H.R. 4006: Mr. DOYLE, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mrs. MYRICK, Mr. GOODLATTE, Mr. PEASE, Mr. SUNUNU, and Ms. PRYCE of Ohio.

H.R. 4007: Mr. HANSEN and Mr. OWENS.

H.R. 4037: Mr. SKEEN, Mr. SNOWBARGER, Mr. NETHERCUTT, and Mr. CHABOT.

H.R. 4061: Mr. FOX of Pennsylvania.

H.R. 4067: Mr. SNOWBARGER.

H.R. 4070: Mr. MARKEY.

H.R. 4071: Mr. BAKER and Mr. LEWIS of Kentucky.

H.R. 4135: Mr. SCHUMER, Ms. KILPATRICK, Mrs. CLAYTON, Ms. NORTON, and Mr. HILLIARD.

H.R. 4145: Mr. BRADY of Pennsylvania, Mr. YATES, Mr. HINCHEY, Mr. FRANK of Massachusetts, Mr. CLAY, Mr. RUSH, Ms. CHRISTIAN-GREEN, Mr. HASTINGS of Florida, Mr. MEEKS of New York, Mr. RANGEL, Mrs. CLAYTON, Ms. FURSE, Mr. BISHOP, Mrs. MEEK of Florida, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CUMMINGS, Mr. THOMPSON, Mr. DAVIS of Illinois, Mr. OWENS, Mr. FILNER, Mr. BARRETT of Nebraska, Ms. NORTON, and Ms. ROYBAL-ALLARD.

H.R. 4152: Mr. BROWN of Ohio, Ms. NORTON, and Ms. KILPATRICK.

H.R. 4183: Mr. BOEHLERT.

H.R. 4184: Mr. BONIOR and Mr. FROST.

H.R. 4185: Mr. BONIOR and Mr. FROST.

H.R. 4196: SAM JOHNSON.

H.R. 4197: Mr. STUMP, Mr. GILLMOR, Mr. SAM JOHNSON, and Mr. METCALF.

H.R. 4204: Mr. CHAMBLISS.

H.R. 4206: Mr. MANTON, Mr. ENGEL, Ms. WOOLSEY, Mr. WAXMAN, Mr. DELAHUNT, Mr. RANGEL, and Mr. VENTO,

H.R. 4211: Ms. NORTON, Ms. JACKSON-LEE, Mr. JENKINS, Mr. BEREUTER, Mr. MEEKS of New York, Mr. RUSH, Mr. BRADY of Pennsylvania, Mr. ADERHOLT, Mr. KENNEDY OF Rhode Island, Ms. RIVERS, Mrs. MEEK of Florida, and Mr. FORD.

H.R. 4213: Mr. TOWNS, Mr. PITTS, and Mr. HOUGHTON.

H.R. 4217: Mr. HOSTETTLER and Mr. METCALF.

H.R. 4220: Mr. ENSIGN, Mr. RILEY, and Mr. KUCINICH.

H.R. 4224: Mrs. MALONEY of New York and Mr. POSHARD.

H.R. 4233: Mr. WAXMAN, Ms. LOFGREN, Mr. YATES, Mr. ACKERMAN, and Mr. MALONEY of New York.

H.R. 4248: Mr. BOYD.

H.R. 4252: Mr. PALLONE and Mr. LEWIS of Kentucky.

H.R. 4258: Mr. PICKERING.

H.R. 4281: Mr. HOSTETTLER, Mrs. MYRICK, Mr. METCALF.

H.R. 4293: Ms. VALAZQUEZ and Mr. DOYLE.

H.R. 4296: Mr. YATES, Mr. MILLER of Florida, and Mrs. MYRICK.

H.R. 4300: Mr. BONILLA, Mr. SOLOMON, Mr. SPENCE, and Ms. WATERS.

H.R. 4301: Mr. BUNNING of Kentucky.

H.R. 4308: Mr. GILMAN, Mr. OWENS, and Mr. BONIOR.

H.R. 4309: Mr. SAXTON.

H.R. 4312: Mr. METCALF.

H.R. 4314: Mr. HOUGHTON.

H.R. 4321: Mrs. KELLY.

H.R. 4324: Mr. DREIER, Mr. NORWOOD, and Mr. GILLMOR.

H.R. 4330: Mr. ADERHOLT and Mr. DUNCAN.

H.R. 4339: Mr. MCINTOSH, Ms. STABENOW, Mr. GOODE, Mr. LUCAS of Oklahoma, Mr. HALL of Texas, Mr. SANDERS, Ms. DANNER, Mr. RILEY, Mr. WATKINS, Mr. BORSKI, Mr. MASCARA, Mr. HILLIARD, Mr. RODRIGUEZ, and Mr. CLEMENT.

H. Con. Res. 264: Mr. MARTINEZ.

H. Con. Res. 286: Mr. DEUTSCH, Mr. JACKSON, and Mr. CLAY.

H. Con. Res. 287: Mr. LAFALCE.

H. Con. Res. 292: Mr. JACKSON.

H. Con. Res. 299: Mrs. BONO, Mr. INGLIS of South Carolina, Mr. ROYCE, and Mr. FOLEY.

H. Con. Res. 309: Ms. NORTON, Ms. BROWN of Florida, and Ms. MCKINNEY.

H. Con. Res. 312: Mr. ROHRABACHER.

H. Res. 313: Mrs. CAPPS, Ms. BROWN of Florida, and Ms. DEGETTE.

H. Res. 483: Mr. WAXMAN, Mr. MARTINEZ, Mr. FROST, and Mr. DIXON.

H. Res. 503: Mr. BALLENGER, Mr. TRAFICANT, Mrs. FOWLER, and Mr. LARGENT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3262: Mr. Frost.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3736

OFFERED BY: MR. SMITH OF TEXAS

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE.—This Act may be cited as the ''Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

(c) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

TITLE I—PROVISIONS RELATING TO H–1B NONIMMIGRANTS

SEC. 101. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H–1B PROGRAM.

(a) TEMPORARY INCREASE IN SKILLED NONIMMIGRANT WORKERS.—Paragraph (1)(A) of section 214(g) (8 U.S.C. 1184(g)) is amended to read as follows:

''(A) under section 101(a)(15)(H)(i)(b), may not exceed—

''(i) 65,000 in each fiscal year before fiscal year 1998;

''(ii) 85,000 in fiscal year 1998;

''(iii) 95,000 in fiscal year 1999;

''(iv) 105,000 in fiscal year 2000;

''(v) 115,000 in each of fiscal years 2001 and 2002; and

''(vi) 65,000 in each succeeding fiscal year.''.

(b) TEMPORARY CAP ON NONIMMIGRANT, NONPHYSICIAN HEALTH CARE WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is further amended by adding at the end the following:

''(5) The total number of aliens described in section 212(a)(5)(C) who may be issued visas or otherwise provided nonimmigrant status during each of fiscal years 1999, 2000, 2001, and 2002 under section 101(a)(15)(H)(i)(b) may not exceed 7,500.''.

(c) EFFECTIVE DATES.—The amendment made by subsection (a) applies beginning with fiscal year 1998 and the amendment made by subsection (b) applies beginning with fiscal year 1999.

SEC. 102. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS IN CASE OF H–1B-DEPENDENT EMPLOYERS.

(a) PROTECTION AGAINST LAY OFF AND REQUIREMENT FOR PRIOR RECRUITMENT OF UNITED STATES WORKERS.—

(1) ADDITIONAL STATEMENTS ON APPLICATION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

''(E)(i) In the case of an application described in clause (ii), the employer did not displace and will not displace a United States worker (as defined in paragraph (4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

''(ii) An application described in this clause is an application filed on or after the date final regulations are first promulgated to carry out this subparagraph (but not earlier than October 1, 1998), and before October 1, 2002, by an H–1B-dependent employer (as defined in paragraph (3)). An application is not described in this clause if the only H–1B nonimmigrants sought in the application are exempt H–1B nonimmigrants.

''(F) In the case of an application described in subparagraph (E)(ii), the employer will not place the nonimmigrant with another employer (regardless of whether or not such other employer is an H–1B-dependent employer) where—

''(i) the nonimmigrant performs duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer; and

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer;

unless the employer has inquired of the other employer as to whether, and has no knowledge that, the other employer has displaced or intends to displace a United States worker employed by such other employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

''(G)(i) In the case of an application described in subparagraph (E)(ii), subject to

clause (ii), the employer, prior to filing the application—

''(I) has taken good faith steps to recruit, in the United States using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H–1B nonimmigrants under subparagraph (A), United States workers for the job for which the nonimmigrant or nonimmigrants is or are sought; and

''(II) has offered the job to any United States worker who applies and is equally or better qualified for the job for which the nonimmigrant or nonimmigrants is or are sought.

''(ii) The conditions described in clause (i) shall not apply to an application filed with respect to the employment of an H–1B nonimmigrant who is described in subparagraph (A), (B), or (C) of section 203(b)(1).''.

(2) NOTICE ON APPLICATION OF POTENTIAL LIABILITY OF PLACING EMPLOYERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by adding at the end the following: ''The application form shall include a clear statement explaining the liability under subparagraph (F) of a placing employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.''.

(3) CONSTRUCTION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is further amended by adding at the end the following: ''Nothing in subparagraph (G) shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved.''.

(b) H–1B-DEPENDENT EMPLOYER AND OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

''(3)(A) For purposes of this subsection, the term 'H–1B-dependent employer' means an employer that—

''(i) has at least 51 full-time equivalent employees who are employed in the United States; and

(ii) employs non-exempt H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

''(B) For purposes of this subsection—

''(i) the term 'exempt H–1B nonimmigrant' means an H–1B nonimmigrant who—

''(I) receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least $60,000; or

''(II) has attained a master's or higher degree (or its equivalent) in a specialty related to the intended employment; and

''(ii) the term 'non-exempt H–1B nonimmigrant' means an H–1B nonimmigrant who is not an exempt H–1B nonimmigrant.

''(C) For purposes of subparagraph (A)—

''(i) in computing the number of full-time equivalent employees, exempt H–1B nonimmigrants shall not be take into account; and

''(ii) any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

''(4) For purposes of this subsection:

''(A) The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the H–1B nonimmigrant is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(B) In the case of an application with respect to one or more H–1B nonimmigrants by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the nonimmigrant or nonimmigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

''(C) The term 'H–1B nonimmigrant' means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

''(D) The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in subparagraph (E) or (F) of paragraph (1)); but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under paragraph (1)(F), with either employer described in such paragraph) 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.

''(E) The term 'United States worker' means an employee who—

''(i) is a citizen or national of the United States; or

''(ii) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, or is granted asylum under section 208.''.

(2) CONFORMING AMENDMENTS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by striking ''a nonimmigrant described in section 101(a)(15)(H)(i)(b)'' each place it appears and inserting ''an H–1B nonimmigrant''.

(c) IMPROVED POSTING OF NOTICE OF APPLICATION.—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 conspicuous locations at the place of employment or electronic notification to employees in the occupational classification for which H–1B nonimmigrants are sought.''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) apply to applications filed under section 212(n)(1) of the Immigration and Nationality Act on or after the date final regulations are issued to carry out such amendments (but not earlier than October 1, 1998), and the amendments made by subsection (b) take effect on the date of the enactment of this Act.

(e) REDUCTION OF PERIOD FOR PUBLIC COMMENT.—In first promulgating regulations to implement the amendments made by this section in a timely manner, the Secretary of Labor and the Attorney General may reduce to not less than 30 days the period of public comment on proposed regulations.

SEC. 103. CHANGES IN ENFORCEMENT AND PENALTIES.

(a) INCREASED ENFORCEMENT AND PENALTIES.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended to read as follows:

''(C)(i) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), (1)(E), or (1)(F), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or (1)(G)(i)(I), or a misrepresentation of material fact in an 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 $1,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

''(ii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an application, or a violation of clause (iv)—

''(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 $5,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

''(iii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by 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 that employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

''(iv) It is a violation of this clause for an employer who has filed an application under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

''(v) The Secretary of Labor and the Attorney General shall devise a process under which an H–1B nonimmigrant who files a complaint regarding a violation of clause (iv) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period (not to exceed the duration of the alien's authorized admission as such an nonimmigrant).''.

(b) USE OF ARBITRATION PROCESS FOR DISPUTES INVOLVING QUALIFICATIONS OF UNITED STATES WORKERS NOT HIRED.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

''(5)(A) This paragraph shall apply instead of subparagraphs (A) through (E) of paragraph (2) in the case of a violation described in subparagraph (B).

''(B) The Commissioner shall establish a process for the receipt, initial review, and disposition in accordance with this paragraph of complaints respecting an employer's failure to meet the condition of paragraph (1)(G)(i)(II) or a petitioner's misrepresentation of material facts with respect to such condition. Complaints may be filed by an aggrieved individual who has submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition. No proceeding shall be conducted under this paragraph on a complaint concerning such a failure or misrepresentation unless the Commissioner determines that the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively.

''(C) If the Commissioner finds that a complaint has been filed in accordance with subparagraph (B) and there is reasonable cause to believe that such a failure or misrepresentation described in such complaint has occurred, the Commissioner shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Commissioner shall pay the fee and expenses of the arbitrator.

''(D)(i) The arbitrator shall make findings respecting whether a failure or misrepresentation described in subparagraph (B) occurred. If the arbitrator concludes that failure or misrepresentation was willful, the arbitrator shall make a finding to that effect. The arbitrator may not find such a failure or misrepresentation (or that such a failure or misrepresentation was willful) unless the complainant demonstrates such a failure or misrepresentation (or its willful character) by clear and convincing evidence. The arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Commissioner. Such findings shall be final and conclusive, and, except as provided in this subparagraph, no official or court of the United States shall have power or jurisdiction to review any such findings.

''(ii) The Commissioner may review and reverse or modify the findings of an arbitrator only on the same bases as an award of an arbitrator may be vacated or modified under section 10 or 11 of title 9, United States Code.

''(iii) With respect to the findings of an arbitrator, a court may review only the actions of the Commissioner under clause (ii) and may set aside such actions only on the grounds described in subparagraph (A), (B), or (C) of section 706(a)(2) of title 5, United States Code. Notwithstanding any other provision of law, such judicial review may only be brought in an appropriate United States Court of Appeals.

''(E) If the Commissioner receives a finding of an arbitrator under this paragraph that an employer has failed to meet the condition of paragraph (1)(G)(i)(II) or has misrepresented a material fact with respect to such condition, unless the Commissioner reverses or modifies the finding under subparagraph (D)(ii)—

''(i) the Commissioner may impose administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation or $5,000 per violation in the case of a willful failure or misrepresentation) as the Commissioner determines to be appropriate; and

''(ii) the Attorney General is authorized to not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of not more than 1 year for aliens to be employed by the employer.''.

(2) CONFORMING AMENDMENT.—The first sentence of section 202(n)(2)(A) (8 U.S.C. 1152(n)(2)(A)) is amended by striking ''The Secretary'' and inserting ''Subject to paragraph (5)(A), the Secretary''.

(c) LIABILITY OF PETITIONING EMPLOYER IN CASE OF PLACEMENT OF H–1B NONIMMIGRANT WITH ANOTHER EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

''(E) If an H–1B-dependent employer places a non-exempt H–1B nonimmigrant with another employer as provided under paragraph (1)(F) and the other employer has displaced or displaces a United States worker employed by such other employer during the period described in such paragraph, such displacement shall be considered for purposes of this paragraph a failure, by the placing employer, to meet a condition specified in an application submitted under paragraph (1); except that the Attorney General may impose a sanction described in subclause (II) of subparagraph (C)(i), (C)(ii), or (C)(iii) only if the Secretary of Labor found that such placing employer—

''(i) knew or had reason to know of such displacement at the time of the placement of the nonimmigrant with the other employer, or

''(ii) has been subject to a sanction under this subparagraph based upon a previous placement of an H–1B nonimmigrant with the same other employer.''.

(d) SPOT INVESTIGATIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (c), is further amended by adding at the end the following:

''(F) The Secretary may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date that the employer is found by the Secretary to have committed a willful failure to meet a condition of paragraph (1) (or has been found under paragraph (5) to have committed a willful failure to meet the condition of paragraph (1)(G)(i)(II)) or to have made a willful misrepresentation of material fact in an application. The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer. The authority of the Secretary under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).''.

SEC. 104. COLLECTION AND USE OF H–1B NONIMMIGRANT FEES FOR STATE STUDENT INCENTIVE GRANT PROGRAMS AND JOB TRAINING OF UNITED STATES WORKERS.

(a) IMPOSITION OF FEE.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) as a condition for the approval of a petition filed on or after October 1, 1998, and before October 1, 2002, under paragraph (1) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b). The amount of the fee shall be $250 for each such nonimmigrant.

''(B) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(t).

''(C)(i) An employer may not require an alien who is the subject of the petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee,

''(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).''.

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(t) H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account which shall be known as the 'H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

''(2) USE OF HALF OF FEES BY SECRETARY OF EDUCATION FOR HIGHER EDUCATION GRANTS.—Fifty percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available until expended to the Secretary of Education for additional allotments to States under subpart 4 of chapter 8 of title IV of the Higher Education Act of 1965 but only for the purpose of assisting States in providing grants to eligible students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.

''(3) USE OF HALF OF FEES BY SECRETARY OF LABOR FOR JOB TRAINING.—Fifty percent of amounts deposited into the deposits into such Account shall remain available until expended to the Secretary of Labor for demonstration programs described in section 104(d) of the Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998.''.

(c) CONFORMING MODIFICATION OF APPLICATION REQUIREMENTS FOR STATE STUDENT INCENTIVE GRANT PROGRAM.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(11) provides that any portion of the allotment to the State for each fiscal year that derives from funds made available under section 286(t)(2) of the Immigration and Nationality Act shall be expended for grants described in paragraph (2)(A) to students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.''.

(d) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.

(1) IN GENERAL.—Subject to paragraph (3), 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 demonstration programs or projects under a successor Federal law, the Secretary of Labor shall establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) GRANTS.—Subject to paragraph (3), the Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) 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

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under a successor Federal law; or

(B) regional consortia of councils or local boards described in subparagraph (A).

(3) LIMITATION.—The Secretary of Labor shall establish programs and projects under paragraph (1), including awarding grants to carry out such programs and projects under

paragraph (2), only with funds made available under section 286(t)(3) of the Immigration and Nationality Act, and not with funds made available under the Job Training Partnership Act or a successor Federal law.

SEC. 105. DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.

(a) 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''.

(b) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking ''unless the employer has filed with the Secretary of Labor'' and inserting ''unless the employer has filed with the Attorney General'';

(2) in paragraph (1), in the matter following subparagraph (D)—

(A) by striking ''The Secretary shall compile'' and inserting ''The Secretary of Labor shall compile'';

(B) by striking ''The Secretary shall make such list available'' and inserting ''The Secretary of Labor shall make such list available'';

(C) by striking ''The Secretary of Labor shall review such an application'' and inserting ''The Attorney General shall review such an application'';

(D) by amending the last sentence to read as follows: ''The Attorney General shall treat such an application as being filed for purposes of section 101(a)(15)(H)(i)(b) unless the Attorney General finds that the application is incomplete or obviously inaccurate within 7 days of the date of its filing.''; and

(E) by adding at the end the following: ''The employer shall file the application with the employer's petition for a nonimmigrant visa for the alien under section 214(c)(1), and the Attorney General shall transmit a copy of such application to the Secretary of Labor.''; and

(3) in the first sentence of paragraph (2)(A), by striking ''The Secretary shall establish a process'' and inserting ''The Secretary of Labor shall establish a process''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications filed on or after such date (not later than April 1, 1999) as the Secretary of Labor and the Attorney General shall publish, at least 30 days in advance of such date, in the Federal Register.

SEC. 106. COMPUTATION OF PREVAILING WAGE LEVEL.

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182) is amended by adding at the end the following:

''(p)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of subsections (n)(1)(A)(i)(II) and (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 research organization or a Governmental research organization;

the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

''(2) With respect to a professional athlete (as defined in subsection (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.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to prevailing wage computations made for applications filed on or after the date of the enactment of this Act.

SEC. 107. IMPROVING COUNT OF H–1B AND H–2B NONIMMIGRANTS.

(a) ENSURING ACCURATE COUNT.—The Attorney General shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(b) REVISION OF PETITION FORMS.—The Attorney General shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) so as to ensure that the forms provide the Attorney General with sufficient information to permit the Attorney General accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(c) REPORTS.—Beginning with fiscal year 1999, the Attorney General shall provide to the Congress—

(1) on a quarterly basis a report on the numbers of individuals who were issued visas or otherwise provided nonimmigrant status during the preceding 3-month period under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)); and

(2) on an annual basis a report on the countries of origin and occupations of, educational levels attained by, and compensation paid to, individuals issued visas or provided nonimmigrant status under such sections during such period.

Each report under paragraph (2) shall include the number of individuals described in paragraph (1) during the year who were issued visas pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of such Act (as added by section 106 of this title).

SEC. 108. REPORT ON AGE DISCRIMINATION IN THE INFORMATION TECHNOLOGY FIELD.

(a) STUDY.—The Director of the Congressional Research Division of the Library of Congress shall enter into a contract with an appropriate entity to conduct a study assessing age discrimination in the information technology field. The study shall consider the following:

(1) The prevalence of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in—

(A) promotion and advancement,

(B) working hours,

(C) telecommuting,

(D) salary, and

(E) stock options, bonuses, and other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) REPORT.—Not later than October 1, 2000, such Director shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

SEC. 109. REPORT ON HIGH-TECHNOLOGY LABOR MARKET NEEDS.

(a) STUDY.—The National Science Foundation shall conduct a study to assess labor market needs for workers with high technology skills during the next 10 years. The study shall investigate and analyze the following:

(1) Future training and education needs of companies in the high technology and information technology sectors and future training and education needs of United States students to ensure that students' skills at various levels are matched to the needs in such sectors.

(2) 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.

(3) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(4) The relative achievement rates of United States and foreign students in secondary school in a variety of subjects, including math, science, computer science, English, and history.

(5) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(6) The needs of the high-technology sector for foreign workers with specific skills and the potential benefits and costs to United States employers, workers, consumers, postsecondary educational institutions, and the United States economy, from the entry of skilled foreign professionals in the fields of science and engineering.

(7) The needs of the high-technology sector to adapt products and services for export to particular local markets in foreign countries.

(8) An examination of the amount and trend of moving the production or performance of products and services now occurring in the United States abroad.

(b) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

(c) INVOLVEMENT.—The study under subsection (a) shall be conducted in a manner that assures the participation of individuals representing a variety of points of view.

TITLE II—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

SEC. 201. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) (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 Temporary Access to Skilled Workers and H–1B Nonimmigrant Program Improvement Act of 1998.''.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (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)''.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. ACADEMIC HONORARIA.

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182), as amended by section 106, is further amended by adding at the end the following:

''(q) 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 (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to activities occurring on or after the date of the enactment of this Act.

H.R. 4276

OFFERED BY: MR. CALLAHAN

AMENDMENT NO. 28: Page 53, line 6, after the dollar amount insert ''(reduced by $20,000,000)''.

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 29: Page 38, after line 9, insert the following:

PROHIBITION ON HANDGUN TRANSFER WITHOUT LOCKING DEVICE

SEC. 112. (a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(y)(1) It shall be unlawful for any person to transfer a handgun to another person unless a locking device is attached to, or an integral part of, the handgun, or is sold or delivered to the transferee as part of the transfer.

''(2) Paragraph (1) shall not apply to the transfer of a handgun to the United States, or any department or agency of the United States, or a State, or a department, agency, or political subdivision of a State.''.

(b) LOCKING DEVICE DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

''(34) The term 'locking device' means a device which, while attached to or part of a firearm, prevents the firearm from being discharged, and which can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock.''.

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT NO. 30: Page 38, after line 9, insert the following:

SEC. 112. Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is repealed.

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT NO. 31: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used to carry out section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note).

H.R. 4276

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 32: Page 101, line 21 insert ''(increased by $250,000 to be used for the National Women's Business Council as authorized by section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)'' after the dollar amount.

H.R. 4276

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 33: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds appropriated to the Federal Communications Commission in this Act may be used by the Commission for implementing or enforcing the requirements for telecommunications carriers to contribute to support mechanisms to provide services to schools, libraries, and health care providers under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)).

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 34: Page 78, line 19, strike ''$475,000,000,'' and insert ''$365,800,000,''.

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT NO. 35: Page 124, after line 2, add the following new title:

TITLE IX—INTERNET GAMBLING PROHIBITION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Internet Gambling Prohibition Act of 1998''.

SEC. 902. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

''(6) BETS OR WAGERS.—The term 'bets or wagers'—

''(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

''(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

''(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

''(D) does not include—

''(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

''(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

''(iii) a contract of indemnity or guarantee;

''(iv) a contract for life, health, or accident insurance; or

''(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

''(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

''(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

''(III) in which the winner or winners may receive a prize or award;

(otherwise known as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

''(7) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

''(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

''(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

''(B) does not include—

''(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

''(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

''(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

''(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

''(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.''.

SEC. 903. PROHIBITION ON INTERNET GAMBLING.

(a) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

''§ 1085. Internet gambling

''(a) DEFINITIONS.—In this section:

''(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based

service' means any information service or system that uses—

''(A) a device or combination of devices—

''(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

''(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

''(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

''(C) appropriate data security standards to prevent unauthorized access.

''(2) GAMBLING BUSINESS.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

''(A) involves—

''(i) the placing, receiving, or otherwise making of bets or wagers; or

''(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

''(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

''(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

''(3) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

''(4) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

''(5) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

''(6) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

''(A) private dedicated lines; or

''(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

''(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

''(b) GAMBLING.—

''(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

''(A) to place, receive, or otherwise make a bet or wager with any person; or

''(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

''(2) PENALTIES.—A person who violates paragraph (1) shall be—

''(A) fined in an amount that is not more than the greater of—

''(i) three times the greater of—

''(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

''(II) the total amount that the person is found to have received as a result of such wagering; or

''(ii) $500;

''(B) imprisoned not more than 3 months; or

''(C) both.

''(c) GAMBLING BUSINESSES.—

''(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

''(A) to place, receive, or otherwise make a bet or wager; or

''(B) to send, receive, or invite information assisting in the placing of a bet or wager.

''(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

''(A) fined in an amount that is not more than the greater of—

''(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

''(ii) $20,000;

''(B) imprisoned not more than 4 years; or

''(C) both.

''(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

''(e) EXCEPTIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

''(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

''(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

''(ii) a closed-loop subscriber-based service that is wholly intrastate; or

''(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

''(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

''(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

''(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

''(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

''1085. Internet gambling.''.

SEC. 904. CIVIL REMEDIES.

(a) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by section 903, by issuing appropriate orders.

(b) PROCEEDINGS.—

(1) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by section 903, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this section. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by section 903, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under subparagraph (A) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(3) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding paragraph (1) or (2), the following rules shall apply in any proceeding instituted under this subsection in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(A) SCOPE OF RELIEF.—

(i) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(ii) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a

violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(iii) No relief shall be issued under subparagraph (A)(ii) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(B) CONSIDERATIONS.—In the case of an application for relief under subparagraph (A)(ii), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(i) such relief either singularly or in combination with such other injunctions issued against the same service under this subsection, would seriously burden the operation of the service's system network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(ii) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(iii) in the case of an application for a temporary order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(C) FINDINGS.—In any order issued by the court under this subsection, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not be reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(4) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this subsection shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(c) EXPEDITED PROCEEDINGS.—

(1) IN GENERAL.—In addition to proceedings under subsection (b), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by section 903, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by section 903.

(2) EXPIRATION.—A temporary restraining order entered under this subsection shall expire on the earlier of—

(A) the expiration of the 30-day period beginning on the date on which the order is entered; or

(B) the date on which a preliminary injunction is granted or denied.

(3) HEARINGS.—A hearing requested concerning an order entered under this subsection shall be held at the earliest practicable time.

(d) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by section 903) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for any reasonable course of action taken to comply with a court order issued under subsection (b) or (c) of this section.

(e) PROTECTION OF PRIVACY.—Nothing in this title or the amendments made by this title shall be construed to authorize an affirmative obligation on an interactive computer service—

(1) to monitor use of its service; or

(2) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(f) NO EFFECT ON OTHER REMEDIES.—Nothing in this section shall be construed to affect any remedy under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law. The availability of relief under this section shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law.

(g) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this section to enforce section 1085 of title 18, United States Code, as added by section 903.

SEC. 905. REPORT ON ENFORCEMENT.

Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by section 903;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

SEC. 906. REPORT ON COSTS.

Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by section 903, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this title.

SEC. 907. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

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OFFERED BY: MR. BARR OF GEORGIA

AMENDMENT NO. 1: At the appropriate place in the bill, insert the following:

SEC. ___. None of the funds appropriated by this Act may be used to carry out section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note; 110 Stat. 3009–716 through 3009–719) and any regulation issued to carry out such section.

H.R. 4328

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: Page 30, line 10, after ''$59,670,000'' insert ''(decreased by $2,000,000)''.

Page 30, after line 11, insert the following: $2,000,000 for a major investment study for an alternative transportation system in the city of Houston;

H.R. 4328

OFFERED BY: MR. NADLER

AMENDMENT NO. 3: At the end of title III, insert the following:

SEC. 347. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City.