

Mr. President, today we are considering legislation to amend the Immigration and Nationality Act to help American firms remain competitive in the global information technology market. Specifically, we are debating whether to increase the number of H1B visas that are available for highly skilled

workers to fill IT positions in the U.S. S. 1723 would increase the current cap on H1B visas for skilled workers from 65,000 per year to 95,000 for the remainder of the year, and to 115,000 by fiscal year 2000.

From my discussions with information technology leaders, and on the basis the reports from the Commerce Department and ITAA regarding the IT worker shortage, there are compelling reasons to raise the cap on H1B visas. In many instances, American IT companies need the experience and language abilities of foreign workers to effectively compete in local markets. Additionally, with the IT industry's heavy reliance on research and development, there are times when the unique skills of a foreign worker contribute significantly in the development of critical information technology.

Mr. President, while it may be necessary to increase the number of H1B visas that are available for skilled IT workers, there are education and training initiatives that we must also encourage the IT industry to undertake to make certain that opportunities are available for U.S. workers who want to enter the information technology field. We must especially focus on retraining unemployed and older displaced workers, and encourage new partnerships between the IT industry and education institutions—both at the secondary and higher education level—to meet this IT worker shortage challenge.

I have been impressed, Mr. President, with the many education and training initiatives that the IT industry has undertaken in response to this shortage. I know that the IT industry is investing millions of dollars in education and training programs for American workers, especially to inform young people about the opportunities in the IT field. Several weeks ago, I had the privilege of visiting students in the Red River High School in Grand Forks, ND, who are participating in an excellent computer network training program sponsored by the CISCO Corporation. Very shortly, these young people will be able to enter the job market with skills that will be invaluable.

I am also aware of several excellent partnerships that Microsoft has initiated with Green Thumb for older workers, and the American Association of Community Colleges to train students at technical and community colleges. There are, of course, many other excellent examples of ongoing partnerships in the IT industry.

Mr. President, while these efforts are Herculean in many respects, we need to encourage more education initiatives to train American students and workers to fill IT jobs that will be so critical to maintain our leadership in the 21st century. For this reason, I introduced an amendment to S. 1133 on March 17, 1998, to increase the number of partnerships between the IT industry, and education institutions and job training programs by providing a tax credit for employers who offer information technology training for individuals.

The credit would be an amount equal to 20 percent of information technology training program expenses, however, not to exceed $6,000 in a taxable year. The value of the credit would increase by 5 percentage points if the IT training program is operated in an empowerment zone or enterprise community, in a school district in which at least 50 percent of the students in the district participate in the school lunch program, or in an area designated as a disaster zone by the President or Secretary of Agriculture. I am very pleased that this initiative has been endorsed by the Information Technology Association of America.

Mr. President, although S. 1723 may not be the appropriate measure to offer IT training tax credit legislation, I believe it is important to call attention to this legislation to emphasize the need for more education and training opportunities for American workers in the IT field. Therefore, I am today introducing my IT training tax credit legislation, and I hope that my colleagues who are supporting an increase in the H1B visa cap for foreign workers, will also support this provision to train and educate American workers for IT positions. We have an obligation to make certain that opportunities in this exciting field are available to American workers and students. I welcome cosponsors of this legislation, and I ask unanimous consent Mr. President, that the text of this legislation be included in the RECORD.

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

S. 2089

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

SECTION 1. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45D. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

''(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred by the taxpayer with respect to a program operated in—

''(1) an empowerment zone or enterprise community designated under part I of subchapter U,

''(2) a school district in which a least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act, or

''(3) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Disaster Relief and Emergency Assistance Act in the taxable year or the 4 preceding taxable years.

''(c) LIMITATION.—The amount of information technology training program expenses with respect to an employee which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

''(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology training program expenses' means expenses paid or incurred by reason of the participation of the employer in any information technology training program.

''(2) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The term 'information technology training program' means a program—

''(A) for the training of computer programmers, systems analysts, and computer scientists or engineers (as such occupations are defined by the Bureau of Labor Statistics),

''(B) involving a partnership of—

''(i) employers, and

''(ii) State training programs, school districts, or university systems, and

''(C) at least 50 percent of the costs of which is paid or incurred by the employers.

''(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to information technology training program expenses (determined without regard to the limitation under subsection (c)).

''(f) ALLOCATIONS.—For purposes of this section, rules similar to the rules of section 41(f)(2) shall apply.''

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the information technology training program credit determined under section 45D.''

(c) NO CARRYBACKS.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the information technology training program credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45D. Information technology training program expenses.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.●

ADDITIONAL COSPONSORS

S. 831

At the request of Mr. SHELBY, the names of the Senator from Arizona (Mr. KYL) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors

of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 981

At the request of Mr. LEVIN, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 981, a bill to provide for analysis of major rules.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1350

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1350, a bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. CONRAD), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1677

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1680

At the request of Mr. DORGAN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1707

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1707, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improved safety of imported foods.

S. 1758

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1875

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1875, a bill to initiate a coordinated national effort to prevent, detect, and educate the public concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect and to identify effective interventions for children, adolescents, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and for other purposes.

S. 1877

At the request of Mr. WYDEN, the names of the Senator from Nevada (Mr. BRYAN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1877, a bill to remove barriers to the provision of affordable housing for all Americans.

S. 1908

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1908, a bill to amend title XVIII of the Social Security Act to carve out form payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2031

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2031, a bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services.

S. 2033

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2033, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

SENATE JOINT RESOLUTION 46

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Joint Resolution 46, a joint resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. GREGG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of Senate Concurrent Resolution 55, a concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the ''National Emergency Medical Services Memorial Service.''

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution expressing the sense of Congress that a postage stamp should be issued honoring Oskar Schindler.

SENATE CONCURRENT RESOLUTION 97—EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. DODD, and Ms. LANDRIEU) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 97

Whereas the legacy of the war in Afghanistan has had a devastating impact on the civilian population, and a particularly negative impact on the rights and security of women and girls;

Whereas the current environment is one in which the rights of women and girls are routinely violated, leading the Department of State in its 1997 Country Report on Human Rights, released January 30, 1998, to conclude that women are beaten for violating increasingly restrictive Taliban dress codes, which require women to be covered from head to toe, women are strictly prohibited from working outside the home, women and girls are denied the right to an education, women are forbidden from appearing outside the home unless accompanied by a male family member, and beatings and death result from a failure to observe these restrictions;

Whereas the Secretary of State stated, in November 1997 at the Nasir Bagh Refugee Camp in Pakistan, that if a society is to move forward, women and girls must have access to schools and health care, be able to participate in the economy, and be protected from physical exploitation and abuse;

Whereas Afghanistan recognizes international human rights conventions such as the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the Covenant on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, and the International Covenant on Economic, Social, and Cultural Rights, which espouses respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender;

Whereas the use of rape as an instrument of war is considered a grave breach of the Geneva Convention and a crime against humanity;

Whereas people who commit grave breaches of the Geneva Convention are to be apprehended and subject to trial;

Whereas there is significant credible evidence that warring parties, factions, and powers in Afghanistan are responsible for numerous human rights violations, including the systematic rape of women and girls;

Whereas in recent years Afghan maternal mortality rates have increased dramatically, and the level of women's health care has declined significantly;

Whereas there has been a marked upswing in human rights violations against women and girls since the Taliban coalition seized Kabul in 1996, including Taliban edicts denying women and girls the right to an education, employment, access to adequate health care, and direct access to humanitarian aid; and

Whereas peace and security in Afghanistan are conducive to the full restoration of all human rights and fundamental freedom, the voluntary repatriation of refugees to their homeland in safety and dignity, the clearance of mine fields, and the reconstruction and rehabilitation of Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) deplores the continued human rights violations by all parties, factions, and powers in Afghanistan;

(2) condemns targeted discrimination against women and girls and expresses deep concern regarding the prohibitions on employment and education;

(3) strongly condemns the use of rape or other forms of systematic gender discrimination by any party, faction, or power in Afghanistan as an instrument of war;

(4) calls on all parties, factions, and powers in Afghanistan to respect international norms and standards of human rights;

(5) calls on all Afghan parties to bring an end without delay to—

(A) discrimination on the basis of gender; and

(B) deprivation of human rights of women;

(6) calls on all Afghan parties in particular to take measures to ensure—

(A) the effective participation of women in civil, economic, political, and social life throughout the country;

(B) respect for the right of women to work;

(C) the right of women and girls to an education without discrimination, reopening schools to women and girls at all levels of education;

(D) respect for the right of women to physical security;

(E) those responsible for physical attacks on women are brought to justice;

(F) respect for freedom of movement of women and their effective access to health care; and

(G) equal access of women to health facilities;

(7) supports the work of nongovernmental organizations advocating respect for human rights in Afghanistan and an improvement in the status of women and their access to humanitarian and development assistance and programs;

(8) calls on the international community to provide, on a nondiscriminatory basis, adequate humanitarian assistance to the people of Afghanistan and Afghan refugees in neighboring countries pending their voluntary repatriation, and requests all parties in Afghanistan to lift the restrictions imposed on international aid and to cease any action which may prevent or impede the delivery of humanitarian assistance;

(9) welcomes the appointment of Ambassador Lakhbar Brahimi as special envoy of the United Nations Secretary General for Afghanistan, and encourages United Nations efforts to produce a durable peace in Afghanistan consistent with the goal of a broad-based national government respectful of human rights; and

(10) calls on all warring parties, factions, and powers to participate with Ambassador Brahimi in an intra-Afghan dialogue regarding the peace process.

SEC. 2. ADDITIONAL ACTION BY PRESIDENT.

It is the sense of Congress that the President and Secretary of State should—

(1) work with the United Nations High Commissioner for Refugees to—

(A) guarantee the safety of, and provide development assistance for, Afghan women's groups in Pakistan and Afghanistan;

(B) increase support for refugee programs in Pakistan providing assistance to Afghan women and children with an emphasis on health, education, and income-generating programs; and

(C) explore options for the resettlement in western countries of those Afghan women, particularly war widows and their families, who are under threat or who fear for their safety or the safety of their families;

(2) establish an Afghanistan Women's Initiative, based on the successful model of the Bosnian Women's Initiative and the Rwandan Women's Initiative, that is targeted at Afghan women's groups, in order to—

(A) assist Afghan women in Pakistan and Afghanistan in local capacity building;

(B) provide humanitarian and development services to the women and the families most in need; and

(C) promote women's economic security;

(3) make a policy determination that—

(A) recognition of any government in Afghanistan by the United States depends on the human rights policies towards women adopted by that government;

(B) the United States should not recognize any government which systematically maltreats women; and

(C) any nonemergency economic or development assistance will be based on respect for human rights; and

(4) call for the creation of—

(A) a commission to establish an international record of the criminal culpability of any individual or party in Afghanistan employing rape or other crime against humanity considered a grave breach of the Geneva Convention as an instrument of war; and

(B) an ad hoc international criminal tribunal by the United Nations for the purposes of indicting, prosecuting, and imprisoning any individual responsible for crimes against humanity in Afghanistan.

SEC. 3. REPORT.

It is the sense of Congress that the Secretary of State should submit a report to Congress not later than 6 months after the date of the adoption of this resolution regarding actions that have been taken to implement this resolution.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution expressing concern over the continuing deterioration of the rights of women and girls in Afghanistan, and calling on the administration to increase its efforts to provide humanitarian assistance and to protect the human rights of Afghan women.

I am joined in this resolution by Senators BROWNBACK, DODD, and LANDRIEU.

Mr. President, every day the women of Afghanistan are excluded from the international community's prevailing vision of human rights, and continue to lack basic legal rights, access to education, and access to economic opportunity. Indeed, perhaps nowhere in the world today is there a clearer test of our commitment to the cause of women's rights than Afghanistan.

In March of this year I convened a meeting with leading Non-Governmental organizations, the Administration, and Afghan women themselves to discuss the situation in Afghanistan and what options are available to the international community to make the lives of Afghanistan's women better.

Among those participating were representatives of the Department of State, the International Commission of the Red Cross, Save the Children, the Women's Commission on Refugee Women and Children, Women in Refugee Development, and the Women's Alliance for Peace and Human Rights in Afghanistan, among others.

We discussed the legacy of close to twenty years of war and bloodshed which has torn apart Afghanistan: More than 1 million people have died, and much of the capital of Kabul lies in ruins.

There are more than 50,000 war widows in Kabul alone, many dependent on international humanitarian assistance for their very survival. The ICRC, for example, distributes food to some 15,000 widows in Kabul.

According to Theresa Loar, the State Department's Senior Coordinator for Women's Issues, in the 1980s a growing number of Afghan women worked outside the home. There were female lawyers, judges, doctors, and teachers.

This trend was reversed in 1992 and now, under the Taliban, ''women and girls became, and remain today, virtually invisible.''

Education is a major concern, where edicts prevent girls from attending school and receiving an education. A small, low-profile, ''home school'' movement has started, with an estimated 6,500 girls and boys attending classes in Kabul. These home schools, however, are no substitute for access to a real education.

On September 6, 1997 the Taliban government issued a statement demanding that admission of female patients to hospitals cease immediately, and that all female medical staff stop working. After negotiations with the ICRC the Taliban government reconsidered, but women still face great difficulties in getting access to medical care.

Many Non-Governmental Organizations are doing work which I can describe as nothing short of heroic to provide medical and humanitarian assistance under the most adverse of circumstances. But they are faced with numerous constraints, from difficulties in collecting data and verifying beneficiary cards, to laws and practices which prevent the distribution of assistance or services directly to the women in need.

The U.S. State Department's 1997 human rights report states: ''Women were beaten for violating increasingly restrictive Taliban dress codes, which require women to be covered from head to toe. Women were strictly prohibited from working outside the home, and women and girls were denied the right to an education. Women were forbidden from appearing outside the home unless accompanied by a male family member. Beatings and death resulted from a failure to observe these restrictions.''

The women of Afghanistan, who have seen their families destroyed by war, are now having their economic life and their fundamental human rights stripped away, and an already war-torn and war-weary Afghanistan has been pushed to the brink of disaster.

Fully half of Afghanistan's population cannot work for a living or be educated. Fully half the population of Afghanistan are being systematically denied their basic human rights. We must act to stop these injustices and to bring peace to Afghanistan.

Ambassador Richardson's recent initiative, which led to the unprecedented peace talks between representatives of the Taliban and the Northern Alliance in Islamabad last month and an agreement to set up a 40-member Ulema commission to find a solution for the civil conflict, represents perhaps the best opportunity for a comprehensive peace in Afghanistan in over a generation.

The ultimate outcome of these discussions are still in doubt, however, and, movement at the peace talks has been accompanied by reports of new fighting in the fields, with both sides reportedly acquiring new weapons.

I believe we must give our full support to these peace talks. But I also believe that we must be prepared for continued violence in Afghanistan, and for the situation faced by Afghanistan's women to get worse before it gets better. As we await the outcome of these peace talks—and there is no quick or apparent solution in sight—we must continue to work to alleviate the plight of Afghanistan's women.

The resolution I submit today calls on the administration to create an Afghan Women's Initiative, along the lines of the successful Bosnian and Rwandan Women's Initiatives which the administration has created in the past two years. Those initiatives have assisted the victims of those wars by promoting the reintegration of women into the economy with an emphasis on capacity-building, training programs, legal assistance, and support for micro-enterprise projects, as well as refugee reintegration and protection.

I believe that the successes of those two programs can serve as a model for a similar initiative for the women of Afghanistan, as well as the numerous Afghan women in refugee camps in Pakistan. The women of Afghanistan could greatly benefit from such a women's initiative, and I look forward to working with the administration to design and implement such a program.

Second, this resolution calls for the international community to investigate charges of rape and abuse as instruments of the now almost decade-long civil war which has torn Afghanistan apart, and, if credible evidence exists, to convene a war crimes tribunal to prosecute the perpetrators.

Credible charges have been made about the systematic use of rape by several of the factions and parties involved in this struggle, and I believe that these charges must be investigated and, if true, must lead to indictments and trials.

Finally, I believe that the United States must be clear in stating that we will not recognize any government in Afghanistan unless it is broad-based, respective of all Afghans, and respects international norms of behavior in human rights, including the rights of women and girls. As we continue to work for peace in Afghanistan, this resolution calls for an unequivocal statement of administration policy on this point.

The United States, with our history of commitment to women's rights and equality, must redouble its efforts to place respect for women's rights at the top of the international community's agenda in Afghanistan, and I urge my colleagues to support this resolution.

This resolution, essentially, asks the President and the Secretary of State to work with the United Nations High Commissioner of Refugees to guarantee the safety of and provide development assistance for Afghan women in Pakistan, as well as Afghanistan, and to increase support for various refugee programs, to explore options for resettlement, and to establish in Afghanistan a women's initiative which is based on the successful model of the Bosnian women's initiative and the Rwandan women's initiative that are targeted toward Afghani women's groups.

SENATE RESOLUTION 231—MAKING A TECHNICAL AMENDMENT TO SENATE RESOLUTION 208

Mr. BENNETT submitted the following resolution; which was considered and agreed to:

S. RES. 231

Resolved, That Senate Resolution 208, agreed to April 2, 1998 (105th Congress), is amended—

(1) in section 3(a)(8), by inserting ''reimbursable or'' before ''non-reimbursable''; and

(2) striking section 5 and inserting the following:

''SEC. 5. FUNDING.

''(a) IN GENERAL.—There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use by the special committee to carry out this resolution—

''(1) not to exceed $575,000 for the period beginning on April 2, 1998, through February 28, 1999, and $575,000 for the period beginning on March 1, 1999, through February 29, 2000, of which not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946; and

''(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

''(b) EXPENSES.—Payment of expenses of the special committee shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.''.

AMENDMENTS SUBMITTED

AMERICAN COMPETITIVENESS ACT

WARNER (AND ROBB) AMENDMENT NO. 2412

Mr. ABRAHAM (for Mr. WARNER, for himself and Mr. ROBB) proposed an amendment to the bill (S. 1723) to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers; as follows:

At the appropriate place in the bill insert the following new section:

SEC. ___. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

(3) by adding at the end the following new subparagraph:

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.''.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

KENNEDY (AND JOHNSON) AMENDMENT NO. 2413

Mr. KENNEDY (for himself and Mr. JOHNSON) proposed an amendment to the bill, S. 1723, supra; as follows:

On page 41, after line 16, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting '', or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph'' after ''a material fact in an application''; and

(2) by adding at the end the following new subparagraph:

''(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

''(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

''(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.''.

REID AMENDMENT NO. 2414

Mr. REID proposed an amendment to the bill, S. 1723, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC ___. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking ''Before'' and inserting ''(a) IN GENERAL.—Before'', and

(2) by adding at the end the following new subsection:

''(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

''(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

''(A) both parents of the child if the child lives with both parents;

''(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

''(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

''(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

REED AMENDMENT NO. 2415

Mr. REED proposed an amendment to the bill, S. 1723, supra; as follows:

On page 27, beginning with line 1, strike all through page 29, line 10.

BUMPERS AMENDMENT NO. 2416

Mr. BUMPERS proposed an amendment to the bill, S. 1723, supra; as follows:

At the end of the bill add the following:

SEC. . REPEAL OF IMMIGRANT INVESTOR PROGRAM.

Section 203(b)(5) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1153(b)(5)) shall be repealed effective on the date of enactment of this Act.

KENNEDY (AND JOHNSON) AMENDMENTS NOS. 2417–2418

Mr. KENNEDY (for himself and Mr. JOHNSON) proposed two amendments to the bill, S. 1723, supra; as follows:

AMENDMENT NO. 2417

On page 41, after line 16, insert the following new section:

SEC. ___. RECRUITMENT OF UNITED STATES WORKERS PRIOR TO SEEKING TEMPORARY FOREIGN WORKERS UNDER THE "H–1B VISA" PROGRAM.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

''(E)(i) The employer, prior to filing the application, has taken timely, significant, and effective steps to recruit and retain sufficient United States workers in the specialty occupation in which the nonimmigrant whose services are being sought will be employed. Such steps include good faith recruitment in the United States, using procedures that meet industry-wide standards, offering compensation that is at least as great as that required to be offered to nonimmigrants under subparagraph (A), and offering employment to any qualified United States worker who applies.

''(ii) Clause (i) shall not apply with respect to aliens seeking admission or status as nonimmigrants described in section 101(a)(15)(H)(i)(b) who are—

''(I) aliens with extraordinary ability, aliens who are outstanding professors and researchers, or certain multinational executives and managers described in section 203(b)(1), or

''(II) aliens coming as researchers or instructors at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965; 20 U.S.C. 1141(a)) (or a related or affiliated nonprofit entity of such institution) or a nonprofit or Federal research institute or agency.''.

AMENDMENT NO. 2418

Beginning on page 30, strike line 12 and all that follows through line 21 on page 32.

On page 41, after line 16, add the following new section:

SEC. ___. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

''(E) The employer has not replaced any United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c)—

''(i) within the 6-month period prior to the filing of the application,

''(ii) during the 90-day period following the filing of the application, and

''(iii) during the 90-day period immediately preceding and following the filing of any visa petition supported by the application.''.

(b) DEFINITIONS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended by adding at the end the following:

''(3) For purposes of this subsection:

''(A) The term 'replace' means the employment of the nonimmigrant, including by contract, employee leasing, temporary help agreement, or other similar basis, at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

''(B) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(C) The term 'United States worker' means—

''(i) a citizen or national of the United States,

''(ii) an alien who is lawfully admitted for permanent residence, or

''(iii) an alien authorized to be employed by this Act or by the Attorney General,

if the individual is employed, including employment by contract, employee leasing, temporary help agreement, or other similar basis.''.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2419

Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. MCCAIN) proposed an amendment to the bill, S. 1723, supra; as follows:

On page 25, line 9, insert ''and for any other fiscal year for which this subsection does not specify a higher ceiling,'' after ''1997''.

Beginning on page 27, strike line 6 and all that follows through page 29, line 10, and insert the following: ''is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

''(3) MATHEMATICS, COMPUTER SCIENCE, AND DNGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.''.

On page 32, between lines 21 and 22, insert the following:

(d) PROHIBITION OF USE OF H–1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.''.

On page 32, line 22, strike ''(d)'' and insert ''(e)''.

On page 33, line 1, strike ''(e)'' and insert ''(f)''.

Beginning on page 36, line 25, strike ''the National'' and all that follows through ''methods'' on line 3 of page 37 and insert ''a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations,''.

On page 34, line 15, strike ''(f)'' and insert ''(g)''.

On page 35, line 20, strike ''(g)'' and insert ''(h)''.

On page 41, after line 16, insert the following:

SEC. 10. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

LOTT AMENDMENT NO. 2420

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment incorporating all modifications to the Commerce Committee substitute to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

[The amendment will appear in a future issue of the RECORD.]

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the full Energy and Natural Resources Committee to consider the fiscal and economic implications of Puerto Rico status.

The hearing will take place on Tuesday, May 19, 1998, at 9:30 A.M. in room SH–216 of the Hart Senate Office Building.

For further information, please call Betty Nevitt, Staff Assistant at (202) 224–0765.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet in open session of the Senate on Wednesday, May 20, 1998 beginning at 10 p.m. to mark up the following: S. 1691, the American Indian Equal Justice Act; and S. 2069, a bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation. The meeting will be held in room 485 of the Russell Senate Office Building.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, May 21, 1998, 10:00 a.m. in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''Genetic Information and Health Care.'' For further information, please call the committee, 202/224–5375.

SUBCOMMITTEE ON INTERIOR AND SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I would like to announce for the public that a joint field hearing has been scheduled before the Subcommittee on Interior of the Senate Committee on Appropriations and the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place in Spokane, Washington at the Spokane City Hall, in the City Council Chambers, on Thursday, May 28, 1998, from 11:00 a.m.–4:00 p.m. The Spokane City Hall is located at 808 West Spokane Falls Boulevard, Spokane, Washington.

The purpose of this hearing is to receive testimony and examine issues associated with the Interior Columbia Basin Ecosystem Management Plan.

Those who wish to submit written statements should write to the Committee on Appropriations U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown at (202) 224–6170 or Kevin Johnson at (202) 224–7233.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet for a joint hearing on Monday, May 18, 1998, at 3 p.m. The subject of the hearing is ''The Role of Faith Based Charities in the District of Columbia.''

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, May 18, 1998 at 2:00 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

HEIDI MARIE NOYES: MISS NEW HAMPSHIRE 1998

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Heidi Marie Noyes for being crowned Miss New Hampshire 1998. As Miss Winnipesaukee, Heidi prevailed over a competitive field of thirteen New Hampshire women. Her triumph earns Heidi the right to represent New Hampshire in the Miss America pageant in Atlantic City this September.

One has to admire Heidi for her persistence and dedication. She had appeared in the pageant five times in the last seven years. Heidi's runner-up finish last year and her victory this year attest to her drive to improve and triumph.

Heidi is deeply committed to helping children. She studies criminal justice at Franklin Pierce College in order to eventually work as an advocate for children and to campaign for juvenile law reform. She has been a volunteer for the Youth Services Court Diversion Program in Belknap County for the past six years, and she models in United Way bridal shows to benefit charity. Heidi's platform issue as Miss New Hampshire is the ''Let's Get Motivated'' scholarship program that she founded three years ago.

At only 23 years old, Heidi is the owner of two dance studios, The Broadway North School of Performing Arts

and Broadway North Andover. She is a renowned dancer herself, winning the talent portion of the Miss New Hampshire pageant twice. She was chosen to tour the United States with Dance Caravan and was the Grand National Female Tap Soloist for Hoctor's ''Stars of Tomorrow'' dance competition in 1992.

I am proud to represent Heidi Marie Noyes in the United States Senate, and wish her much success as Miss New Hampshire.●

IN MEMORY OF RABBI MOSHE SHERER

● Mr. MOYNIHAN. Mr. President, I rise to share with the Senate the sorrowful news that Rabbi Moshe Sherer, one of American Jewry's leading communal leaders, passed away yesterday afternoon at the age of 76. Rabbi Sherer was the President of Agudath Israel of America for over 30 years and has served as a reasoned, wise voice whose counsel was widely respected in the Yeshivot of his beloved Brooklyn and the halls of government in lower Manhattan, Albany, Washington, and Jerusalem.

I first met Rabbi Sherer in the early days of the Kennedy Administration when he came to Washington on behalf of Aguduth Israel. I quickly learned to admire his sagacity and rely on his insightful counsel and abiding integrity. For over thirty-five years he was a treasured mentor and a trusted friend.

World Jewry has lost one of its wisest statesmen. American Orthodoxy has lost a primary architect of its remarkable postwar resurgence. All New Yorkers have lost a man of rare spiritual gifts and exceptional creative vision.

While the Senate convenes today, tens of thousands of Jews are gathering in Brooklyn, New York to bid a reverential farewell to this exceptional teacher and rare leader. New York's Governor George Pataki, New York City Mayor Rudolph Giuliani, and New York City Council Speaker Peter Vallone are among the distinguished public officials participating in the funeral.

Rabbi Sherer passed away only hours before the President of the Senate, Vice President AL GORE, addressed Agudath Israel's 76th anniversary dinner in New York. He spoke for the Senate and for all Americans when he eulogized the Rabbi as ''a remarkable force for the understanding and respect and growth of Orthodox Jewry over the past fifty years'', whose ''contributions to spreading religious freedom and understanding have been truly indispensable in defending and expanding those same rights for all Americans in all faiths.''

I know I speak for the entire Senate when I express my condolences to his widow Deborah, his loving children Mrs. Rachel Langer, Mrs. Elky Goldschmidt and Rabbi Shimshon Sherer, his bereaved colleagues at Agudath Israel, and all who mourn the loss of this unusual man of conscience and conviction.

I ask that a brief obituary of Rabbi Sherer, as prepared by Agudath Israel, be printed in the RECORD.

The obituary follows:

Rabbi Moshe Sherer, 76, widely acknowledged as the elder statesman of the American Orthodox Jewish community, was a leader of Agudath Israel of America, a major national Jewish Orthodox organization, for over half a century, including more than thirty years as the organization's president. He also was appointed in 1980 as chairman of the Agudath Israel World Organization, an international confederation of Agudath Israel organizations in a host of countries around the globe.

A prime catalyst of the American Orthodox Jewish community's remarkable growth in size and strength since the Holocaust, the American-born Rabbi Sherer empowered the evolution of an organization that one member of the Jewish establishment in 1941 called ''a sickly weed'' into a major and effective force on the American political and communal scene. He took Agudath Israel from a small group of activists to a formidable movement—with tens of thousands of members and supporters; branches across the country; and a Washington office that advocates for a host of issues of concern to the American Orthodox Jewish community, from religious rights to moral matters, from nonpublic education to the welfare of Jews in lands of oppression. He also helped establish Agudath Israel's celebrated Jewish youth groups and summer camps, and pioneered the organization's current role as a leading force in the provision of social and educational services in the New York area.

Rabbi Sherer's earliest work on behalf of the Jewish community—the efforts that first evoked the larger non-Orthodox Jewish establishment's opprobrium—was the grassroots, and largely illegal, organization and transport of food shipments to starving Jews in Nazi-occupied Eastern Europe in 1941. His efforts also produced affidavits for European Jewish refugees that helped them immigrate to the United States.

After the end of World War II, he and Agudath Israel continued to assist European Jews—survivors interned in Displaced Person camps—with foodstuffs and religious items, and helped facilitate the immigration and resettlement of Jewish refugees on these shores. In ensuing decades, Rabbi Sherer spearheaded Agudath Israel's efforts on behalf of endangered Jews behind the Iron Curtain and in places like Syria and Iran. In 1991, years of clandestine activity on behalf of Soviet Jews culminated in his establishment of an office in Moscow to coordinate Agudath Israel's activities in Russia. Under his leadership, Agudath Israel also played an important role in providing social welfare and educational assistance to Israeli Jews, and in advocating for Israel's security needs.

Ignoring the pessimistic predictions about Orthodox Jewry made by sociologists and demographic experts in the 40s and 50s, Rabbi Sherer went on to help engineer a remarkable change in the scope, image and influence of the American Orthodox Jewish world. A staunch advocate of Jewish religious education as early as the 1960s, he helped establish the principle in numerous federal laws—like the Elementary and Secondary Education Act of 1965—and state laws that, to the full extent constitutionally permissible, children in non-public schools were entitled to governmental benefits and services on an equitable basis with their public school counterparts. He thereby allied himself with Catholic school advocates and again rankled the larger American Jewish establishment. In 1972, his efforts on behalf of education led to his being named national chairman of a multi-faith coalition of leaders representing the 5 million non-public school children in the United States.

Under his leadership, Agudath Israel helped foster the phenomenal growth of Jewish adult education as well. This past September, the Agudath Israel-sponsored celebration of the most recent completion of the ''Daf Yomi'' page-a-day Talmud study program drew over 70,000 Jews to central locations nationwide.●

RECOGNITION OF EARTH ANGELS

● Mr. BOND. Mr. President, I rise today to pay tribute to the Earth Angels in my home State of Missouri. Earth Angels received the Award for Environmental Sustainability from Renew America. They were among twenty-eight winners from more than 1,600 applicants who exemplify Earth Day.

Earth Angels is a branch of the Guardian Angel Settlement Association in St. Louis, Missouri. The group is made up of more than 150 inner city children and led by Neil Andre, Director of Earth Angels. Their projects range from recycling to planting trees in their Forest of Life to collecting money for other environmental groups. The group is supported by selling ''Earth Angel stock.'' People who buy into the group get a quarterly newsletter with their latest project updates. Earth Angels gives ''at risk'' children a chance to be part of an important cause and organization.

Commending Neil Andre and the Earth Angels for their Award for Environmental Sustainability, I wish them continued success in the future. It is extremely gratifying to learn of a group of children doing so much to help our environment. Congratulations for a job well done.●

NAT BINGHAM

● Mrs. BOXER. Mr. President, I wish today to acknowledge the life and passing of a special man. Nat Bingham was many things: a fisherman, a conservationist, an advocate, an innovator, a husband, a father and a friend to anyone who cares about California's magnificent coastal environment and the lives it supports and sustains. By all accounts he was a person of great decency and conviction. He cared deeply for his profession and all those who heed its honorable call. He will be missed.

Nat and his wife Kathy made their home in Mendocino County on California's rugged North Coast. Tragically, Kathy died just two weeks before Nat. They are survived by their two children, Jolene and Eli. My heart goes out to them both.

Nat first became involved with fisheries management issues through his local Salmon Trollers Marketing Association. He served in a number of capacities with the Association before becoming its representative to the Pacific Coast Federation of Fisherman's

Associations (PCFFA). On the PCFFA's board, and eventually as its president, he worked tirelessly on issues of habitat and species protection, preservation and restoration.

After stepping down from the PCFFA's board, Nat eventually sold his boat and went to work full-time on salmon restoration and fish habitat issues.

It is no exaggeration to say that Nat Bingham was involved with almost every major fisheries issue in California over the last 20 years. Over the course of his career, Nat achieved a near universal reputation for fairness, independence and results. Is he is not a legend already, it is certain he will become one.

I had great personal respect for Nat Bingham. Just before his death, I offered my strong support for his re-appointment to the federal government's Pacific Fishery Management Council. Nat was ideally suited for this important position. For his sake and the country's sake, I regret very much that he was denied the opportunity to continue his valuable service.

The people who knew him best describe Nat as a gentle, good and moral man. He was passionate about what he believed in, but regardless of the issues at stake he never failed to treat others with a genuine dignity and respect. In my opinion this is one of the true tests of a leader, and it is one of the principal reasons why he will be so dearly missed. Though his life's work should continue on in the efforts of his fellows, Nat Bingham's spirit and dedication can never be replaced.●

SEMITOOL RECEIVES SBA AWARD

● Mr. BURNS. Mr. President, I am proud to announce that Semitool, Inc., of Kalispell, Montana, has been awarded the Small Business Administration's (SBA) 1998 Entrepreneurial Success Award.

The state of Montana has rapidly entered the high-tech field in recent years, and Semitool illustrates the best of what can be done in our state. I nominated Semitool, which designs and manufactures equipment used in the production of semiconductors and other electronic devices, for the award last December because of their great success in the high-tech industry.

As you may know, Mr. President, the SBA grants the Entrepreneurial Success Award to companies launched as ''small'' businesses that received SBA assistance and have since grown. The criteria include growth in the number of employees, increase in sales, comparisons between current and past financial reports, innovativeness of product or service offered, and evidence of contributions to the local community.

With good ideas, hard work, and an initial boost by the SBA, Semitool has become a major source for employment in Kalispell, employing roughly 1,100 people. It's this kind of entrepreneurial spirit that will keep Montana, and our nation, strong.

Again, I congratulate Semitool on their success, and I yield the floor.●

TECHNICAL AMENDMENT TO SENATE RESOULTION 208

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate resolution 231, submitted earlier today by Senator BENNETT; and, further, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 231) was agreed to.

The resolution (S. Res. 231) reads as follows:

Resolved, That Senate Resolution 208, agreed to April 2, 1998 (105th Congress), is amended—

(1) in section 3(a)(8), by inserting ''reimbursable or'' before ''non-reimbursable''; and

(2) striking section 5 and inserting the following:

''SEC. 5. FUNDING.

''(a) IN GENERAL.—There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use by the special committee to carry out this resolution—

''(1) not to exceed $575,000 for the period beginning on April 2, 1998, through February 28, 1999, and $575,000 for the period beginning on March 1, 1999, through February 29, 2000, of which not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946; and

''(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

''(b) EXPENSES.—Payment of expenses of the special committee shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.''.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 105–45

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 18, 1998, by the President of the United States:

ILO Convention (No. 111) Concerning Discrimination (Employment and Occupation) (Treaty Document No. 105–45.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 111) Concerning Discrimination (Employment and Occupation), adopted by the International Labor Conference at its 42nd Session in Geneva on June 25, 1958. Also transmitted is the report of the Department of State, with a letter dated January 6, 1997, from then Secretary of Labor Robert Reich, concerning the Convention.

This Convention obligates ratifying countries to declare and pursue a national policy aimed at eliminating discrimination with respect to employment and occupation. As explained more fully in the letter from Secretary Reich, U.S. law and practice fully comport with its provisions.

In the interest of clarifying the domestic application of the Convention, my Administration proposes that two understandings accompany U.S. ratification.

The proposed understandings are as follows:

The United States understands the meaning and scope of Convention No. 111 in light of the relevant conclusions and practice of the Committee of Experts on the Application of Conventions and Recommendations which have been adopted prior to the date of U.S. ratification. The Committee's conclusions and practice are, in any event, not legally binding on the United States and have no force and effect on courts in the United States.

The United States understands that the federal nondiscrimination policy of equal pay for substantially equal work meets the requirements of Convention 111. The United States further understands that Convention 111 does not require or establish the doctrine of comparable worth with respect to compensation as that term is understood under United States law and practice.

These understandings would have no effect on our international obligations under Convention No. 111.

Ratification of this Convention would be consistent with our policy of seeking to adhere to additional international labor instruments as a means both of ensuring that our domestic labor standards meet international requirements, and of enhancing our ability to call other governments to account for failing to fulfill their obligations under International Labor Organization (ILO) conventions. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 111.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 18, 1998.*

ORDERS FOR TUESDAY, MAY 19, 1998

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, May 19. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning

business until 10 a.m. with Senators permitted to speak for up to 5 minutes each.

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

Mr. FRIST. I further ask that following morning business on Tuesday, the Senate resume consideration of S. 1415, the tobacco legislation.

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

Mr. FRIST. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. to allow the weekly party caucuses to meet.

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

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, when the Senate reconvenes on Tuesday at 9:30 a.m, there will be a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation. It is hoped that Members will come to the floor to debate this important legislation and offer amendments under short time agreements.

Roll Call votes may occur prior to the 12:30 policy luncheons. Members should expect votes throughout Tuesday's session in order to make good progress on the tobacco bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:35 p.m., adjourned until tomorrow, Tuesday, May 19, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 18, 1998:

THE JUDICIARY

JOSE DE JESUS RIVERA, OF ARIZONA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF FOUR YEARS VICE JANET NAPOLITANO, RESIGNED.