by inserting before the period at the end the following: '', except that, in the case of a proposed export of a satellite under subsection (a)(5), on a case-by-case basis, that it is in the national security interests of the United States to do so''.

(d) DEFINITIONS.—In this section:

(1) MILITARILY SENSITIVE CHARACTERISTICS.—The term ''militarily sensitive characteristics'' includes, but is not limited to, antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, or kick motors.

(2) RELATED ITEMS.—The term ''related items'' means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

(e) EFFECTIVE DATE.—This section shall take effect 15 days after the date of enactment of this Act.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

McCAIN AMENDMENT NO. 3251

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 2260, supra; as follows:

On page 62, strike ''*Provided further,*'' on line 3 and all that follows through line 16 and insert the following: ''*Provided further,* That none of the funds appropriated or otherwise made available under this Act or under any other provision of law may be obligated or expended by the Secretary of Commerce, through the Patent and Trademark Office, to plan for the design, construction, or lease of any new facility for that office until the date that is 90 days after the date of submission to Congress by the Administrator of General Services of a report on the results of a cost-benefit analysis that analyzes the costs versus the benefits of relocating the Patent and Trademark Office to a new facility, and that includes an analysis of the cost associated with leasing, in comparison with the cost of any lease-purchase, Federal construction, or other alternative for new space for the Patent and Trademark Office and a recommendation on the most cost-effective option for consolidating the Patent and Trademark Office: *Provided further,* That the report submitted by the Administrator of General Services shall consider any appropriate location or facility for the Patent and Trademark Office, and shall not be limited to any geographic region: *Provided further,* That the Administrator of General Services shall submit the report to Congress not later than May 1, 1999.''.

WELLSTONE (AND LANDRIEU) AMENDMENT NO. 3252

Mr. WELLSTONE (for himself and Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. MENTAL HEALTH SCREENING AND TREATMENT FOR PRISONERS.

(a) ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 1999, have a program of mental health screening and treatment for appropriate categories of convicted juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104 may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

''(B) ADDITIONAL USE.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.''.

FAIRCLOTH AMENDMENT NO. 3253

Mr. FAIRCLOTH proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 3486(a)(1) of title 18, United States Code, is amended by inserting ''or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children,'' after ''health care offense,''.

HOLLINGS (AND OTHERS) AMENDMENT NO. 3254

Mr. HOLLINGS (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mr. LAUTENBERG, Mrs. MURRAY, Mrs. BOXER, Mr. REID, Mr. FORD, and Mr. JOHNSON) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(a) FINDINGS.—The Senate finds that:—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) Section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations; and

(3) save Social Security first by reserving any surpluses in fiscal year 1999 budget legislation.

GREGG (AND OTHERS) AMENDMENT NO. 3255

Mr. GREGG (for himself, Mr. LOTT, Mr. MACK, Mr. GRAMM, and Mr. MURKOWSKI) proposed an amendment to amendment No. 3254 proposed by Mr. HOLLINGS to the bill, S. 2260, supra; as follows:

In the pending amendment, strike all after the word ''Sec.'' and insert the following:

SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(A) FINDINGS.—The Senate finds that:—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trsut Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the CBO has estimated that the unified budget surplus will reach nearly $1.5 trillion over the next ten years.

(b) SENSE OF THE SENATE—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations;

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

THOMPSON (AND OTHERS) AMENDMENT NO. 3256

Mr. THOMPSON (for himself, Mr. LOTT, Mr. COVERDELL, Mr. HUTCHINSON, Mr. ENZI, Mr. ABRAHAM, Mr. KEMPTHORNE, Mr. STEVENS, Mr. THURMOND, and Ms. COLLINS) proposed an amendment to the bill, S. 2260, supra; as follows:

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

SEC. ___. POLICIES RELATING TO FEDERALISM.

(a) REPEAL OF EXECUTIVE ORDER.—Executive Order No. 13083, issued May 14, 1998, shall have no force and effect.

(b) CONTINUATION OF EXECUTIVE ORDERS.—Executive Order No. 12612, issued October 26, 1987, and Executive Order No. 12875, issued October 26, 1993, shall be in effect as though Executive Order No. 13083 never took effect.

McCAIN AMENDMENT NO. 3257

Mr. MCCAIN proposed an amendment to the bill, S. 2260, supra; as follows:

On page 62, strike ''*Provided further,*'' on line 3 and all that follows through line 16 and insert the following: ''*Provided further,* That none of the funds appropriated or otherwise made available under this Act or under any other provision of law may be obligated or expended by the Secretary of Commerce, through the Patent and Trademark Office, to plan for the design, construction, or lease of any new facility for that office until the date that is 90 days after the date of submission to Congress by the Administrator of General Services of a report on the results of a cost-benefit analysis that analyzes the costs versus the benefits of relocating the Patent and Trademark Office to a new facility, and that includes an analysis of the cost associated with leasing, in comparison with the cost of any lease-purchase, Federal construction, or other alternative for new space for the Patent and Trademark Office and a recommendation on the most cost-effective option for consolidating the Patent and Trademark Office: *Provided further,* That the report submitted by the Administrator of General Services shall consider any appropriate location or facility for the Patent and Trademark Office, and shall not be limited to any geographic region: *Provided further,* That the Administrator of General Services shall submit the report to Congress not later than May 1, 1999.''.

SMITH (AND OTHERS) AMENDMENT NO. 3258

(Ordered to lie on the table.)

Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new title:

TITLE ___—TEMPORARY AGRICULTURAL WORKERS

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Job Opportunity Benefits and Security Act of 1998''.

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

SEC. ___02. DEFINITIONS.

In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term ''adverse effect wage rate'' means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term ''eligible'' as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term ''job opportunity'' means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term ''prevailing wage'' means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term ''registered worker'' means an individual whose name appears in a registry.

(8) REGISTRY.—The term ''registry'' means an agricultural worker registry established under section ___03(a).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ___05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to

which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section ___05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section ___07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section ___05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(9) ASSURANCE OF UNEMPLOYMENT INSURANCE COVERAGE.—The employer shall assure that if the employer's employment is not covered employment under the State's unemployment insurance law, the employer will provide unemployment insurance coverage for the employer's United States workers at the place of employment for which the employer has applied for workers under subsection (a).

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section ___08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section ___08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. ___05. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section ___04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section ___04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. ___06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section ___05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section ___04(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term ''task rate'' means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term ''group rate'' means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) REDUCED USER FEE FOR WORKERS PROVIDED HOUSING.—An employer shall receive a credit of 40 percent of the payment otherwise due pursuant to section 218(b) of the Immigration and Nationality Act on the earnings of alien workers to whom the employer provides housing pursuant to paragraph (1).

(7) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence (or place of next employment, if the worker travels from the place of current employment to a subsequent place of employment and is otherwise ineligible for reimbursement under paragraph (1) with respect to such subsequent place of employment).

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(4) USE OF TRUST FUND.—Reimbursements made by the Secretary to workers or aliens under this subsection shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this title.

(d) ESTABLISHMENT OF PILOT PROGRAM FOR ADVANCING TRANSPORTATION COSTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program for the issuance of vouchers to United States workers who are referred to job opportunities under section ___05(a) for the purpose of enabling such workers to purchase common carrier transportation to the place of employment.

(2) LIMITATION.—A voucher may only be provided to a worker under paragraph (1) if the job opportunity involved requires that the worker temporarily relocate to a place of employment that is more than 100 miles from the worker's permanent place of residence or last place of employment, and the worker attests that the worker cannot travel to the place of employment without such assistance from the Secretary.

(3) NUMBER OF VOUCHERS.—The Secretary shall award vouchers under the pilot program under paragraph (1) to workers referred from each registry in proportion to the number of workers registered with each such registry.

(4) REIMBURSEMENT.—

(A) USE OF TRUST FUND.—Reimbursements for the cost of vouchers provided by the Secretary under this subsection for workers who complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this title.

(B) OF SECRETARY.—A worker who receives a voucher under this subsection who fails to complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired under the job opportunity involved shall reimburse the Secretary for the cost of the voucher.

(5) REPORT AND CONTINUATION OF PROGRAM.—

(A) COLLECTION OF DATA.—The Secretary shall collect data on—

(i) the extent to which workers receiving vouchers under this subsection report, in a timely manner, to the jobs to which such workers have been referred;

(ii) whether such workers complete the job opportunities involved; and

(iii) the extent to which such workers do not complete at least 50 percent of the period of employment the job opportunities for which the workers were hired.

(B) REPORT.—Not later than 6 months after the expiration of the second fiscal year during which the program under this subsection is in operation, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, a report, based on the data collected under subparagraph (A), concerning the results of the program established under this section. Such report shall contain the recommendations of the Secretary concerning the termination or continuation of such program.

(C) TERMINATION OF PROGRAM.—The recommendations of the Secretary in the report submitted under subparagraph (B) shall become effective upon the expiration of the 90-day period beginning on the date on which such report is submitted unless Congress enacts a joint resolution disapproving such recommendations.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which

the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking ''(c)(1) The'' and inserting ''(c)(1)(A) Except as provided in subparagraph (B), the''; and

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

''(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ___04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.''.

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

''ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

''(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who

is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

''(C) ABANDONMENT OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

''(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) specify the date of the alien's acquisition of status under this section;

''(II) specify the expiration date of the alien's work authorization; and

''(III) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

''(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ___06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(b) TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of funding the costs of administering this section and, in the event of an adverse finding by the Attorney General under subsection (c), for the purpose of providing a monetary incentive for aliens described in section 101(a)(15)(H)(ii)(a) to return to their country of origin upon expiration of their visas under this section.

''(2) TRANSFERS TO TRUST FUND.—

''(A) IN GENERAL.—There is appropriated to the Trust Fund amounts equivalent to the sum of the following:

''(i) Such employers shall pay to the Secretary of the Treasury a user fee in an amount equivalent to so much of the Federal tax that is not transferred to the States on the earnings of such aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act if the earnings were subject to such Acts. Such payment shall be in lieu of any other employer fees for the benefits provided to employers pursuant to this Act or in connection with the admission of aliens pursuant to section 218A.

''(ii) In the event of an adverse finding by the Attorney General under subsection (c), employers of aliens under this section shall withhold from the wages of such aliens an amount equivalent to 20 percent of the earnings of each alien and pay such withheld amount to the Secretary of the Treasury.

''(B) TREATMENT OF AMOUNTS.—Amounts paid to the Secretary of the Treasury under subparagraph (A) shall be treated as employment taxes for purposes of subtitle C of the Internal Revenue Code of 1986.

''(C) TREATMENT AS OFFSETTING RECEIPTS.—Amounts appropriated to the Trust Fund under this paragraph shall be treated as offsetting receipts.

''(3) ADMINISTRATIVE EXPENSES.—Amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), shall, without further appropriation, be paid to the Attorney General, the Secretary of Labor, the Secretary of State, and the Secretary of Agriculture in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(a) and this section.

''(4) DISTRIBUTION OF FUNDS.—In the event of an adverse finding by the Attorney General under subsection (c), amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), and interest earned thereon under paragraph (6), shall be held on behalf of an alien and shall be available, without further appropriation, to the Attorney General for payment to the alien if—

''(A) the alien applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States;

''(B) in such application the alien establishes that the alien has complied with the terms and conditions of this section; and

''(C) in connection with the application, the alien tenders the identification and employment authorization card issued to the alien pursuant to subsection (a)(1)(D) and establishes that the alien is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

''(5) MIGRANT AGRICULTURAL WORKER HOUSING.—Such funds as remain in the Trust Fund after the payments described in paragraph (4) shall be used by the Secretary of Agriculture, in consultation with the Secretary, for the purpose of increasing the stock of in-season migrant worker housing in areas where such housing is determined to be insufficient to meet the needs of migrant agricultural workers, including aliens admitted under this section.

''(6) REGULATIONS.—The Secretary of the Treasury, in consultation with the Attorney General, shall prescribe regulations to carry out this subsection.

''(7) INVESTMENT OF PORTION OF TRUST FUND.—

''(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i), and, if applicable, paragraph (2)(A)(ii), as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

''(i) on original issue at the price; or

''(ii) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to

both principal and interest by the United States on original issue or at the market price, is not in the public interest.

''(B) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

''(C) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i).

''(D) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

''(c) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and, upon receipt of the report, subsections (b)(2)(A)(ii) and (b)(4) shall take effect.''.

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(a))''.

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative program for the admission of H–2A workers.''.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking ''ALTERNATIVE PROGRAM FOR''.

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

''(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).''.

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

''(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.''.

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. ___10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

''(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.''.

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(iv)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. ___11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting ''and seasonal'' after ''migrant''; and

(2) by inserting before the period the following: '', or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period''.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike ''13'' and insert ''14'';

(2) in paragraph (2)(A), by striking ''1994'' and inserting ''1998''; and

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

''(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.''.

SEC. ___12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. ___13. FUNDING FROM WAGNER-PEYSER ACT.

If additional funds are necessary to pay the start-up costs of the registries established under section ___03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

SEC. ___14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. ___15. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this title.

INHOFE (AND OTHERS) AMENDMENT NO. 3259

(Ordered to lie on the table.)

Mr. WARNER (for Mr. INHOFE, for himself, Mr. BROWNBACK, and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

On page 62, lines 3 through 16, strike ''That if the standard build-out'' and all that follows through ''covered by those costs.'' and insert the following: ''That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.''.

DURBIN (AND OTHERS) AMENDMENT NO. 3260

Mr. DURBIN (for himself, Mr. CHAFEE, Ms. MOSELEY-BRAUN, Mr. LAUTENBERG, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ___. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, prevents the firearm from being operated without first deactivating or removing the device;

''(B) a device incorporated into the design of the firearm that prevents the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that can be unlocked only by means of a key, a combination, or other similar means.''.

(b) PROHIBITION AND PENALTIES.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS.—

''(1) DEFINITION OF JUVENILE.—In this subsection, the term 'juvenile' means an individual who has not attained the age of 18 years.

''(2) PROHIBITION.—Except as provided in paragraph (3), any person that—

''(A) keeps a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premise that is under the custody or control of that person; and

''(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the lawful permission of the parent or legal guardian of the juvenile;

shall, if a juvenile obtains access to the firearm and thereby causes death or bodily injury to the juvenile or to any other person, or exhibits the firearm either in a public place, or in violation of subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

''(3) EXCEPTIONS.—Paragraph (2) does not apply if—

''(A) the person uses a secure gun storage or safety device for the firearm;

''(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

''(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons;

''(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept; or

''(E) the juvenile obtains the firearm as a result of an unlawful entry to the premises by any person.''.

(c) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

(d) NO EFFECT ON STATE LAW.—Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent children from injuring themselves or others with firearms.

CRAIG AMENDMENT NO. 3261

Mr. CRAIG proposed an amendment to the bill, S. 2260, supra; as follows:

'' . INTENSIVE FIREARMS ENFORCEMENT INITIATIVES.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section, (and referred hereafter to as ''YCGII/Exile'') to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the program before the enhancements set out in section on the firearms related offenses, as well as detailing the plans by the Secretary to implement this section.

(h)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII/Exile, facilitate the identification and prosecution of individuals—

(A) Illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of 18 U.S.C. §922 (g)(1)-(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section.

(2) The Secretary of the Treasury shall, commencing October 1, 1998, and in consultation with the Attorney General, the United States Attorney for the Eastern District of Pennsylvania, the State of Pennsylvania, the City of Philadelphia and other local government for such District, establish a demonstration program, the objective of which shall be the intensive identification, apprehension, and prosecution of persons in possession of firearm in violation of 18 U.S.C. §922 (g)(1)-(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section. The program shall be at last two years in duration, and the Secretary shall report to Congress on an annual basis on the results of these efforts, including any empirically observed affects on gun related crime in the District.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offense stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCGII/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b): and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.''.

BUMPERS (AND HATCH) AMENDMENT NO. 3262

Mr. BUMPERS (for himself and Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

''SEC. . REPORT BY THE JUDICIAL CONFERENCE.

''(a) Not later than September 1, 1999, the Judicial Conference of the United States shall prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating whether an amendment to Rule 6 of the Federal Rules of Criminal Procedure permitting the presence in the grand jury room of counsel for a witness who is testifying before the grand jury would further the interests of justice and law enforcement.

(b) In preparing the report referred to in paragraph (a) of this section the Judicial Conference shall consider the views of the Department of Justice, the organized Bar, the academic legal community, and other interested parties.

(c) Nothing in this section shall require the Judicial Conference to submit recommendations to the Congress in accordance with the Rules Enabling Act, nor prohibit the Conference from doing so.

BUMPERS AMENDMENT NO. 3263

Mr. BUMPERS proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

''SEC. . Subsection 2(d) of Section 2511 of title 18, United States Code, is amended to read as follows:

''2(d)(i) Except as prohibited by subsection (ii), it shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

''(ii) It shall be unlawful under this chapter for a person not acting under color of law to intercept a telephone communication unless—

''(A) all parties to the communication have given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States;

''(B) such person is an employer, or the officer or agent of an employer, engaged in lawful electronic monitoring of its employees' communications made in the course of the employees' duties; or

''(C) such person is a party to the communication and the communication conveys threats of physical harm, harassment or intimidation.''

FEINGOLD AMENDMENT NO. 3264

Mr. FEINGOLD proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) FINDINGS.—Congress makes the following findings:

(1) Since the adoption by the Federal Communication Commission of the so-called

''Going Forward Rules'' to relax regulation of cable television rates in 1994, cable television rates have increased by 6.3 percent per year. Since the enactment of the Telecommunications Act of 1996 (Public Law 104–104), such rates have increased by approximately 8.2 percent per year.

(2) The rate of increase in cable television rates has exceeded the rate of increase in inflation by more than 3 times since the enactment of the Telecommunications Act of 1996. The increase in such rates is faster than when such rates were not regulated between 1986 and 1992. Such rates are rising 50 percent faster than the Commission predicted when it adopted the so-called ''Going Forward Rules''.

(3) In 1996, many United States cities experienced increases in cable television rates that exceeded 20 percent. Overall, according to the Bureau of Labor Statistics, cable television rates increased at an annual pace of 10.4 percent in 1996, compared with 3.5 percent for all consumer goods.

(4) The Nation's largest cable television company boosted its rates approximately 13.5 percent in 1996. In Denver alone, it raised rates by 19 percent in the summer of 1996, then another 8 percent in June 1997. The Nation's second largest cable television company increased its average rates 12 percent in the New York City area in 1996.

(5) The cable television industry continues to hold the dominant position in the market for multichannel video programming distribution (MVPD) with 87 percent of MVPD subscribers receiving service from their local franchised cable television operator.

(6) Certain factors place alternatives to cable television at a competitive disadvantage. For example, direct broadcast satellite (DBS) service is widely available and constitutes the most significant alternative to cable television. However, barriers to both the entry and expansion of DBS include—

(A) the lack of availability of local broadcast signals;

(B) up front equipment and installation costs; and

(C) the need to purchase additional equipment to receive service on additional television sets.

(7) Telephone company entry into the video programming distribution business has been limited.

(8) With the increased concentration of cable television systems at the national level, the percentage of cable television subscribers served by the 4 largest cable television companies rose to 61.4 percent in 1996.

(9) Recent agreements in the cable television industry have given TCI and Time Warner/Turner Broadcasting ownership of cable television systems serving approximately one-half of the Nation's cable television subscribers.

(10) Financial analysts report that cable television industry revenue for 1995 was $24,898,000,000 and grew 8.9 percent to $27,120,000,000 in 1996. For 1996, revenue per subscriber grew 5.6 percent to reach $431.85 per subscriber. Analysts estimate 1997 year-end-total revenue for the industry was approximately $30,000,000,000, an increase of 9.9 percent from 1996 year-end revenue.

(b) REPORT.—(1) Not later than 30 days after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report setting forth the assessment of the Commission whether or not the findings under subsection (a) are consistent with the Commission's fulfillment of its responsibilities under the Cable Television Consumer Protection and Competition Act of 1992 (Public Law 102–385) and the Telecommunications Act of 1996 to promote competition in the cable television industry and ensure reasonable rates for cable television services.

(2) If the Commission determines under paragraph (1) that the findings under subsection (a) are consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a detailed justification of that determination.

(3) If the Commission determines under paragraph (1) that the findings under subsection (a) are not consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a statement of the actions to be undertaken by the Commission to fulfill the responsibilities.

WYDEN (AND SMITH) AMENDMENT NO. 3265

Mr. WYDEN (for himself and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act (42 U.S.C. 5784) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) court supervised initiatives that address the illegal possession of firearms by juveniles.''; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''demonstrate ability in'';

(B) in paragraph (1), by inserting ''have in effect'' after ''(1)'';

(C) in paragraph (2)—

(i) by inserting ''have developed'' after ''(2)''; and

(ii) by striking ''and'' at the end;

(D) in paragraph (3)—

(i) by inserting ''are actively'' after ''(3)''; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(4) have in effect a policy or practice that requires State and local law enforcement agencies to detain for not less than 24 hours any juvenile who unlawfully possesses a firearm in a school, upon a finding by a judicial officer that the juvenile may be a danger to himself or herself, or to the community.''.

KYL (AND BRYAN) AMENDMENT NO. 3266

Mr. KYL (for himself and Mr. BRYAN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON INTERNET GAMBLING.

(a) SHORT TITLE.—This section may be cited as the ''Internet Gambling Prohibition Act of 1998''.

(b) DEFINITIONS.—Section 1081 of title 18, United States Code, is amended—

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

(2) by adding at the end the following:

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

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

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

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

''(D) does not include—

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

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

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

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

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

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

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

''(B) does not include—

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

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

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

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

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

(c) PROHIBITION ON INTERNET GAMBLING.—

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

''§ 1085. Internet gambling

''(a) DEFINITIONS.—In this section:

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

service' means any information service or system that uses—

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

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

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

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

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

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

''(A) involves—

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

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

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

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

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

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

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

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

''(A) private dedicated lines; or

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

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

''(b) GAMBLING.—

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

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

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

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

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

''(i) three times the greater of—

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

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

''(ii) $500;

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

''(C) both.

''(c) GAMBLING BUSINESSES.—

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

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

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

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

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

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

''(ii) $20,000;

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

''(C) both.

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

''(e) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

''1085. Internet gambling.''.

(d) CIVIL REMEDIES.—

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

(2) PROCEEDINGS.—

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

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

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

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

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

(i) SCOPE OF RELIEF.—

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

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

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

(III) No relief shall issue under clause (i)(II) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

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

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

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

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

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

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

(3) EXPEDITED PROCEEDINGS.—

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

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

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

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

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

(4) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by this section) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for a reasonable course of action taken to comply with a court order issued under paragraph (2) or (3) of this subsection.

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

(A) to monitor use of its service; or

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

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

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

(e) REPORT ON ENFORCEMENT.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

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

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

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

(f) REPORT ON COSTS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

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

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

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

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

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

BRYAN AMENDMENT NO. 3267

Mr. BRYAN proposed an amendment to amendment No. 3266 by Mr. KYL to the bill, S. 2260, supra; as follows:

On page 3, strike lines 9 through 12, and insert the following:

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

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

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

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

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

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

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

CRAIG (AND OTHERS) AMENDMENT NO. 3268

Mr. CRAIG (for himself, Mr. INOUYE, and Mr. DOMENICI) proposed an amendment to amendment No. 3266 proposed by Mr. KYL to the bill, S. 2260, supra; as follows:

On page 3 of the amendment, strike lines 9 through 12 and insert the following below line 13:

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

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

''(v) lawful gaming conducted pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)—; or''.

Beginning on page 13 of the amendment, strike line 4 and all that follows through page 14, line 25, and insert the following:

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—

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

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, in whole or in part, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the United States shall have the authority to enforce that section.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this paragraph. Upon application of the attorney general (or other appropriate State official)

of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

TORRICELLI AMENDMENTS NOS. 3269–3270

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3269

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $6,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program of the Department of Commerce funded under this Act (other than the program referred to in subsection (a)) in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $6,000,000.

AMENDMENT NO. 3270

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $6,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program of the International Trade Administration of the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $6,000,000.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3271

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

Notwithstanding any rights already conferred under this Act, Section 2 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052 (b)), is amended in subsection (b) by inserting ''or of any federally recognized Indian tribe,'' after ''State or municipality,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, July 22, 1998. The purpose of this meeting will be to examine the Y2K computer problem as it relates to agricultural business and other matters.

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

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 22, 1998 at 10 a.m. in executive session, to consider certain pending nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 22, 1998, to conduct a hearing on the 1946 Swiss Holocaust Assets Agreement.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 22, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nomination of Bill Richardson to be Secretary of Energy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Wednesday, July 22, 1998, at 9:00 a.m., hearing room (SD–406).

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

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, July 22, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 22, 1998 at 4 p.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs and the House Committee on Resources be authorized to meet during open session on Wednesday, July 22, 1998 at 9 a.m., to conduct a Joint Hearing on S. 1770, to elevate the Director of the Indian Health Service to Assistant Secretary for Health & Human Services; and H.R. 3782, Indian Trust Fund Accounts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 22, 1998, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 22, 1998 at 2 p.m., to vote on the nominations of:

Scott E. Thomas, of the District of Columbia, to be a member of the Federal Election Commission for a term expiring April 30, 2003 (reappointment);

David M. Mason, of Virginia, to be a member of the Federal Election Commission for a term expiring April 30, 2003, vice Trevor Alexander McClurg Potter, resigned;

Darryl R. Wold, of California, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice Joan D. Aikens, term expired; and,

Karl L. Sandstrom, of Washington, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice John Warren McGarry, term expired.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 22, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 2136, to provide for the exchange of certain land in the State of Washington; S. 2226, to amend the Idaho Admission Act regarding the sale or lease of school land; H.R. 2886 to provide for a demonstration project in the Stanislaus National Forest, CA, under which a private contractor will perform multiple resource management