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