

questionable past and an overload of cargo, crashed into the Atlantic Ocean, killing all aboard. What is not well known is that, upon hearing rumors that Nicaraguan government officials were delaying the delivery of relief supplies, Roberto Clemente left his New Year's celebration with family and friends to travel to Nicaragua in order to personally oversee the delivery of the Puerto Rican relief supplies to the individuals devastated by the Managua earthquake. On that fateful New Year's Eve night in 1972, the world lost not just a great athlete, arguably the greatest in the history of the Pittsburgh Pirates, but a humanitarian, a cultural icon, and a hero.

Mr. President, over the years, Roberto Clemente's dedication to his fellow man became legendary. As one of the first Latin America baseball players in the Major Leagues, Roberto Clemente faced language barriers and racial segregation throughout his career. He worked tirelessly to improve professional baseball's understanding of the unique challenges faced by young Latin American ballplayers thrust into a new culture and language as they start their baseball careers.

However, his concern for his fellow man did not stop at the foul lines throughout his career. Roberto Clemente expressed his concern for the troubled lives faced by urban youth both in the United States and Puerto Rico. In a 1966 interview with Myron Cope for "Sports Illustrated," Roberto Clemente discussed his desire to help youth by stoking their interest in sports. Roberto Clemente believed that sports could bring families together in an athletic setting while providing a stage for youngsters to excel. In what would be the final months of his life, Roberto Clemente conducted a series of baseball clinics for Puerto Rican youth in addition to fundraising efforts for a large sports facility dedicated to the youth of the world.

Mr. President, Robert Clemente's humanitarian legacy continues to this day with the Roberto Clemente Sports City in Puerto Rico. Established March 18, 1973, when the Commonwealth of Puerto Rico's government granted 304 acres of land for development, the Roberto Clemente Sports City commemorates Roberto Clemente's commitment of a better life for children through sports, education and community service by creating an environment for the development of the human spirit through sports, involving community, education and human rights. This sports facility provides high quality recreational and sports facilities for children, youth and the general public such as: baseball, volleyball, basketball, tennis, swimming, track and field, batting cages, a golf range, tae kwondo, camping and social and cultural activities. The Roberto Clemente Sports City provides Puerto Rico with learning and training facilities, to include tutoring, mentoring and professional development programs in sports and life.

As eloquently stated by Bowie Kuhn in his 1973 eulogy to Clemente, "he made the world 'superstar' seem inadequate. He had about him the touch of royalty." With all of this in mind, Mr. President, I ask my colleagues to support the resolution I am offering with Senator SPECTER which urges our fellow Americans to honor Roberto Clemente's legacy every day through humanitarian and philanthropic efforts towards their fellow man.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD, immediately following my statement.

SENATE RESOLUTION 363—COM-  
MENDING THE LATE ERNEST  
BURGESS, M.D., FOR HIS SERV-  
ICE TO THE NATION AND THE  
INTERNATIONAL COMMUNITY,  
AND EXPRESSING THE CONDO-  
LENCES OF THE SENATE TO HIS  
FAMILY ON HIS DEATH

Mr. KERREY submitted the following resolution; which was considered and agreed to:

S. RES. 363

Whereas Dr. Ernest Burgess practiced medicine for over 50 years;

Whereas Dr. Burgess was a pioneer in the field of prosthetic medicine, spearheading groundbreaking advances in hip replacement surgery and new techniques in amputation surgery;

Whereas in 1964, recognizing his work in prosthetic medicine, the United States Veterans' Administration chose Dr. Burgess to establish the Prosthetic Research Study, a leading center for postoperative amputee treatment;

Whereas Dr. Burgess was the recipient of the 1985 United States Veterans' Administration Olin E. League Award and honored as the United States Veterans' Administration Distinguished Physician;

Whereas Dr. Burgess' work on behalf of disabled veterans has allowed thousands of veterans to lead full and healthy lives;

Whereas Dr. Burgess was internationally recognized for his humanitarian work;

Whereas Dr. Burgess established the Prosthetics Outreach Foundation, which since 1988, has enabled over 10,000 children and adults in the developing world to receive quality prostheses;

Whereas Dr. Burgess' lifelong commitment to humanitarian causes led him to establish a demonstration clinic in Vietnam to provide free limbs to thousands of amputees;

Whereas Dr. Burgess received numerous professional and educational distinctions recognizing his efforts on behalf of those in need of care;

Whereas Dr. Burgess' exceptional service and his unflinching dedication to improving the lives of thousands of individuals merit high esteem and admiration; and

Whereas the Senate learned with sorrow of the death of Dr. Burgess on September 26, 2000: Now, therefore, be it

Resolved, That the Senate—

(1) extends its deepest condolences to the family of Ernest Burgess, M.D.;

(2) commends and expresses its gratitude to Ernest Burgess, M.D. and his family for a life devoted to providing care and service to his fellow man; and

(3) directs the Secretary of the Senate to communicate this resolution to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

AMENDMENTS SUBMITTED—  
SEPTEMBER 27, 2000

PROFESSIONAL STANDARDS FOR  
GOVERNMENT ATTORNEYS ACT  
OF 1999

LEAHY AMENDMENT NO. 4218

(Ordered referred to the Committee on the Judiciary)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (S. 855) to clarify the applicable standards of professional conduct for attorneys for the Government, and other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Professional Standards for Government Attorneys Act of 2000".

SEC. 2. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

Section 530B of title 28, United States Code, is amended to read as follows:

"SEC. 530B. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

"(a) DEFINITION.—In this section, the term 'Government attorney'—

(1) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Assistant Attorneys General; and any attorney employed in, the Antitrust Division, Civil Division, Civil Rights Division, Criminal Division, Environment and Natural Resources Division, and Tax Division; the Chief Counsel for the Drug Enforcement Administration and any attorney employed in the DEA Office of Chief Counsel; the General Counsel of the Federal Bureau of Investigation and any attorney employed in the FBI Office of General Counsel; any attorney employed in, or head of, any other legal office in a Department of Justice agency; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney appointed under section 515; any Special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any independent counsel, or employee of such counsel, appointed under chapter 40; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

(2) does not include any attorney employed as an investigator or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

"(b) CHOICE OF LAW.—Subject to any uniform national rule prescribed by the Supreme Court under chapter 131, the standards of professional responsibility that apply to a Government attorney with respect to the attorney's work for the Government shall be—

"(1) for conduct in connection with a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of that court;

"(2) for conduct in connection with a grand jury proceeding, the standards of professional responsibility established by the rules and decisions of the court under whose authority the grand jury was impanelled; and

“(3) for all other conduct, the standards of professional responsibility established by the rules and decisions of the Federal district court for the judicial district in which the attorney principally performs his official duties.

“(c) DISCIPLINARY AUTHORITY.—

“(1) IN GENERAL.—With respect to conduct that is governed by the standards of professional responsibility of a Federal court pursuant to subsection (b)—

“(A) a Government attorney is not subject to the disciplinary authority of any disciplinary body other than a Federal court or the Department of Justice’s Office of Professional Responsibility unless the attorney is referred by a Federal court;

“(B) a Federal court shall not refer a Government attorney to any disciplinary body except upon finding reasonable grounds to believe that the attorney may have violated the applicable standards of professional responsibility; and

“(C) in any exercise of disciplinary authority by any disciplinary body under this subsection—

“(i) the standards of professional responsibility to be applied shall be the standards applicable pursuant to subsection (b); and

“(ii) the disciplinary body shall, whenever possible, seek to promote Federal uniformity in the application of such standards.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to abridge, enlarge, or modify the disciplinary authority of the Federal courts or the Office of Professional Responsibility of the Department of Justice.

“(d) LICENSURE.—A Government attorney (except foreign counsel employed in special cases)—

(1) shall be duly licensed and authorized to practice as an attorney under the laws of a State; and

(2) shall not be required to be a member of the bar of any particular State.

“(e) RULEMAKING AUTHORITY.—The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking “Ethical standards for attorneys for the Government” and inserting “Professional standards for Government attorneys”.

(c) REPORTS.—

(1) UNIFORM RULE.—In order to encourage the Supreme Court to prescribe, under chapter 131 of title 28, United States Code, a uniform national rule for Government attorneys with respect to communications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.

(2) ACTUAL OR POTENTIAL CONFLICTS.—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include—

(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulation of Government attorneys (as that term is defined in section 530B of title 28, United States Code, as amended by this Act)

by existing standards of professional responsibility; and

(B) recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under subparagraph (A).

(3) REPORT CONSIDERATIONS.—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—

(A) the needs and circumstances of multiforum and multijurisdictional litigation;

(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

(C) practices that are approved under Federal statutory or case law or that are otherwise consistent with traditional Federal law enforcement techniques.

AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000

KENNEDY AMENDMENTS NOS. 4219–4223

(Ordered to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the bill (S. 2045) amending the Immigration and Nationality Act with respect to H-1B nonimmigrant aliens.

AMENDMENT NO. 4219

At the appropriate place, add the following:

RECRUITMENT FROM UNDERREPRESENTED MINORITY GROUPS.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), as amended by section 202, is further amended by inserting after subparagraph (H) the following:

“(I) The employer certifies that the employer—

“(i) is taking steps to recruit qualified United States workers who are members of underrepresented minority groups, including—

“(I) recruiting at a wide geographical distribution of institutions of higher education, including historically black colleges and universities, other minority institutions, community colleges, and vocational and technical colleges; and

“(II) advertising of jobs to publications reaching underrepresented groups of United States workers, including workers older than 35, minority groups, non-English speakers, and disabled veterans, and

“(ii) will submit to the Secretary of Labor at the end of each fiscal year in which the employer employs an H-1B worker a report that describes the steps so taken.

For purposes of this subparagraph, the term ‘minority’ includes individuals who are African-American, Hispanic, Asian, and women.”

AMENDMENT NO. 4220

At the appropriate place, add the following:

DEPARTMENT OF LABOR SURVEY; REPORT.

(1) SURVEY.—The Secretary of Labor shall conduct an ongoing survey of the level of compliance by employers with the provisions and requirements of the H-1B visa program. In conducting this survey, the Secretary

shall use an independently developed random sample of employers that have petitioned the INS for H-1B visas. The Secretary is authorized to pursue appropriate penalties where appropriate.

(2) REPORT.—Beginning 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of Labor shall submit a report to Congress containing the findings of the survey conducted during the preceding 2-year period.

AMENDMENT NO. 4221

At the appropriate place, add the following:

USE OF FEES FOR DUTIES RELATING TO PETITIONS.

Section 286(s)(5) of the Immigration and Nationality Act (8 U.S.C. (s)(5) is amended to read as follows:—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 214(c) related to petitions made for nonimmigrants describes in section 101(a)(15)(H)(i)(b), under paragraph (1)(c) or (D) of section 204 related to petitions for immigrants described in section 203(b), and under section 212(n)(5).

Notwithstanding any other provision of this Act, the figure on page 11, line 2 is deemed to be “22 percent”; the figure on page 12, line 25 deemed to be “4 percent”; and the figure on page 13 line 2 is deemed to be “2 percent”.

AMENDMENT NO. 4222

At the appropriate place, add the following:

PARTNERSHIP CONSIDERATIONS.

Consideration in the awarding of grants shall be given to any partnership that involves a labor-management partnership, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of United States workers and obtaining services to meet such needs.

AMENDMENT NO. 4223

At the appropriate place, add the following:

IMPOSITION OF FEES.

Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A) is amended by striking “(excluding” and all that follows through “2001)” and inserting “(excluding any employer any that is a primary or secondary education institution, an institution of the higher education, as defined in section 101(a) of the Higher Education Act Of 1965 (20 U.S.C. 1001(a)), a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing”.

KENNEDY (AND OTHERS) AMENDMENT NO. 4224

(Ordered to lie on the table.)

Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. REED, Mr. GRAHAM, Mr. LEAHY, Mr. WELLSTONE, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, S. 2045, supra; as follows:

At the appropriate place, insert the following:

TITLE —LATINO AND IMMIGRANT FAIRNESS ACT OF 2000

SEC. 01. SHORT TITLE.

This title may be cited as the “Latino and Immigrant Fairness Act of 2000”.

**Subtitle A—Central American and Haitian Parity**

**SEC. 11. SHORT TITLE.**

This subtitle may be cited as the “Central American and Haitian Parity Act of 2000”.

**SEC. 12. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS FROM EL SALVADOR, GUATEMALA, HONDURAS, AND HAITI.**

Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in the section heading, by striking “NICARAGUANS AND CUBANS” and inserting “NICARAGUANS, CUBANS, SALVADORANS, GUATEMALANS, HONDURANS, AND HAITIANS”;

(2) in subsection (a)(1)(A), by striking “2000” and inserting “2003”;

(3) in subsection (b)(1), by striking “Nicaragua or Cuba” and inserting “Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti”; and

(4) in subsection (d)—

(A) in subparagraph (A), by striking “Nicaragua or Cuba” and inserting “Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti”; and

(B) in subparagraph (E), by striking “2000” and inserting “2003”.

**SEC. 13. APPLICATIONS PENDING UNDER AMENDMENTS MADE BY SECTION 203 OF THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.**

An application for relief properly filed by a national of Guatemala or El Salvador under the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, shall, at the election of the applicant, be considered to be an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by sections 12 and 15 of this Act, upon the payment of any fees, and in accordance with procedures, that the Attorney General shall prescribe by regulation. The Attorney General may not refund any fees paid in connection with an application filed by a national of Guatemala or El Salvador under the amendments made by section 203 of that Act.

**SEC. 14. APPLICATIONS PENDING UNDER THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.**

An application for adjustment of status properly filed by a national of Haiti under the Haitian Refugee Immigration Fairness Act of 1998 which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, may be considered by the Attorney General to also constitute an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by sections 12 and 15 of this Act.

**SEC. 15. TECHNICAL AMENDMENTS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.**

(a) IN GENERAL.—Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in subsection (a)—

(A) by inserting before the period at the end of paragraph (1)(B) the following: “, and the Attorney General may, in the unreviewable discretion of the Attorney General, waive the grounds of inadmissibility specified in section 212(a)(1) (A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General’s consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien’s reembarcation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act.”;

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

“(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General grants the application for adjustment of status, the Attorney General shall cancel the order.”;

(2) in subsection (b)(1), by adding at the end the following: “Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for relief under that subsection in deportation or removal proceedings.”;

(3) in subsection (c)(1), by adding at the end the following: “Nothing in this Act requires the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.”;

(4) in subsection (d)—

(A) by amending the subsection heading to read as follows: “SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—”;

(B) by amending the heading of paragraph (1) to read as follows: “ADJUSTMENT OF STATUS.—”;

(C) by amending paragraph (1)(A) to read as follows:

“(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000”;

(D) in paragraph (1)(B), by striking “except that in the case of” and inserting the following: “except that—

“(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

“(ii) in the case of”;

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

“(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

“(A) IN GENERAL.—In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or child—

“(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

“(ii) applies for such a visa within a time period to be established by such regulations.

“(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such fees—

“(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

“(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.”;

(5) in subsection (g), by inserting “, or an immigrant classification,” after “for permanent residence”;

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

“(i) STATUTORY CONSTRUCTION.—Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.”.

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if included in the enactment of the Nicaraguan and Central American Relief Act. The amendments made by paragraphs (1) (A)–(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

**SEC. 16. TECHNICAL AMENDMENTS TO THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.**

(a) IN GENERAL.—Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 is amended—

(1) in subsection (a)—

(A) by inserting before the period at the end of paragraph (1)(B) the following: “, and the Attorney General may waive the grounds of inadmissibility specified in section 212(a) (1)(A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, or for permission to reapply for admission to the United States for the purpose of adjustment of status under this section, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General’s consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the

alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act."; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

"(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General grants the application for adjustment of status, the Attorney General shall cancel the order.";

(2) in subsection (b)(1), by adding at the end the following: "Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for such relief under that subsection in deportation or removal proceedings.";

(3) in subsection (c)(1), by adding at the end the following: "Nothing in this Act shall require the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.";

(4) in subsection (d)—

(A) by amending the subsection heading to read as follows: "SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—";

(B) by amending the heading of paragraph (1) to read as follows: "ADJUSTMENT OF STATUS.—";

(C) by amending paragraph (1)(A), to read as follows:

"(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000.";

(D) in paragraph (1)(B), by striking "except that in the case of" and inserting the following: "except that—

"(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

"(ii) in the case of";

(E) by adding at the end of paragraph (1) the following new subparagraph:

"(E) the alien applies for such adjustment before April 3, 2003."; and

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

"(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

"(A) IN GENERAL.—In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United

States as an immigrant following to join the principal applicant, if the spouse or child—

"(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

"(ii) applies for such a visa within a time period to be established by such regulations.

"(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such fees—

"(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

"(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.";

(5) in subsection (g), by inserting " or an immigrant classification," after "for permanent residence";

(6) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(7) by inserting after subsection (h) the following new subsection:

"(i) STATUTORY CONSTRUCTION.—Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.".

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if included in the enactment of the Haitian Refugee Immigration Fairness Act of 1998. The amendments made by paragraphs (1) (A)–(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

#### SEC. 17. MOTIONS TO REOPEN.

(a) NATIONALS OF HAITI.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Haiti who, on the date of enactment of this Act, has a final administrative denial of an application for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998, and is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998.

(b) NATIONALS OF CUBA.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Cuba or Nicaragua who, on the date of enactment of the Act, has a final administrative denial of an application for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act, and who is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act.

#### Subtitle B—Adjustment of Status of Other Aliens

##### SEC. 21. ADJUSTMENT OF STATUS.

(a) GENERAL AUTHORITY.—Notwithstanding any other provision of law, an alien described in paragraph (1) or (2) of subsection (b) shall be eligible for adjustment of status by the Attorney General under the same procedures and under the same grounds of eligibility as are applicable to the adjustment of status of aliens under section 202 of the Nicaraguan Adjustment and Central American Relief Act.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is—

(1) any alien who was a national of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, any or state of the former Yugoslavia and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days; and

(2) any alien who is a national of Liberia and who has been physically present in the United States for a continuous period, beginning not later than December 31, 1996, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

#### Subtitle C—Restoration of Section 245(i) Adjustment of Status Benefits

##### SEC. 31. REMOVAL OF CERTAIN LIMITATIONS ON ELIGIBILITY FOR ADJUSTMENT OF STATUS UNDER SECTION 245(i).

(a) IN GENERAL.—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended by striking "(i)(1)" through "The Attorney General" and inserting the following:

"(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

"(A) entered the United States without inspection; or

"(B) is within one of the classes enumerated in subsection (c) of this section;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119; 111 Stat. 2440).

##### SEC. 32. USE OF SECTION 245(i) FEES.

Section 245(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(3)(B)) is amended to read as follows:

"(B) One-half of any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 286(m), and one-half of any remaining portion of such fees shall be deposited by the Attorney General into the Breached Bond/Detention Fund established under section 286(r)."

**Subtitle D—Extension of Registry Benefits****SEC. 41. SHORT TITLE.**

This subtitle may be cited as the "Date of Registry Act of 2000".

**SEC. 42. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS.**

(a) IN GENERAL.—Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended—

(1) in subsection (a), by striking "January 1, 1972" and inserting "January 1, 1986"; and  
(2) by striking "JANUARY 1, 1972" in the heading and inserting "JANUARY 1, 1986".

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(c) EXTENSION OF DATE OF REGISTRY.—

(A) PERIOD BEGINNING JANUARY 1, 2002.—Beginning on January 1, 2002, section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended by striking "January 1, 1986" each place it appears and inserting "January 1, 1987".

(B) PERIOD BEGINNING JANUARY 2003.—Beginning on January 1, 2003, section 249 of such Act is amended by striking "January 1, 1987" each place it appears and inserting "January 1, 1988".

(C) PERIOD BEGINNING JANUARY 1, 2004.—Beginning on January 1, 2004, section 249 of such Act is amended by striking "January 1, 1988" each place it appears and inserting "January 1, 1989".

(D) PERIOD BEGINNING JANUARY 1, 2005.—Beginning on January 1, 2005, section 249 of such Act is amended by striking "January 1, 1989" each place it appears and inserting "January 1, 1990".

(E) PERIOD BEGINNING JANUARY 1, 2006.—Beginning on January 1, 2006, section 249 of such Act is amended by striking "January 1, 1990" each place it appears and inserting "January 1, 1991."

"RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JULY 1, 1924 OR JANUARY 1, 1986".

(3) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act is amended by amending the item relating to section 249 to read as follows:

"Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to July 1, 1924 or January 1, 1986."

(c) EFFECTIVE DATE.—THE AMENDMENTS MADE BY THIS SECTION SHALL TAKE EFFECT ON JANUARY 1, 2001, AND THE AMENDMENT MADE BY SUBSECTION (A) SHALL APPLY TO APPLICATIONS TO RECORD LAWFUL ADMISSION FOR PERMANENT RESIDENCE THAT ARE FILED ON OR AFTER JANUARY 1, 2001.

**CONRAD AMENDMENT NO. 4225**

(Ordered to lie on the table.)

Mr. CONRAD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by them to the bill, S. 2045, supra; as follows:

At the appropriate place, add the following:

**SEC. . EXCLUSION OF CERTAIN "J" NON-IMMIGRANTS FROM NUMERICAL LIMITATIONS APPLICABLE TO "H-1B" NONIMMIGRANTS.**

The numerical limitations contained in section 2 of this Act shall not apply to any nonimmigrant alien granted a waiver that is subject to the limitation contained in paragraph (1)(B) of the first section 214(1) of the Immigration and Nationality Act (relating to restrictions on waivers).

**KERRY AMENDMENT NO. 4226**

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill, S. 2045, supra; as follows:

At the appropriate place, insert the following:

**SEC. 9. STUDY AND REPORT ON THE "DIGITAL DIVIDE".**

(a) STUDY.—The Secretary of Commerce shall conduct a review of existing public and private high-tech workforce training programs in the United States.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

**NATIONAL ENERGY SECURITY ACT OF 2000****BINGAMAN (AND OTHERS) AMENDMENT NO. 4227**

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. BYRD, Mr. BAUCUS, Mr. LEVIN, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. BAYH, and Mr. AKAKA) submitted an amendment intended to be proposed by them to the bill (S. 2045) protecting the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the year 2010 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies, mitigating the effect of increases in energy prices on the American consumer, including the poor and the elderly, and for other purposes.

Strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Energy Security Tax and Policy Act of 2000".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS**

Sec. 101. Incentive for Distributed Generation.

Sec. 102. Credit for energy-efficient property used in business, including hybrid vehicles.

Sec. 103. Energy Efficient Commercial Building Property Deduction.

**TITLE II—NONBUSINESS ENERGY SYSTEMS**

Sec. 201. Credit for certain nonbusiness energy systems.

**TITLE III—ALTERNATIVE FUELS**

Sec. 301. Allocation of alcohol fuels credit to patrons of a cooperative.

**TITLE IV—AUTOMOBILES**

Sec. 401. Extension of credit for qualified electric vehicles.

Sec. 402. Additional Deduction for Cost of Installation of Alternative Fueling Stations.

Sec. 403. Credit for Retail Sale of Clean Burning Fuels as Motor Vehicle Fuel.

Sec. 404. Exception to HOV Passenger Requirements for Alternative Fuel Vehicles.

**TITLE V—CLEAN COAL TECHNOLOGIES**

Sec. 501. Credit for investment in qualifying clean coal technology.

Sec. 502. Credit for production from qualifying clean coal technology.

Sec. 503. Risk pool for qualifying clean coal technology.

**TITLE VI—METHANE RECOVERY**

Sec. 601. Credit for capture of coalmine methane gas.

**TITLE VII—OIL AND GAS PRODUCTION**

Sec. 701. Credit for production of re-refined lubricating oil.

Sec. 702. Oil and gas from marginal wells.

Sec. 703. Deduction for delay rental payments.

Sec. 704. Election to expense geological and geophysical expenditures.

**TITLE VIII—RENEWABLE POWER GENERATION**

Sec. 801. Modifications to credit for electricity produced from renewable resources.

Sec. 802. Credit for capital costs of qualified biomass-based generating system.

Sec. 803. Treatment of facilities using bagasse to produce energy as solid waste disposal facilities eligible for tax-exempt financing.

Sec. 804. Federal renewable portfolio standard.

**TITLE IX—STEELMAKING**

Sec. 901. Extension of credit for electricity to production from steel congeneration.

**TITLE X—ENERGY EMERGENCIES**

Sec. 1001. Energy Policy and Conservation Act Amendments.

Sec. 1002. Energy Conservation Programs for Schools and Hospitals.

Sec. 1003. State Energy Programs.

Sec. 1004. Annual Home Heating Readiness.

Sec. 1005. Summer Fill and Fuel Budgeting Programs.

Sec. 1006. Use of Energy Futures for Fuel Purchases.

Sec. 1007. Increased Use of Alternative Fuels by Federal Fleets.

Sec. 1008. Full Expensing of Home Heating Oil and Propane Storage Facilities.

**TITLE XI—ENERGY EFFICIENCY**

Sec. 1101. Energy Savings Performance Contracts.

Sec. 1102. Weatherization.

Sec. 1103. Public Benefits System.

Sec. 1104. National Oil Heat Research Alliance Act.

**TITLE XII—ELECTRICITY**

Sec. 1201. Comprehensive Indian Energy Program.

Sec. 1202. Interconnection.

**TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS****SEC. 101. INCENTIVE FOR DISTRIBUTED GENERATION.**

(a) IN GENERAL.—Section 168(e)(3)(E) of the Internal Revenue Code (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (ii), striking the period at the end of clause (iii) and inserting ", and" and by adding the following new clauses:

"(iv) any distributed power property."

(b) CONFORMING AMENDMENTS.—(1) Section 168(i) is amended by adding at the end following new paragraph:

“(15) DISTRIBUTED POWER PROPERTY.—The term ‘distributed power property’ means property—

“(A) which is used in the generation of electricity for primary use—

“(i) in nonresidential real or residential rental property used in the taxpayer’s trade or business, or

“(ii) in the taxpayer’s industrial manufacturing process of plant activity, with a rated total capacity in excess of 500 kilowatts,

“(B) which also may produce usable thermal energy or mechanical power for use in a heating or cooling application, as long as at least 40 percent of the total useful energy produced consists of—

“(i) with respect to assets described in subparagraph (a)(i), electrical power (whether sold or used by the taxpayer), or

“(ii) with respect to assets described in subparagraph (A)(ii), electrical power (whether sold or used by the taxpayer) and thermal or mechanical energy used in the taxpayer’s industrial manufacturing process or plant activity,

“(C) which is not used to transport primary fuel to the generating facility or to distribute energy within or outside of the facility, and

“(D) where it is reasonably expected that not more than 50 percent of the produced electricity will be sold to, or used by, unrelated persons.

For purposes of subparagraph (B), energy output is determined on the basis of expected annual output levels, measured in British thermal units (Btu), using standard conversion factors established by the Secretary.”

(2) Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(iii) in the table contained therein the following new line:

“(E)(iv) 22”.

(c) EFFECTIVE DATE.—The amendments made by this section are effective for property placed in service on or after December 31, 2000.

#### SEC. 102. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

##### “SEC. 48A. ENERGY CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the energy credit for any taxable year is the sum of—

“(1) the amount equal to the energy percentage of the basis of each energy property placed in service during such taxable year, and

“(2) the credit amount for each qualified hybrid vehicle placed in service during the taxable year.

“(b) ENERGY PERCENTAGE.—

“(1) IN GENERAL.—The energy percentage is—

“(A) except as otherwise provided in this subparagraph, 10 percent,

“(B) in the case of energy property described in clauses (i), (iii), (vi), and (vii) of subsection (c)(1)(A), 20 percent,

“(C) in the case of energy property described in subsection (c)(1)(A)(v), 15 percent, and

“(D) in the case of energy property described in subsection (c)(1)(A)(ii) relating to a high risk geothermal well, 20 percent.

“(2) COORDINATION WITH REHABILITATION.—The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

“(c) ENERGY PROPERTY DEFINED.—

“(1) IN GENERAL.—For purposes of this subpart, the term ‘energy property’ means any property—

“(A) which is—

“(i) solar energy property,

“(ii) geothermal energy property,

“(iii) energy-efficient building property,

“(iv) combined heat and power system property,

“(v) low core loss distribution transformer property,

“(vi) qualified anaerobic digester property, or

“(vii) qualified wind energy systems equipment property,

“(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

“(C) which can reasonably be expected to remain in operation for at least 5 years,

“(D) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

“(E) which meets the performance and quality standards (if any) which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

“(ii) are in effect at the time of the acquisition of the property.

“(2) EXCEPTIONS.—

“(A) PUBLIC UTILITY PROPERTY.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), except for property described in paragraph (1)(A)(iv).

“(B) CERTAIN WIND EQUIPMENT.—Such term shall not include equipment described in paragraph (1)(A)(vii) which is taken into account for purposes of section 45 for the taxable year.

“(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

“(1) SOLAR ENERGY PROPERTY.—

“(A) IN GENERAL.—The term ‘solar energy property’ means equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat.

“(B) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—The term ‘solar energy property’ shall not include property with respect to which expenditures are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

“(C) SOLAR PANELS.—No solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

“(2) GEOTHERMAL ENERGY PROPERTY.—

“(A) IN GENERAL.—The term ‘geothermal energy property’ means equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

“(B) HIGH RISK GEOTHERMAL WELL.—The term ‘high risk geothermal well’ means a geothermal deposit (within the meaning of section 613(e)(2)) which requires high risk drilling techniques. Such deposit may not be located in a State or national park or in an area in which the relevant State park authority or the National Park Service determines the development of such a deposit will negatively impact on a State or national park.

“(3) ENERGY-EFFICIENT BUILDING PROPERTY.—

“(A) IN GENERAL.—The term ‘energy-efficient building property’ means—

“(i) a fuel cell that—

“(I) generates electricity and heat using an electrochemical process,

“(II) has an electricity-only generation efficiency greater than 35 percent, and

“(III) has a minimum generating capacity of 5 kilowatts,

“(ii) an electric heat pump hot water heater that yields an energy factor of 1.7 or greater under standards prescribed by the Secretary of Energy,

“(iii) an electric heat pump that has a heating system performance factor (HSPF) of 9 or greater and a cooling seasonal energy efficiency ratio (SEER) of 13.5 or greater,

“(iv) a natural gas heat pump that has a coefficient of performance of not less than 1.25 for heating and not less than 0.60 for cooling,

“(v) a central air conditioner that has a cooling seasonal energy efficiency ratio (SEER) of 13.5 or greater,

“(vi) an advanced natural gas water heater that—

“(I) increases steady state efficiency and reduces standby and vent losses, and

“(II) has an energy factor of at least 0.65,

“(vii) an advanced natural gas furnace that achieves a 95 percent AFUE, and

“(viii) natural gas cooling equipment—

“(I) that has a coefficient of performance of not less than .60, or

“(II) that uses desiccant technology and has an efficiency rating of 40 percent.

“(B) LIMITATIONS.—The credit under subsection (a)(1) for the taxable year may not exceed—

“(i) \$500 in the case of property described in subparagraph (A) other than clauses (i) and (iv) thereof,

“(ii) \$500 for each kilowatt of capacity in the case of a fuel cell described in subparagraph (A)(i), and

“(iii) \$1,000 in the case of a natural gas heat pump described in subparagraph (A)(iv).

“(4) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

“(A) IN GENERAL.—The term ‘combined heat and power system property’ means property—

“(i) comprising a system for using the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with steam, heat, or other forms of useful energy,

“(ii) that has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities, and

“(iii) that produces at least 20 percent of its total useful energy in the form of both thermal energy and electrical or mechanical power.

“(B) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—In the case that combined heat and power system property is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the taxpayer may only claim the credit under subsection (a)(1) if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(5) LOW CORE LOSS DISTRIBUTION TRANSFORMER PROPERTY.—The term ‘low core loss distribution transformer property’ means a distribution transformer which has energy savings from a highly efficient core of at least 20 percent more than the average for power ratings reported by studies required under section 124 of the Energy Policy Act of 1992.

“(6) QUALIFIED ANAEROBIC DIGESTER PROPERTY.—The term ‘qualified anaerobic digester property’ means an anaerobic digester for manure or crop waste that achieves at least 65 percent efficiency measured in terms of the fraction of energy input converted to electricity and useful thermal energy.

“(7) QUALIFIED WIND ENERGY SYSTEMS EQUIPMENT PROPERTY.—The term ‘qualified wind energy systems equipment property’ means wind energy systems equipment with a turbine size of not more than 50 kilowatts rated capacity.

“(e) QUALIFIED HYBRID VEHICLES.—For purposes of subsection (a)(2).—

“(1) CREDIT AMOUNT.—

“(A) IN GENERAL.—The credit amount for each qualified hybrid vehicle with a rechargeable energy storage system that provides the applicable percentage of the maximum available power shall be the amount specified in the following table:

“Applicable percentage greater than or equal to—(percent)	Less than—(percent)	Credit amount is:
5 .....	10	\$500
10 .....	20	1,000
20 .....	30	1,500
30 .....		2,000

“(B) INCREASE IN CREDIT AMOUNT FOR REGENERATIVE BRAKING SYSTEM.—In the case of a qualified hybrid vehicle that actively employs a regenerative braking system which supplies to the rechargeable energy storage system the applicable percentage of the energy available from braking in atypical 60 miles per hour to 0 miles per hour braking event, the credit amount determined under subparagraph (A) shall be increased by the amount specified in the following table:

“Applicable percentage Greater than or equal to—(percent)	Less than—(percent)	Credit amount increase is:
20 .....	40	\$250
40 .....	60	500
60 .....		1,000

“(2) QUALIFIED HYBRID VEHICLE.—The term ‘qualified hybrid vehicle’ means an automobile that meets all regulatory requirements applicable to gasoline-powered automobiles and that can draw propulsion energy from both of the following on-board sources of stored energy:

“(A) A consumable fuel.

“(B) A rechargeable energy storage system, provided that the automobile is at least 33% more efficient than the average vehicle in its vehicle characterization as defined by EPA.

“(3) MAXIMUM AVAILABLE POWER.—The term ‘maximum available power’ means the maximum value of the sum of the heat engine and electric drive system power or other non-heat energy conversion devices available for a driver’s command for maximum acceleration at vehicle speeds under 75 miles per hour.

“(4) AUTOMOBILE.—The term ‘automobile’ has the meaning given such term by section 4064(b)(1) (without regard to subparagraphs (B) and (C) thereof). A vehicle shall not fail to be treated as an automobile solely by reason of weight if such vehicle is rated at 8,500 pounds gross vehicle weight rating or less.

“(5) DOUBLE BENEFIT; PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a)(2) with respect to—

“(A) any property for which a credit is allowed under section 25B or 30,

“(B) any property referred to in section 50(b), and

“(C) the portion of the cost of any property taken into account under section 179 or 179A.

“(6) REGULATIONS.—

“(A) TREASURY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

“(B) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall prescribe such regulations as may be necessary or appropriate to specify the testing and calculation procedures that would be used to determine whether a vehicle meets the qualifications for a credit under this subsection.

“(7) TERMINATION.—Paragraph (2) shall not apply with respect to any vehicle placed in service during a calendar year ending before January 1, 2003, or after December 31, 2006.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

“(A) REDUCTION OF BASIS.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

“(i) subsidized energy financing, or

“(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt from tax under section 103, the amount taken into account as the basis of such property shall not exceed the amount which (but for this subparagraph) would be so taken into account multiplied by the fraction determined under subparagraph (B).

“(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

“(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and

“(ii) the denominator of which is the basis of the property.

“(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term ‘subsidized energy financing’ means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

“(2) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

“(g) APPLICATION OF SECTION.—

“(1) IN GENERAL.—Except as provided by paragraph (2) and subsection (e), this section shall apply to property placed in service after December 31, 2000, and before January 1, 2004.

“(2) EXCEPTIONS.—

“(A) SOLAR ENERGY AND GEOTHERMAL ENERGY PROPERTY.—Paragraph (1) shall not apply to solar energy property or geothermal energy property.

“(B) FUEL CELL PROPERTY.—In the case of property that is a fuel cell described in subsection (d)(3)(A)(i), this section shall apply to property placed in service after December 31, 2000, and before January 1, 2005.”

(e) CONFORMING AMENDMENTS.—

(1) Section 48 is amended to read as follows:

**“SEC. 48. REFORESTATION CREDIT.**

“(a) IN GENERAL.—For purposes of section 46, the reforestation credit for any taxable year is 20 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

“(b) DEFINITIONS.—For purposes of this subpart, the terms ‘amortizable basis’ and

‘qualified timber property’ have the respective meanings given to such terms by section 194.”

(2) Section 39(d) is amended by adding at the end the following:

“(9) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A.”

(3) Section 280C is amended by adding at the end the following:

“(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

“(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses for energy property (as defined in section 48A(c)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 48A(a).

“(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—

“(A) the amount of the credit allowable for the taxable year under section 48A (determined without regard to section 38(c)), exceeds

“(B) the amount allowable as a deduction for the taxable year for expenses for energy property (determined without regard to paragraph (1)), the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

“(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.”

(4) Section 29(b)(3)(A)(i)(III) is amended by striking “section 48(a)(4)(C)” and inserting “section 48A(f)(1)(C)”.

(5) Section 50(a)(2)(E) is amended by striking “section 48(a)(5)” and inserting “section 48A(f)(2)”.

(6) Section 168(e)(3)(B) is amended—

(A) by striking clause (vi)(I) and inserting the following:

“(I) is described in paragraph (1) or (2) of section 48A(d) (or would be so described if “solar and wind” were submitted for “solar” in paragraph (1)(B)),” and

(B) in the last sentence by striking “section 48(a)(3)” and inserting “section 48A(c)(2)(A)”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48 and inserting the following:

“Sec. 48. Reforestation credit.

“Sec. 48A. Energy credit.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 103. ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY DEDUCTION.**

“(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the sum of the energy efficient commercial building amount determined under subsection (b).

“(b)(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

“(A) IN GENERAL.—The energy efficient commercial building property deduction determined under this subsection is an amount equal to energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

“(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial

building property expenditures taken into account under subparagraph (A) shall not exceed an amount equal to the product of—

- “(i) \$2.25, and
- “(ii) the square footage of the building with respect to which the expenditures are made.

“(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction of the building is completed.

“(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection, the term ‘energy efficient commercial building property expenditures’ means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

“(A) for which depreciation is allowable under section 167,

“(B) which is located in the United States, and

“(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1-1999 (described in paragraph (3)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

“(3) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (2)—

“(A) IN GENERAL.—The term ‘energy efficient commercial building property’ means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (6).

“(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

“(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

“(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

“(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

“(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1-1999, or

“(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii)

“(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

“(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1-1999.

“(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the hearing source is a gas or oil furnace or an electric heat pump.

“(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1-1999 or in the 1998 California Nonresidential ACM Manual, including the following:

“(I) Natural ventilation.

“(II) Evaporative cooling.

“(III) Automatic lighting controls such as occupancy sensors, photocells, and time-clocks.

“(IV) Daylighting.

“(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

“(VI) Improved fan system efficiency, including reductions in static pressure.

“(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

“(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

“(C) COMPUTER SOFTWARE.—

“(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

“(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term ‘qualified computer software’ means software—

“(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

“(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

“(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

“(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficiency commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the tax payer for purposes of this subsection.

“(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(C)(ii)(III).

“(6) CERTIFICATION.—

“(A) IN GENERAL.—Except as provided in this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures similar to the procedures under section 25B(c)(7).

“(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

“(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

“(g) TERMINATION.—This section shall not apply with respect to—

“(1) any energy property placed in service before December 31, 2000 and after December 31, 2006, and

“(2) any energy efficient commercial building property expenditures in connection with property—

“(A) the plans for which are not certified under subsection (f)(6) on or before December 31, 2006, and

“(B) the construction of which is not completed on or before December 31, 2008.”

TITLE II—NONBUSINESS ENERGY SYSTEMS

SEC. 201. CREDIT FOR CERTAIN NONBUSINESS ENERGY SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits) is amended by inserting after section 25A the following:

“SEC. 25B. NONBUSINESS ENERGY PROPERTY.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(A) the applicable percentage of residential energy property expenditures made by the taxpayer during such year,

“(B) the credit amount (determined under section 48A(e)) for each vehicle purchased during the taxable year which is a qualified hybrid vehicle (as defined in section 48A(e)(2)), and

“(C) the credit amount specified in the following table for a new, highly energy-efficient principal residence:

“Column A—Description In the case of:	Column B— Credit Amount The credit amount is:	Column C—Period For the period:	
		Beginning on:	Ending on:
30 percent property .....	\$1,000	1/1/2001	12/31/2002
50 percent property .....	2,000	1/1/2001	12/31/2004”

In the case of any new, highly energy-efficient principal residence, the credit amount shall be zero for any period for which a credit amount is not specified for such property in the table under subparagraph (C).

“(2) APPLICABLE PERCENTAGE.—

“(A) IN GENERAL.—The applicable percentage shall be determined in accordance with the following table:

Column A—Description In the case of:	Column B— Applicable Percentage is:	Column C—Period For the period:	
		Beginning on:	Ending on:
20% energy-eff. bldg. prop .....	20	1/1/2001	12/31/2004
10% energy-eff. bldg. prop .....	10	1/1/2001	12/31/2002
Solar water heating property .....	15	1/1/2001	12/31/2007
Photovoltaic property .....	15	1/1/2001	12/31/2007

“(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any residential energy property, the applicable percentage shall be zero for any period for which an ap-

plicable percentage is not specified for such property under subparagraph (A).

“(b) MAXIMUM CREDIT.—  
“(1) IN GENERAL.—In the case of property described in the following table, the amount

of the credit allowed under subsection (a)(1)(A) for the taxable year for each item of such property with respect to a dwelling unit shall not exceed the amount specified for such property in such table:

Description of property item:	Maximum allowable credit amount is:
20 percent energy-efficient building property (other than a fuel cell or natural gas heat pump) .....	\$500.
20 percent energy-efficient building property: fuel cell described in section 48A(d)(3)(A)(i) .....	\$500 per each kw/hr of capacity.
Natural gas heat pump described in section 48A(d)(3)(D)(v) .....	\$1,000.
10 percent energy-efficient building property .....	\$250.
Solar water heating property .....	\$1,000.
Photovoltaic property .....	\$2,000.

“(2) COORDINATION OF LIMITATION.—If a credit is allowed to the taxpayer for any taxable year by reason of an acquisition of a new, highly energy-efficient principal residence, no other credit shall be allowed under subsection (a)(1)(A) with respect to such residence during the 1-taxable year period beginning with such taxable year.

“(c) DEFINITIONS.—For purposes of this section—

“(1) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The term ‘residential energy property expenditures’ means expenditures made by the taxpayer for qualified energy property installed on or in connection with a dwelling unit which—

“(A) is located in the United States, and  
“(B) is used by the taxpayer as a residence.

Such term includes expenditures for labor costs properly allocable to the on site preparation, assembly, or original installation of the property.

“(2) QUALIFIED ENERGY PROPERTY.—  
“(A) IN GENERAL.—The term ‘qualified energy property’ means—

“(i) energy-efficient building property,  
“(ii) solar water heating property, and  
“(iii) photovoltaic property.

“(B) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM; SOLAR PANELS.—For purposes of this paragraph, the provisions of subparagraphs (B) and (C) of section 48A(d)(1) shall apply.

“(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term ‘energy-efficient building property’ has the meaning given to such term by section 48A(e)(3).

“(4) SOLAR WATER HEATING PROPERTY.—The term ‘solar water heating property’ means property which, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within such structure.

“(5) PHOTOVOLTAIC PROPERTY.—The term ‘photovoltaic property’ means property which, when installed in connection with a structure, uses a solar photovoltaic process to generate electricity for use in such structure.

“(6) NEW, HIGHLY ENERGY-EFFICIENT PRINCIPAL RESIDENCE.—

“(A) IN GENERAL.—Property is a new, highly energy-efficient principal residence if—

“(i) such property is located in the United States,

“(ii) the original use of such property commences with the taxpayer and is, at the time of such use, the principal residence of the taxpayer, and

“(iii) such property is certified before such use commences as being 50 percent property or 30 percent property.

“(B) 50 OR 30 PERCENT PROPERTY.—  
“(i) IN GENERAL.—For purposes of subparagraph (A), property is 50 percent property or

30 percent property if the projected energy usage of such property is reduced by 50 percent or 30 percent, respectively, compared to the energy usage of a reference house that complies with minimum standard practice, such as the 1998 International Energy Conservation Code of the International Code Council, as determined according to the requirements specified in clause (ii).

“(ii) PROCEDURES.—  
“(I) IN GENERAL.—For purposes of clause (i), energy usage shall be demonstrated either by a component-based approach or a performance-based approach.

“(II) COMPONENT APPROACH.—Compliance by the component approach is achieved when all of the components of the house comply with the requirements of prescriptive packages established by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, such that they are equivalent to the results of using the performance-based approach of subclause (III) to achieve the required reduction in energy usage.

“(III) PERFORMANCE-BASED APPROACH.—Performance-based compliance shall be demonstrated in terms of the required percentage reductions in projected energy use. Computer software used in support of performance-based compliance must meet all of the procedures and methods for calculating energy savings reductions that are promulgated by the Secretary of Energy. Such regulations on the specifications for software shall be based in the 1998 California Residential Alternative Calculation Method Approval Manual, except that the calculation procedures shall be developed such that the same energy efficiency measures qualify a home for tax credits regardless of whether the home uses a gas or oil furnace or boiler, or an electric heat pump.

“(IV) APPROVAL OF SOFTWARE SUBMISSION.—The Secretary of Energy shall approve software submissions that comply with the calculation requirements of subclause (III).

“(C) DETERMINATIONS OF COMPLIANCE.—A determination of compliance made for the purposes of this paragraph shall be filed with the Secretary of Energy within 1 year of the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identify of the person for whom which determination was performed. Determinations of compliance filed with the Secretary of Energy shall be available for inspection by the Secretary.

“(D) COMPLIANCE.—  
“(i) IN GENERAL.—The Secretary of Energy in consultation with the Secretary of the Treasury shall establish requirements for certification and compliance procedures

after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(ii) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary of Energy for such purposes.

“(E) PRINCIPAL RESIDENCE.—The term ‘principal’ has the same meaning as when used in section 121, except that the period for which a building is treated as the principal residence of the taxpayer shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as the taxpayer’s principal residence.

“(d) SPECIAL RULES.—For purposes of this section—

“(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which if jointly occupied and use during any calendar year as a residence by 2 or more individuals the following shall apply:

“(A) The amounts of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(3) CONDOMINIUMS.—  
“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the

term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

**“(4) JOINT OWNERSHIP OF ENERGY ITEMS.—**

**“(A) IN GENERAL.—**Any expenditure otherwise qualifying as a residential energy property expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

**“(B) LIMITS APPLIED SEPARATELY.—**In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

**“(5) ALLOCATION IN CERTAIN CASES.—**

**“(A) IN GENERAL.—**Except as provided in subparagraph (B), if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for nonbusiness purposes.

**“(B) SPECIAL RULE FOR VEHICLES.—**For purposes of this section and section 48A, a vehicle shall be treated as used entirely for business or nonbusiness purposes if the majority of the use of such vehicle is for business or nonbusiness purposes, as the case may be.

**“(6) DOUBLE BENEFIT; PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—**No credit shall be allowed under subsection (a)(1)(B) with respect to—

**“(A)** any property for which a credit is allowed under section 30 or 48A,

**“(B)** any property referred to in section 50(b), and

**“(C)** the portion of the cost of any property taken into account under section 179 or 179A.

**“(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—**

**“(A) IN GENERAL.—**Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

**“(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—**In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made when the original use of the constructed structure by the taxpayer begins.

**“(C) AMOUNT.—**The amount of any expenditure shall be the cost thereof.

**“(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—**

**“(A) REDUCTION OF EXPENDITURES.—**For purposes of determining the amount of residential energy property expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48A(f)(1)(C)).

**“(B) DOLLAR LIMITS REDUCED.—**The dollar amounts in the table contained in subsection (b)(1) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of—

**“(i)** the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

**“(ii)** the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with

respect to the dwelling unit and is not included in the gross income of such taxpayer.

**“(9) SAFETY CERTIFICATIONS.—**No credit shall be allowed under this section for an item of property unless—

**“(A)** in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

**“(B)** in the case of photovoltaic property, such property meets appropriate fire and electric code requirements.

**“(e) BASIS ADJUSTMENTS.—**For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.”

**(b) CONFORMING AMENDMENTS.—**

(1) Section 1016(a) is amended by striking “and” at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting “; and”, and by adding at the end the following:

**“(28)** to the extent provided in section 25B(e), in the case of amounts with respect to which a credit has been allowed under section 25B.”

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following:

**“SEC. 25B. Nonbusiness energy property.”**

**(c) EFFECTIVE DATE.—**The amendments made by this section shall apply to expenditures after December 31, 2000.

**TITLE III—ALTERNATIVE FUELS**

**SEC. 301. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.**

**(a) IN GENERAL.—**Section 40(d) (relating to alcohol used as fuel) is amended by adding at the end the following:

**“(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—**

**“(A) IN GENERAL.—**In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

**“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—**The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

**“(i)** shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

**“(ii)** shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage divided for the taxable year referred to in subparagraph (A) is includable in gross income.

**“(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—**If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such in-

crease shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part.”

**(b) TECHNICAL AMENDMENT.—**Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following:

**“(k) CROSS REFERENCE.—**

“For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6).”

**(c) EFFECTIVE DATE.—**The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**TITLE IV—AUTOMOBILES**

**SEC. 401. EXTENSION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

**(a) EXTENSION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—**Subsection (f) of section 30 (relating to termination) is amended by striking ‘December 31, 2004’ and inserting ‘December 31, 2006’.

**(b) REPEAL OF PHASEOUT.—**Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

**(c) NO DOUBLE BENEFIT.—**

(1) Subsection (d) of section 30 (relating to special rules) is amended by adding at the end the following:

**“(5) NO DOUBLE BENEFIT.—**No credit shall be allowed under subsection (a) with respect to any vehicle if the taxpayer claims a credit for such vehicle under section 25B(a)(1)(B) or 48A(a)(2).”

(2) Paragraph (3) of section 30(d) (relating to property used outside United States, etc., not qualified) is amended by striking “section 50(b)” and inserting “section 25B, 48A, or 50(b)”.

(3) Paragraph (5) of section 179A(e) (relating to property used outside United States, etc., not qualified) is amended by striking “section 50(b)” and inserting “section 25B, 48A, or 50(b)”.

**(d) EFFECTIVE DATE.—**The amendments made by this section shall apply to property placed in service after December 31, 2000.

**SEC. 402. ADDITIONAL DEDUCTION FOR COST OF INSTALLATION OF ALTERNATIVE FUELING STATIONS.**

**(a) IN GENERAL.—**Subparagraph (A) of section 179A(b)(2) of the Internal Revenue Code of 1986 (relating to qualified clean-fuel vehicle refueling property) is amended to read as follows:

**“(A) IN GENERAL.—**The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the sum of—

**“(i)** with respect to costs not described in clause (ii); the excess (if any) of—

**“(I)** \$100,000, over

**“(II)** the aggregate amount of such costs taken into account under subsection (a)(1)(B) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years, plus

**“(ii)** the lesser of—

**“(I)** the cost of the installation of such property, or

**“(II)** \$30,000.”

**(b) EFFECTIVE DATE.—**The amendment made by this section shall apply to property placed in service after December 31, 2000.

**SEC. 403. CREDIT FOR RETAIL SALE OF CLEAN BURNING FUELS AS MOTOR VEHICLE FUEL.**

**(a) IN GENERAL.—**Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following:

**“SEC. 40A. CREDIT FOR RETAIL SALE OF CLEAN BURNING FUELS AS MOTOR VEHICLE FUEL.**

“(a) **GENERAL RULE.**—For purposes of section 38, the clean burning fuel retail sales credit of any taxpayer for any taxable year is 50 cents for each gasoline gallon equivalent of clean burning fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **CLEAN BURNING FUEL.**—The term ‘clean burning fuel’ means natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of which consists of methanol.

“(2) **GASOLINE GALLON EQUIVALENT.**—The term ‘gasoline gallon equivalent’ means, with respect to any clean burning fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

“(3) **QUALIFIED MOTOR VEHICLE.**—The term ‘qualified motor vehicle’ means any motor vehicle (as defined in section 179A(e)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(4) **SOLD AT RETAIL.**—

“(A) **IN GENERAL.**—The term ‘sold at retail’ means the sale, for a purpose other than resale, after manufacture, production, or importation.

“(B) **USE TREATED AS SALE.**—If any person uses clean burning fuel as a fuel to propel any qualified motor vehicle (including any use after importation) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

“(c) **NO DOUBLE BENEFIT.**—The amount of the credit determined under subsection (a) shall be reduced by the amount of any deduction or credit allowable under this chapter for fuel taken into account in computing the amount of such credit.

“(d) **TERMINATION.**—This section shall not apply to any fuel sold at retail after December 31, 2007.”

“(b) **CREDIT TREATED AS BUSINESS CREDIT.**—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ‘plus’ at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ‘, plus’, and by adding at the end the following:

“(13) the clean burning fuel retail sales credit determined under section 404A(a).”

(c) **TRANSITIONAL RULE.**—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following:

“(9) **NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.**—No portion of the unused business credit for any taxable year which is attributable to the Clean burning fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2000.”

(d) **CLERICAL AMENDMENT.**—The table of sections for subpart D or part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 40 the following:

“SEC. 40A. Credit for retail sale of cleaning burning fuels as motor vehicle fuel.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel sold at retail after December 31, 2000, in taxable years ending after such date.

**SEC. 404. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.**

Section 102(a) of title 23, United States Code, is amended by inserting “(unless, at

the discretion of the State highway department, the vehicle operates on, or is fueled by, and alternative fuel (as defined) in section 301 of Public Law 102-486 (42 U.S.C. 1321(2))” after “required”.

**TITLE V—CLEAN COAL TECHNOLOGIES**  
**SEC. 501. CREDIT FOR INVESTMENT IN QUALIFYING CLEAN COAL TECHNOLOGY.**

(a) **ALLOWANCE OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.**—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ‘, and’, and by adding at the end the following:

“(4) the qualifying clean coal technology facility credit.”

(b) **AMOUNT OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.**—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 101(a), is amended by inserting after section 48A the following:

**SEC. 48B. QUALIFYING CLEAN COAL TECHNOLOGY FACILITY CREDIT.**

“(a) **IN GENERAL.**—For purposes of section 46, the qualifying clean coal technology facility credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying clean coal technology facility for such taxable year.

“(b) **QUALIFYING CLEAN COAL TECHNOLOGY FACILITY.**—

“(1) **IN GENERAL.**—For purposes of subsection (a), the term ‘qualifying clean coal technology facility’ means a facility of the taxpayer—

“(A)(i)(I) which replaces a conventional technology facility of the taxpayer and the original use of which commences with the taxpayer, or

“(II) which is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

“(ii) that is acquired through purchase (as defined by section 179(d)(2)),

“(B) that is depreciable under section 167,

“(C) that has a useful life of not less than 4 years,

“(D) that is located in the United States, and

“(E) that uses qualifying clean coal technology.

“(2) **SPECIAL RULE FOR SALE-LEASEBACKS.**—For purposes of subparagraph (A) of paragraph (1), in the case of a facility that—

“(A) is originally placed in service by a person, and

“(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years,

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

“(3) **QUALIFYING CLEAN COAL TECHNOLOGY—FOR PURPOSES OF PARAGRAPH (1)(A)—**

“(A) **IN GENERAL.**—The term ‘qualifying clean coal technology’ means, with respect to clean coal technology—

“(i) applications totaling 1,000 megawatts of advanced pulverized coal or atmospheric fluidized bed combustion technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014

that has a design average net heat rate of not more than 8,750 Btu’s per kilowatt hour,

“(ii) applications totaling 1,500 megawatts of pressurized fluidized bed combustion technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a design average net heat rate of not more than 8,400 Btu’s per kilowatt hour,

“(iii) applications totaling 1,500 megawatts of integrated gasification combined cycle technology installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a design average net heat rate of not more than 8,550 Btu’s per kilowatt hour, and

“(iv) applications totaling 2,000 megawatts or equivalent of technology for the production of electricity installed as a new, retrofit, or repowering application and operated between 2000 and 2014 that has a carbon emission rate that is not more than 85 percent of conventional technology.

“(B) **EXCEPTIONS.**—Such term shall not include clean coal technology projects receiving or scheduled to receive funding under the Clean Coal Technology Program of the Department of Energy.

“(C) **CLEAN COAL TECHNOLOGY.**—The term ‘clean coal technology’ means advanced technology that utilizes coal to produce 50 percent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, and any other technology for the production of electricity that exceeds the performance of conventional technology.

“(D) **CONVENTIONAL COAL TECHNOLOGY.**—

The term ‘conventional technology’ means—

“(i) coal-fired combustion technology with a design average net heat rate of not less than 9,300 Btu’s per kilowatt hour (HHV) and a carbon equivalent emission rate of not more than 0.53 pounds of carbon per kilowatt hour; or

“(ii) natural gas-fired combustion technology with a design average net heat rate of not less than 7,500 Btu’s per kilowatt hour (HHV) and a carbon equivalent emission rate of not more than 0.24 pound of carbon per kilowatt hour.

“(E) **DESIGN AVERAGE NET HEAT RATE.**—The term ‘design average net heat rate’ shall be based on the design average annual heat input to and the design average annual net electrical output from the qualifying clean coal technology (determined without regard to such technology’s co-generation of steam).

“(F) **SELECTION CRITERIA.**—Selection criteria for clean coal technology facilities—

“(i) shall be established by the Secretary of Energy as part of a competitive solicitation,

“(ii) shall include primary criteria of minimum design average net heat rate, maximum design average thermal efficiency, and lowest cost to the government, and

“(iii) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

“(c) **QUALIFIED INVESTMENT.**—For purposes of subsection (a), the term ‘qualified investment’ means, with respect to any taxable year, the basis of a qualifying clean coal technology facility placed in service by the taxpayer during such taxable year.

“(d) **QUALIFIED PROGRESS EXPENDITURES.**—

“(1) **INCREASE IN QUALIFIED INVESTMENT.**—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

“(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term ‘progress expenditure property’ means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying clean coal technology facility which is being constructed by or for the taxpayer when it is placed in service.

“(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

“(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term ‘qualified progress expenditures’ means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

“(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term ‘qualified progress expenditures’ means the amount paid during the taxable year to another person for construction of such property.

“(4) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) SELF-CONSTRUCTED PROPERTY.—The term ‘self-constructed property’ means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(B) NON-SELF-CONSTRUCTED PROPERTY.—The term ‘non-self-constructed property’ means property which is not self-constructed property.

“(C) CONSTRUCTION, ETC.—The term ‘construction’ includes reconstruction and erection, and the term ‘constructed’ includes reconstructed and erected.

“(D) ONLY CONSTRUCTION OF QUALIFYING CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefore are properly chargeable to capital account with respect to the property.

“(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

“(e) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credit to such property.

“(f) TERMINATION.—This section shall not apply with respect to any qualified investment after December 31, 2014.”

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

“(6) SPECIAL RULES RELATING TO QUALIFYING CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

“(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying clean coal technology facility (as defined by section 48B(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year

of disposition of the qualifying clean coal technology facility property shall be treated as a year of remaining depreciation.

“(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying clean coal technology facility.”

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 101(b)(2), is amended by adding at the end the following:

“(10) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology facility credit determined under section 48B may be carried back to a taxable year ending before the date of the enactment of section 48B.”

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following:

“(iv) the portion of the basis of any qualifying clean coal technology facility attributable to any qualified investment (as defined by section 48B(c)).”

(2) Section 50(a)(4) is amended by striking “and (2)” and inserting “, (2), and (6)”.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 101(d), is amended by inserting after the item relating to section 48A the following:

“Sec. 48B. Qualifying clean coal technology facility credit.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 502. CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.**

(a) CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

**“SEC. 45D. CREDIT FOR PRODUCTION FROM QUALIFYING CLEAN COAL TECHNOLOGY.**

“(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the applicable amount for each kilowatt hour—

“(1) produced by the taxpayer at a qualifying clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service, and

“(2) sold by the taxpayer to an unrelated person during such taxable year.

“(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount with respect to production from a qualifying clean coal technology facility shall be determined as follows:

“(1) In the case of a facility originally placed in service before 2007, if—

“The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 yrs of such service	For 2d 5 yrs of such service
Not more than 8400 .....	\$0.130	\$0.110
More than 8400 but not more than 8550 .....	.0100	.0085
More than 8550 but not more than 8750 .....	.0090	.0070

“(2) In the case of a facility originally placed in service after 2006 and before 2011, if—

“The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 yrs of such service	For 2d 5 yrs of such service
Not more than 7770 .....	\$0.100	\$0.080
More than 7770 but not more than 8125 .....	.0080	.0065
More than 8125 but not more than 8350 .....	.0070	.0055

“(3) In the case of a facility originally placed in service after 2010 and before 2015, if—

“The facility design average net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 yrs of such service	For 2d 5 yrs of such service
Not more than 7720 .....	\$0.085	\$0.070
More than 7720 but not more than 7380 .....	.0070	.0045

“(c) INFLATION ADJUSTMENT FACTOR.—Each amount in paragraphs (1), (2), and (3) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) any term used in this section which is also used in section 48B shall have the meaning given such term in section 48B,

“(2) the rules of paragraphs (3), (4), and (5) of section 45 shall apply,

“(3) the term “inflation adjustment factor” means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1998, and

“(4) the term “GDP implicit price deflator” means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.”

“(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking “plus” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, plus”, and by adding at the end the following:

“(13) the qualifying clean coal technology production credit determined under section 45D(a).”

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 501(d), is amended by adding at the end the following:

“(11) NO CARRYBACK OF CERTAIN CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credits allowable under any section added to this subpart by the amendments made by the Energy Security Tax and Policy Act of 2000 may be carried back to a taxable year ending before the date of the enactment of such Act.”

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

“Sec. 45D. Credit for production from qualifying clean coal technology.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2000.

**SEC. 503. RISK POOL FOR QUALIFYING CLEAN COAL TECHNOLOGY.**

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a financial risk pool which shall be available to any United States owner of qualifying clean coal technology (as defined in section 48B(b)(3) of the Internal Revenue Code of 1986) to offset for the first 3 three years of the operation of such technology the costs (not to exceed 5 percent of the total cost of installation) for modifications resulting from the technology's failure to achieve its design performance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

**TITLE VI—METHANE RECOVERY**

**SEC. 601. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.**

(a) CREDIT FOR CAPTURE OF COALMINE METHANE GAS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 502(a), is amended by adding at the end the following:

**SEC. 45E. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.**

(b) DEFINITION OF COALMINE METHANE GAS. The term ‘Coalmine Methane Gas’ as used in this section means any methane gas which is being liberated, or would be liberated, during coal mine operations or as a result of past coal mining operations, or which is extracted up to ten years in advance of coal mining operations as part of specific plan to mine a coal deposit.”

For the purpose of section 38, the coalmine methane gas capture credit of any taxpayer for any taxable year is \$1.21 for each one million British thermal units of coalmine methane gas captured by the taxpayer and utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).”

Credits for the capture of coalmine methane gas shall be earned upon the utilization as a fuel source or sale and delivery of the coalmine methane gas to an unrelated party, except that credit for coalmine methane gas which is captured in advance of mining operations shall be claimed only after coal extraction occurs in the immediate area where the coalmine methane gas was removed.

(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 502(b), is amended by striking ‘plus’ at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ‘, plus’, and by adding at the end the following:

“(14) the coalmine methane gas capture credit determined under section 45E(a).”

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 502(d), is amended by adding at the end the following:

“Sec. 45E. Credit for the capture of coalmine methane gas.;

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the capture of coalmine methane gas after December 31, 2000 and on or before December 31, 2006.

**TITLE VII—OIL AND GAS PRODUCTION**

**SEC. 701. CREDIT FOR PRODUCTION OF RE-REFINED LUBRICATING OIL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 601(a), is amended by adding at the end the following:

**SEC. 45F. CREDIT FOR PRODUCING RE-REFINED LUBRICATING OIL.**

(a) GENERAL RULE.—For purposes of section 38, the re-refined lubricating oil production credit of any taxpayer for any taxable year is equal to \$4.05 per barrel of qualified re-refined lubricating oil production which is attributable to the taxpayer (within the meaning of section 29(d)(3)).

(b) QUALIFIED RE-REFINED LUBRICATING OIL PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified re-refined lubricating oil production’ means a base oil manufactured from at least 95 percent used oil and not more than 2 percent of previously unused oil by a re-refining process which effectively removes physical and chemical impurities and spent and unspent additives to the extent that such base oil meets industry standards for engine oil as defined by the American Petroleum Institute document API 1509 as in effect on the date of the enactment of this section.

“(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—Re-refined lubricating oil produced during any taxable year shall not be treated as qualified re-refined lubricating oil production but only to the extent average daily production during the taxable year exceeds 7,000 barrels.

“(3) BARREL.—The term ‘barrel’ has the meaning given such term by section 613A(e)(4).

“(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, the dollar amount contained in subsection (a) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 29(d)(2)(B) by substituting ‘2000’ for ‘1979’).”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 601(b), is amended by striking ‘plus’ at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ‘, plus’, and by adding at the end the following:

“(15) the re-refined lubricating oil production credit determined under section 45F(a).”

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 601(c), is amended by adding at the end the following:

“Sec. 45F. Credit for producing re-refined lubricating oil.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2000.

**SEC. 702. OIL AND GAS FROM MARGINAL WELLS.**  
**“SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS**

(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

“(1) the credit amount, and  
“(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

(b) CREDIT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The credit amount is—  
“(A) \$3 per barrel of qualified crude oil production, and

“(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

“(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

“(A) IN GENERAL.—The \$3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

“(i) the excess (if any) of the applicable reference price over \$14 (\$1.56 for qualified natural gas production), bears to

“(ii) \$3 (\$0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘2000’ for ‘1990’).

(C) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

“(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

“(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

(1) IN GENERAL.—The terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or natural gas which is produced from a marginal well.

(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

(B) PROPORTIONATE REDUCTIONS.—

(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

(3) DEFINITIONS.—

(A) MARGINAL WELL.—The term ‘marginal well’ means a domestic well—

“(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

“(ii) which, during the taxable year—

“(I) has average daily production of not more than 25 barrel equivalents, and

“(II) produces water at a rate not less than 95 percent of total well effluent.

(B) CRUDE OIL, ETC.—The terms ‘crude oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have the meanings given such terms by section 613A(e).

(C) BARREL EQUIVALENT.—The term ‘barrel equivalent’ means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

(d) OTHER RULES.—

(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in

which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

“(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

“(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.”

“(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ‘plus’ at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ‘, plus’, and by adding at the end the following new paragraph:

“(13) the marginal oil and gas well production credit determined under section 45D(a).”

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

“(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

“(i) this section and section 39 shall be applied separately with respect to the credit, and

“(ii) in applying paragraph (1) to the credit—

“(I) subparagraphs (A) and (B) thereof shall not apply, and

“(II) the limitation under paragraph (1) (as modified by subclause (II)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

“(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term ‘marginal oil and gas well production credit’ means the credit allowable under subsection (a) by reason of section 45D(a).”

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting “or the marginal oil and gas well production credit” after “employment credit”.

(e) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following new paragraph:

“(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

“(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

“(B) paragraph (1) shall be applied by substituting ‘10 taxable years’ for ‘1 taxable years’ in subparagraph (A) thereof, and

“(C) paragraph (2) shall be applied—

“(i) by substituting ‘31 taxable years’ for ‘21 taxable years’ in subparagraph (A) thereof, and

“(ii) by substituting ‘30 taxable years’ for ‘20 taxable years’ in subparagraph (B) thereof.”

(f) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking “There”

and inserting “At the election of the taxpayer, there”.

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following item:

“Sec. 45D. Credit for producing oil and gas from marginal wells.”

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2000.

#### SEC. 703. DEDUCTION FOR DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (i) the following new subsection:

“(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

“(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

“(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term ‘delay rental payment’ means an amount paid for the privilege of deferring development of an oil or gas well.”

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting “263(j),” after “263(i).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2000.

#### SEC. 704. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (j) the following new subsection:

“(k) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.”

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting “263(k),” after “263(j).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2000.

#### TITLE VIII—RENEWABLE POWER GENERATION

#### SEC. 801. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (B), by striking subparagraph (C), and by adding at the end the following:

“(C) biomass (other than closed-loop biomass), or

“(D) poultry waste.”

(2) DEFINITIONS.—Section 45(c) is amended by redesignating paragraph (3) as paragraph (4) and by striking paragraphs (2) and (4) and inserting the following:

“(2) BIOMASS.—

“(A) IN GENERAL.—The term ‘biomass’ means—

“(i) closed-loop biomass, and

“(ii) any solid, nonhazardous, cellulosic waste material, which is segregated from other waste materials, and which is derived from—

“(I) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

“(II) waste pellets, crates, and dunnage, manufacturing and construction wood wastes, landscape or right-of-way tree trimmings, and municipal solid waste but not including paper that is destined for recycling, or

“(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

“(B) CLOSED-LOOP BIOMASS.—The term ‘closed-loop biomass’ means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

“(3) POULTRY WASTE.—The term ‘poultry waste’ means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.”

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (4) of section 45(c), as redesignated by subsection (a), is amended to read as follows:

“(4) QUALIFIED FACILITY.—

“(A) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1993.

“(B) CLOSED-LOOP BIOMASS FACILITY.—In the case of a facility using closed-loop biomass to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which:

“(i) is originally placed in service after December 31, 1992 and before January 1, 2005, or

“(ii) is originally placed in service after December 31, 2000, and modified to use closed loop biomass to co-fire with coal after such date and before January 1, 2005.

“(C) BIOMASS FACILITY.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term ‘qualified facility’ means:

“(i) any facility owned by the taxpayer which is originally placed in service after December 31, 2000 and before January 1, 2005, or

“(ii) is originally placed in service before December 31, 2000 and modified to co-fire biomass with coal after such date and before January 1, 2005.

“(D) POULTRY WASTE FACILITY.—In the case of a facility using poultry waste to produce electricity, the term ‘qualified facility’ means:

“(i) any facility of the taxpayer which is originally placed in service after December 31, 1999 and before January 1, 2005, or

“(ii) is originally placed in service before December 31, 2000 and modified to co-fire poultry waste with coal after such date and before January 1, 2005.

“(E) SPECIAL RULES.—

“(i) COMBINED PRODUCTION FACILITIES INCLUDED.—For purposes of this paragraph, the term ‘qualified facility’ shall include a facility using biomass to produce electricity and other biobased products such as renewable based chemicals and fuels.

“(ii) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (B), (C) or (D)—

“(I) the 10-year period referred to in subsection (a) shall be treated as beginning upon the date the taxpayer first applies for the credit, and

“(II) subsection (b)(3) shall not apply to any such facility originally placed in service before January 1, 1997.”

(c) **ELECTRICITY PRODUCED FROM BIOMASS CO-FIRED IN COAL PLANTS.**—Paragraph (1) of section 45(a) (relating to general rule) is amended to inserting (1.0 cents in the case of electricity produced from biomass, other than closed loop biomass, co-fired in a facility which produces electricity from coal) after “1.5 cents”.

(d) **COORDINATION WITH OTHER CREDITS.**—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following:

“(8) **COORDINATION WITH OTHER CREDITS.**—This section shall not apply to any production with respect to which the clean coal technology production credit under section 45(b) is allowed unless the taxpayer elects to waive the application of such credit to such production.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to electricity produced after December 31, 2000.

**SEC. 802. CREDIT FROM CAPITAL COSTS OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM.**

(a) **ALLOWANCE OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY CREDIT.**—Section 46 (relating to amount of credit), as amended by section 501(a), is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting “, and”, and by adding at the end the following:

“(5) the qualified biomass-based generating system facility credit.”

(b) **AMOUNT OF CREDIT.**—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 501(b), is amended by inserting after section 48C the following:

**SEC. 48C. QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY CREDIT.**

“(a) **IN GENERAL.**—For purposes of section 46, the qualified biomass-based generating system facility credit for any taxable year is an amount equal to 20 percent of the qualified investment in a qualified biomass-based generating system facility for such taxable year.

“(b) **QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY.**—

“(1) **IN GENERAL.**—For purposes of subsection (a), the term ‘qualified biomass-based generating system facility’ means a facility of the taxpayer—

“(A)(i) the original use of which commences with the taxpayer or the reconstruction of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such reconstruction), or

“(ii) that is acquired through purchase (as defined by section 179(d)(2)),

“(B) that is depreciable under section 167,

“(C) that has a useful life of not less than 4 years, and

“(D) that uses a qualified biomass-based generating system.

“(2) **SPECIAL RULE FOR SALE-LEASEBACKS.**—For purposes of subparagraph (A) of paragraph (1), in the case of a facility that—

“(A) is originally placed in service by a person, and

“(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years, such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

“(3) **QUALIFIED BIOMASS-BASED GENERATING SYSTEM.**—For purposes of paragraph (1)(D),

the item ‘qualified biomass-based generating system’ means a biomass-based integrated gasification combined cycle (IGCC) generating system which has an electricity-only generation efficiency greater than 40 percent.

“(c) **QUALIFIED INVESTMENT.**—For purposes of subsection (a), the term ‘qualified investment’ means, with respect to any taxable year, the basis of a qualified biomass-based generating system facility placed in service by the taxpayer during such taxable year.

“(d) **QUALIFIED PROGRESS EXPENDITURES.**—

“(1) **INCREASE IN QUALIFIED INVESTMENT.**—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

“(2) **PROGRESS EXPENDITURE PROPERTY DEFINED.**—For purposes of this subsection, the term ‘progress expenditure property’ means any property being constructed by or for the taxpayer and which—

“(A) cannot reasonably be expected to be completed in less than 18 months, and

“(B) it is reasonable to believe will qualify as a qualified biomass-based generating system facility which is being constructed by or for the taxpayer when it is placed in service.

“(3) **QUALIFIED PROGRESS EXPENDITURES DEFINED.**—For purposes of this subsection—

“(A) **SELF-CONSTRUCTED PROPERTY.**—In the case of any self-constructed property, the term ‘qualified progress expenditures’ means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

“(B) **NON-SELF-CONSTRUCTED PROPERTY.**—In the case of non-self-constructed property, the term ‘qualified progress expenditures’ means the amount paid during the taxable year to another person for the construction of such property.

“(4) **OTHER DEFINITIONS.**—For purposes of this subsection—

“(A) **SELF-CONSTRUCTED PROPERTY.**—The term ‘self-constructed property’ means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(B) **NON-SELF-CONSTRUCTED PROPERTY.**—The term ‘non-self-constructed property’ means property which is not self-constructed property.

“(C) **CONSTRUCTION, ETC.**—The term ‘construction’ includes reconstruction and erection, and the term ‘constructed’ includes reconstructed and erected.

“(D) **ONLY CONSTRUCTION OF QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY TO BE TAKEN INTO ACCOUNT.**—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

“(5) **ELECTION.**—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

“(e) **COORDINATION WITH OTHER CREDITS.**—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credits to such property.”

(c) **RECAPTURE.**—Section 50(a) (relating to other special rules), as amended by section

501(c), is amended by adding at the end the following:

“(7) **SPECIAL RULES RELATING TO QUALIFIED BIOMASS-BASED GENERATING SYSTEM FACILITY.**—For purposes of applying this subsection in the case of any credit allowable by reason of section 48C, the following shall apply:

“(A) **GENERAL RULE.**—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualified biomass-based generating system facility (as defined by section 48C(b)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualified biomass-based generating system facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualified biomass-based generating system facility shall be treated as a year of remaining depreciation.

“(B) **PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.**—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualified biomass-based generating system facility under section 48C, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

“(C) **APPLICATION OF PARAGRAPH.**—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualified biomass-based generating system facility.”

(d) **TRANSITIONAL RULE.**—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) as amended by section 501(d), is amended by adding at the end the following:

“(1) **NO CARRYBACK OF SECTION 48C CREDIT BEFORE EFFECTIVE DATE.**—No portion of the unused business credit for any taxable year which is attributable to the qualified biomass-based generating system facility credit determined under section 48C may be carried back to a taxable year ending before the date of the enactment of section 48C.”

(e) **TECHNICAL AMENDMENTS.**—

(1) Section 49(a)(1)(C), as amended by section 501(e), is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following:

“(v) the portion of the basis of any qualified biomass-based generating system facility attributable to any qualified investment (as defined by section 48C(c)).”

(2) Section 50(a)(4), as amended by section 501(e), is amended by striking “and (6)” and inserting “, (6) and (7)”.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 501(e), is amended by inserting after the item relating to section 48B the following:

“Sec. 48C. Qualified biomass-based generating system facility credit.”

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after December 31, 1999, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 803. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.**

(a) **IN GENERAL.**—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

“(k) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term ‘solid waste disposal facilities’ includes property located in Hawaii and used for the collection, storage, treatment, utilization, processing, or final disposal of bagasse in the manufacture of ethanol.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 804. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

Title VI of the Public Utility Regulatory Policies Act of 1978 is further amended by adding at the end the following:

**“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

“(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—(1) For each calendar year beginning with 2003, a retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage, specified in subsection (b), of the total electric energy sold by the retail electric supplier to electric consumers in the calendar year. The retail electric supplier shall make this submission before April 1 of the following calendar year.

“(b) REQUIRED ANNUAL PERCENTAGE.—

“(1) For calendar years 2003 and 2004, the required annual percentage shall be determined by the Secretary in an amount less than the amount in paragraph (2);

“(2) For calendar years 2005 through 2015, the required annual percentage shall be determined by the Secretary, but no less than 2.5 percent of the retail electric supplier's base amount by the year 2007 increasing to 5.0 percent by the year 2012 continuing through 2015.

“(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of subsection (a) through the submission of—

“(A) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier in the calendar year for which credits are being submitted or any previous calendar year;

“(B) renewable energy credits obtained by purchase or exchange under subsection (e);

“(C) renewable energy credits borrowed against future years under subsection (f); or

“(D) any combination of credits under subparagraphs (A), (B), and (C).

“(2) A credit may be counted toward compliance with subsection (a) only once.

“(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than one year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits.

“(2) Under the program, an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall indicate—

“(A) the type of renewable energy resource used to produce the electricity,

“(B) the State in which the electric energy was produced, and

“(C) any other information the Secretary determines appropriate.

“(3)(A) Except as provided in paragraphs (B) and (C), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates through the use of a renewable energy resource in any State in 2001 and any succeeding year through 2015.

“(B) For incremental hydropower the credits shall be calculated based on normalized water flows, and not actual generation. The calculation of the credits for incremental

hydropower shall not be based on any operational changes at the hydroproject not directly associated with the efficiency improvements or capacity additions.

“(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated through the use of a renewable energy resource in any State in 2001 and any succeeding year, if the generating facility is located on Indian land. For purposes of this paragraph, renewable energy generated by biomass cofired with other fuels is eligible for two credits only if the biomass was grown on the land eligible under this paragraph.

“(D) To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource may be sold or may be used by the generator. If both a renewable energy resource and a non-renewable energy resource are used to generate the electric energy, the Secretary shall issue credits based on the proportion of the renewable energy resource used. The Secretary shall identify renewable energy credits by type of generation and by the State in which the generating facility is located.

“(4) In order to receive a renewable energy credit, the recipient of a renewable energy credit shall pay a fee, calculated by the Secretary, in an amount that is equal to the administrative costs of issuing, recording, monitoring the sale or exchange of, and tracking the credit or does not exceed five percent of the dollar value of the credit, whichever is lower. The Secretary shall retain the fee and use it to pay these administrative costs.

“(5) When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

“(e) CREDIT TRADING.—A renewable energy credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the credit. A renewable energy credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use in another year.

“(f) CREDIT BORROWING.—At any time before the end of the calendar year, a retail electric supplier that has reason to believe that it will not have sufficient renewable energy credits to comply with subsection (a) may—

“(1) submit a plan to the Secretary demonstrating that the retail electric supplier will earn sufficient credits within the next 3 calendar years which, when taken into account, will enable to retail electric supplier to meet the requirements of subsection (a) for the calendar year involved; and

(2) upon the approval of the plan by the Secretary, apply credits that the plan demonstrates will be earned within the next 3 calendar years to meet the requirements of subsection (a) for the calendar year involved.

“(g) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) is subject to a civil penalty of not more than 3 cents each for the renewable energy credits not submitted.

“(h) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

“(1) the annual electric energy generation and renewable energy generation of any enti-

ty applying for renewable energy credits under this section,

“(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and

“(3) the quantity of electricity sales of all retail electric suppliers.

“(i) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.

“(j) EXEMPTION FOR ALASKA AND HAWAII.—This section shall not apply to any retail electric supplier in Alaska or Hawaii.

“(k) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State.

“(1) DEFINITIONS.—For purposes of this section—

“(1) The term ‘incremental hydropower’ means additional generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam.

“(2) The term ‘Indian land’ means—

“(A) any land within the limits of any Indian reservation, pueblo or rancharia,

“(B) any land not within the limits of any Indian reservation, pueblo or rancharia title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,

“(C) any dependent Indian community, and

“(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

“(3) The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(4) The term ‘renewable energy’ means electric energy generated by a renewable energy resource.

“(5) The term ‘renewable energy resource’ means solar thermal, photovoltaic, wind, geothermal, biomass (including organic waste, but not unsegregated municipal solid waste), or incremental hydropower facility or modification to an existing facility to cofire biomass or to expand electricity production from an existing renewable facility that is placed in service on or after January 1, 2001.

“(6) The term ‘retail electric supplier’ means a person, State agency, or Federal agency that sells electric energy to an electric consumer.

“(7) The term ‘retail electric supplier's base amount’ means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by solar energy, wind, geothermal, biomass, or hydroelectric facility placed in service prior to January 1, 2001.

“(m) SUNSET.—Subsection (a) of this section expires December 31, 2015.”

**TITLE IX—STEELMAKING**

**SEC. 901. EXTENSION OF CREDIT FOR ELECTRICITY TO PRODUCTION FROM STEEL COGENERATION.**

(a) EXTENSION OF CREDIT FOR COKE PRODUCTION AND STEEL MANUFACTURING FACILITIES.—Section 45(c)(1) (defining qualified energy resources), as amended by section 507 of P.L. 106-170, is amended by striking “and” at

the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following:

“(E) steel cogeneration.”

(b) STEEL COGENERATION.—Section 45(c), is amended by adding at the end the following:

“(5) STEEL COGENERATION.—The term ‘steel cogeneration’ means the production of electricity and steam (or other form of thermal energy) from any or all waste sources in subparagraphs (A), (B), and (C) within an operating facility that produces or integrates the production of coke, direct reduced iron ore, iron, or steel provided that the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

“(A) gases or heat generated from the production of metallurgical coke,

“(B) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

“(C) gases or heat generated from the manufacture of steel.”

(c) MODIFICATION OF PLACED IN SERVICE RULES FOR STEEL COGENERATION FACILITIES.—Section 45(c)(4) (defining qualified facility), as amended by Section 507 of P.L. 106-170, is amended by adding at the end the following:

“(F) STEEL COGENERATION FACILITIES.—In the case of a facility using steel cogeneration to produce electricity, the term qualified facility means any facility permitted to operate under the environmental requirements of the Clean Air Act Amendments of 1990 which is owned by the taxpayer and originally placed in service after December 31, 2000, and before January 1, 2006. Such a facility may be treated as originally placed in service when such facility was last upgraded to increase efficiency or generation capability. However, no facility shall be allowed a credit under this section for more than 10 years of production.”

(d) CONFORMING AMENDMENTS.—

(1) The heading for section 45 is amended by inserting “and waste energy” after “renewable”.

(2) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 is amended by inserting “and waste energy” after “renewable.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

#### TITLE X—ENERGY EMERGENCIES

##### SEC. 1001. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) In section 166 (42 U.S.C. 6246), by inserting “through 2003” after “2000.”

(b) In section 181 (42 U.S.C. 6251), by striking “March 31, 2000” each place it appears and inserting “September 30, 2003.”

Title II of the Energy Policy and Conservation Act (42 U.S.C. 6261–6285) is amended—

(a) In section 256(h) (42 U.S.C. 6276(h)), by striking the last sentence and inserting the following, “For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary.”

(b) In section 281 (42 U.S.C. 6285), by striking “March 31, 2000” each place it appears and inserting “September 30, 2003”.

(a) AMENDMENT.—Title I of the Energy Policy and Conservation Act is amended by—

(1) redesignating part D as part E;

(2) redesignating section 181 as section 191; and

(3) inserting after part C the following new part D:

#### PART D—NORTHEAST HOME HEATING OIL RESERVE.

(a) Title I of the Energy Policy and Conservation Act is amended by—

(1) redesignating part D as part E;

(2) redesignating section 181 as section 191; and

(3) inserting after part C the following new part D:

#### “PART D—NORTHEAST HOME HEATING OIL RESERVE

##### “ESTABLISHMENT

“SEC. 181. (a) Notwithstanding any other provision of this Act, the Secretary may establish, maintain, and operate in the Northeast a Northeast Home Heating Oil Reserve. A Reserve established under this part is not a component of the Strategic Petroleum Reserve established under part B of this title. A Reserve established under this part shall contain no more than 2 million barrels of petroleum distillate.

“(b) for the purposes of this part—

“(1) the term ‘Northeast’ means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey.

“(2) the term ‘petroleum distillate’ includes heating oil and diesel fuel; and

“(3) the term ‘Reserve’ means the Northeast Home Heating Oil Reserve established under this part.

##### “AUTHORITY

“SEC. 182. to the extent necessary or appropriate to carry out this part, the Secretary may—

“(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities, and storage services”

“(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

“(3) acquire by purchase, exchange (including exchange of petroleum product from the Strategic Petroleum Reserve or received as royalty from Federal lands), lease, or otherwise, petroleum distillate for storage in the Northeast Home Heating Oil Reserve;

“(4) store petroleum distillate in facilities not owned by the United States; and

“(5) sell, exchange, or otherwise dispose of petroleum distillate from the Reserve established under this part, including to maintain the quality or quantity of the petroleum distillate in the Reserve or to maintain the operational capability of the Reserve.

##### “CONDITIONS FOR RELEASE; PLAN

“SEC. 183. (a) FINDING.—The Secretary may sell product from the Reserve only upon a finding by the President that there is a severe energy supply interruption. Such a finding may be made only if he determines that—

“(1) a dislocation in the heating oil market has resulted from such interruption; or

“(2) a circumstance, other than that described in paragraph (1), exists that constitutes a regional supply shortage of significant scope and duration and that action taken under this section would assist directly and significantly in reducing the adverse impact of such shortage.

“(b) DEFINITION.—For purposes of this section a ‘dislocation in the heating oil market’ shall be deemed to occur only when—

“(1) The price differential between crude oil, as reflected in an industry daily publication such as ‘Platt’s Oilgram Price Report’ or ‘Oil Daily’ and No. 2 heating oil, as reported in the Energy Information Administration’s retail price data for the Northeast, increases by more than 60% over its five year rolling average for the months of mid-October through March, and continues for 7 consecutive days; and

“(2) The price differential continues to increase during the most recent week for which price information is available.

“(c) The Secretary shall conduct a continuing evaluation of the residential price data supplied by the Energy Information Administration for the Northeast and data on crude oil prices from published sources.

“(d) After consultation with the heating oil industry, the Secretary shall determine procedures governing the release of petroleum distillate from the Reserve. The procedures shall provide that:

“(1) The Secretary may—

“(A) sell petroleum distillate from the Reserve through a competitive process, or

“(B) enter into exchange agreements for the petroleum distillate that results in the Secretary receiving a greater volume of petroleum distillate as repayment than the volume provided to the acquirer;

“(2) In all such sales or exchanges, the Secretary shall receive revenue or its equivalent in petroleum distillate that provides the Department with fair market value. At no time may the oil be sold or exchanged resulting in a loss of revenue or value to the United States; and

“(3) The Secretary shall only sell or dispose of the oil in the Reserve to entities customarily engaged in the sale and distribution of petroleum distillate.

“(e) Within 45 days of the date of the enactment of this section, the Secretary shall transmit to the President and, if the President approves, to the Congress a plan describing—

“(1) the acquisition of storage and related facilities or storage services for the Reserve, including the potential use of storage facilities not currently in use;

“(2) the acquisition of petroleum distillate for storage in the Reserve;

“(3) the anticipated methods of disposition of petroleum distillate from the Reserve;

“(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

“(5) efforts the Department will take to minimize any potential need for future drawdowns and ensure that distributors and importers are not discouraged from maintaining and increasing supplies to the Northeast; and

“(6) actions to ensure quality of the petroleum distillate in the Reserve.

#### “NORTHEAST HOME HEATING OIL RESERVE ACCOUNT

“SEC. 184. (a) Upon a decision of the Secretary of Energy to establish a Reserve under this part, the Secretary of the Treasury shall establish in the Treasury of the United States an account known as the ‘Northeast Home Heating Oil Reserve Account’ (referred to in this section as the ‘Account’).

“(b) The Secretary of the Treasury shall deposit in the Account any amounts appropriated to the Account and any receipts from the sale, exchange, or other disposition of petroleum distillate from the Reserve.

“(c) The Secretary of Energy may obligate amounts in the Account to carry out activities under this part without the need for further appropriation, and amounts available to the Secretary of Energy for obligation under this section shall remain available without fiscal year limitation.

##### “EXEMPTIONS

“SEC. 185. An action taken under this part is not subject to the rulemaking requirements of section 523 of this Act, section 501 of the Department of Energy Organization Act, or section 553 of title 5, United States Code.”

##### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 186. There are authorized to be appropriated for fiscal year 2001, 2002, and 2003 such sums as may be necessary to implement this part.”

**SEC. 1002. ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS.**

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended as follows:

Sec. 365 (f) For the purpose of carrying out this part there are authorized to be appropriated such sums as may be necessary.

**SEC. 1003. STATE ENERGY PROGRAMS.**

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended as follows:

Sec. 397. For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary.

**“SEC. 1004. ANNUAL HOME HEATING READINESS PROGRAM**

“(a) IN GENERAL.—Part A of title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

**ANNUAL HOME HEATING READINESS.**

“(a) IN GENERAL.—The Secretary, in conjunction with the Administrator of the Energy Information Agency, shall coordinate with all interested states on an annual basis a program to assess the adequacy of supplies for natural gas, heating oil and propane and develop joint recommendations for responding to regional shortages or price spikes.

“(b) On or before September 1 of each year, the Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

“(c) CONTENTS.—The Home Heating Readiness Report shall include—

“(1) estimates of the consumption, expenditures, and average price per MMBtu or gallon of natural gas, heating oil and propane for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

“(2) an evaluation of—

“(A) global and regional crude oil and refined product supplies;

“(B) the adequacy and utilization of refinery capacity;

“(C) the adequacy, utilization, and distribution of regional refined product storage capacity;

“(D) weather conditions;

“(E) the refined product transportation system;

“(F) market inefficiencies; and

“(G) any other factor affecting the functional capability of the natural gas, heating oil industry and propane industry that has the potential to affect national or regional supplies and prices;

“(3) recommendations on steps that the Federal, State, and local governments can take to prevent or alleviate the impact of sharp and sustained increases in the price of natural gas, heating oil and propane; and

“(4) recommendations on steps that companies engaged in the production, refining, storage, transportation of heating oil or propane, or any other activity related to the heating oil industry or propane industry, can take to prevent or alleviate the impact of sharp and sustained increases in the price of heating oil and propane.

“(d) INFORMATION REQUESTS.—The Secretary may request information necessary to prepare the Home Heating Readiness Report from companies described in subsection (b)(4).”

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The Energy Policy and Conservation Act is amended—

(1) in the table of contents in the first section (42 U.S.C. prec. 6201), by inserting after

the item relating to section 106 the following:

“Sec. 107. Major fuel burning stationary source.

“Sec. 108. Annual home heating readiness report.”;

and

(2) in section 107 (42 U.S.C. 6215), by striking ‘SEC. 107. (a) No Governor’ and inserting the following:

**“SEC. 107. MAJOR FUEL BURNING STATIONARY SOURCE.**

“(a) No Governor”.

**“SEC. 1005. SUMMER FILL AND FUEL BUDGETING PROGRAMS.**

“(a) IN GENERAL.—Part C of title II of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

**“SEC. 273. SUMMER FILL AND FUEL BUDGETING PROGRAMS.**

“(a) DEFINITIONS.—In this section:

“(1) BUDGET CONTRACT.—The term ‘budget contract’ means a contract between a retailer and a consumer under which the heating expenses of the consumer are spread evenly over a period of months.

“(2) FIXED-PRICE CONTRACT.—The term ‘fixed-price contract’ means a contract between a retailer and a consumer under which the retailer charges the consumer a set price for propane, kerosene, or heating oil without regard to market price fluctuations.

“(3) PRICE CAP CONTRACT.—The term ‘price cap contract’ means a contract between a retailer and a consumer under which the retailer charges the consumer the market price for propane, kerosene, or heating oil, but the cost of the propane, kerosene, or heating oil may not exceed a maximum amount stated in the contract.

“(b) ASSISTANCE.—At the request of the chief executive officer of a State, the Secretary shall provide information, technical assistance, and funding—

“(1) to develop education and outreach programs to encourage consumers to fill their storage facilities for propane, kerosene, and heating oil during the summer months; and

“(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts, and other advantageous financial arrangements;

to avoid severe seasonal price increases for and supply shortages of those products.

“(c) PREFERENCE.—In implementing this section, the Secretary shall give preference to States that contribute public funds or leverage private funds to develop State summer fill and fuel budgeting programs.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$25,000,000 for fiscal year 2001; and

“(2) such sums as are necessary for each fiscal year thereafter.

“(e) INAPPLICABILITY OF EXPIRATION PROVISION.—Section 281 does not apply to this section.”

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 272 the following:

“Sec. 273. Summer fill and fuel budgeting programs.”.

**SEC. 1006. USE OF ENERGY FUTURES FOR FUEL PURCHASES.**

(a) HEATING OIL STUDY.—The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection from sudden surges in the price of heating oil (including number two fuel oil, propane, and kerosene) for governments, consumer cooperatives, and other or-

ganizations that purchase heating oil in bulk to market to end use consumers in the Northeast (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey); and

(2) to ascertain how these entities may be most effectively educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against sudden or unanticipated surges in the price of heating oil, and minimize long-term heating oil costs.

(b) REPORT.—The Secretary, no later than 180 days after appropriations are enacted to carry out this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall contain a review of prior studies conducted on the subjects described in subsection (a).

(c) PILOT PROGRAM.—If the study required in subsection (a) indicates that futures and options contracts can provide cost-effective protection from sudden surges in heating oil prices, the Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, and other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against sudden or unanticipated surges in the price of heating oil and increase the efficiency of their heating oil purchase programs.

(d) AUTHORIZATION.—There is authorized to be appropriated \$3 million in fiscal year 2001 to carry out this section.

**SEC. 1007. INCREASED USE OF ALTERNATIVE FUELS BY FEDERAL FLEETS**

Title IV of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended as follows: In SEC. 400AA(a)(3)(E), insert the following sentence at the end,

“Except that, no later than fiscal year 2003 at least 50 percent of the total annual volume of fuel used must be from alternative fuels.”, and

In SEC. 400AA(g)(4)(B), after the words, “solely on alternative fuel”, insert the words “, including a three wheeled enclosed electric vehicle having a VIN number”.

**SEC. 1008. FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES**

(a) IN GENERAL.—Section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following—

“(5) FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.—Paragraphs (1) and (2) shall not apply to section 179 property which is any storage facility (not including a building or its structural components) used in connection with the distribution of home heating oil or liquefied petroleum gas.”

**TITLE XI—ENERGY EFFICIENCY****SEC. 1101. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) Section 801(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(1)) is amended by—

(1) inserting “and water” after “energy” the first place it appears;

(2) striking “that purpose” and inserting “these purposes”;

(3) inserting “or water” after “energy” the second place it appears;

(4) inserting “or water conservation” after “energy” the third place it appears; and

(5) inserting “or water” after “energy” the fourth place it appears.

(b) Section 801(a)(2) (A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(A)) is amended by—

(1) inserting “or water” after “energy” the first place it appears; and

(2) inserting “or water conservation” after “energy” the next two places it appears.

(c) Section 801(a)(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(B)) is amended by—

(1) inserting “or water” after “energy” each place it appears; and

(2) inserting “energy or” before “utilities” the second place it appears.

(d) Section 801(a)(2)(D)(iii) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)) is amended by striking “\$750,000” and inserting “\$10,000,000”.

(e) Section 801(b)(1)(A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(1)(B)) is amended by inserting “and water” after “energy”.

(f) Section 801(b)(1)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(1)(B)) is amended by—

(1) inserting “or water” after “energy” the first place it appears; and

(2) inserting “or water” after “energy” the second place it appears.

(g) Section 801(b)(2)(A) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(2)(A)) is amended by inserting “or water” after “energy” each place it appears.

(h) Section 801(b)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(2)(C)) is amended by inserting “or water” after “energy” each place it appears.

(i) Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by inserting “or water” after “energy”.

(j) Section 801(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)(1)) is repealed.

(k) Section 801(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by inserting “or water” after “energy” each place it appears.

(l) Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a.) is amended by inserting “and water” after “energy”.

(m) Section 803 of the National Energy Conservation Policy Act (42 U.S.C. 8287b.) is amended by inserting “and water” after “energy”.

(n) Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(2)) is amended in paragraph (a)(2) by inserting “or water” after “energy” each place it appears.

(o) Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(3)) is amended in paragraph (a)(3) by inserting “or water” after “energy”.

(p) Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c.(3)) is amended to read as follows:

“(4) The term “energy or water conservation measure” includes an “energy conservation measure” as defined in section 551(4), or a “water conservation measure,” which is a measure applied to a Federal building that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities.”.

(q) The seventh paragraph under the heading “Administrative Provisions, Department of Energy,” in title II of the Act Making Appropriation for the Department of the Interior and Related Agencies for the Fiscal Year Ending September 30, 1999 is amended by inserting “and water” after “energy” each place it appears.

(r) Section 101(e) of Public Law 105-277 is amended by—

(1) inserting “and water conservation” after “efficiency” in the title.

(2) inserting “and water” after “energy” each place it appears.

#### SEC. 1102. WEATHERIZATION.

(a) Section 414 of the Energy and Conservation and Production Act (42 U.S.C. 6865) is amended by inserting the following sentence in subsection (a) the following sentence. “The application shall contain the state’s best estimate of matching funding available from state and local governments and from private sources,” after the words “assistance to such persons”. And, by inserting the words, “without regard to availability of matching funding”, after the words “low-income persons throughout the States.”

(b) Section 415 of the Energy and Conservation and Production Act (42 U.S.C. 6865) is amended—

(1) in subsection (a)(1) by striking the first sentence;

(2) in subsection (a)(2) by—

(A) striking “(A)”,

(B) striking “approve a State’s application to waive the 40 percent requirement established in paragraph (1) if the State includes in its plan” and inserting “establish”, and (C) striking subparagraph (B);

(3) in subsection (c)(1) by—

(A) striking “paragraphs (3) and (4)” and inserting “paragraph (3)”,

(B) striking “\$1600” and inserting “\$2500”,

(C) striking “and” at the end of subparagraph (C),

(D) striking the period and inserting “; and” in subparagraph (D), and

(E) inserting after subparagraph (D) the following new subparagraph: “(E) the cost of making heating and cooling modifications, including replacement.”;

(4) in subsection (c)(3) by—

(A) striking “1991, the \$1600 per dwelling unit limitation” and inserting “2000, the \$2500 per dwelling unit average”,

(B) striking “limitation” and inserting “average” each time it appears, and

(C) inserting “the” after “beginning of” in subparagraph (B); and

(5) by striking subsection (c)(4).

#### SEC. 1103. PUBLIC BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section—

(1) the term “eligible public purpose program” means a State or tribal program that—

(A) assists low-income households in meeting their home energy needs;

(B) provides for the planning, construction, or improvement of facilities to generate, transmit, or distribute electricity to Indian tribes or rural and remote communities;

(C) provides for the development and implementation of measures to reduce the demand for electricity; or

(D) provides for—

(i) new or additional capacity, or improves the efficiency of existing capacity, from a wind, biomass, geothermal, solar thermal, photovoltaic, combined heat and power energy source, or

(ii) additional generating capacity achieved from increased efficiency at existing hydroelectric dams or additions of new capacity at existing hydroelectric dams;

(2) the term “fiscal agent” means the entity designated under subsection (b)(2)(B);

(3) the term “Fund” means the Public Benefits Fund established under subsection (b)(2)(A);

(4) the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as el-

igible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(5) the term “State” means each of the States and the District of Columbia.

(b) PUBLIC BENEFITS FUND.—There is established in the Treasury of the United States a separate fund, to be known as the Public Benefits Fund. The Fund shall consist of amounts collected by the fiscal agent under subsection (e). The fiscal agent may disburse amounts in the Fund, without further appropriation, in accordance with this section.

(c) FISCAL AGENT.—The Secretary shall appoint a fiscal agent shall collect and disburse the amounts in the Fund in accordance with this section.

(d) SECRETARY.—The Secretary shall prescribe rules for:

(1) the determination of charges under subsection (e);

(2) the collection of amounts for the Fund, including provisions for overcollection or undercollection;

(3) the equitable allocation of the Fund among States and Indian tribes based upon—

(A) the number of low-income households in such State or tribal jurisdiction; and

(B) the average annual cost of electricity used by households in such State or tribal jurisdiction; and

(4) the criteria by which the fiscal agent determines whether a State or tribal government’s program is an eligible public purpose program.

(e) PUBLIC BENEFITS CHANGE.—(1) As a condition of existing or future interconnection with facilities of any transmitting utility, each owner of an electric generating facility whose nameplate capacity exceeds five megawatts shall pay the transmitting utility a public benefits charge determined under paragraph (2), even if the generation facility and the transmitting facility are under common ownership or are otherwise affiliated. Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy. The transmitting utility shall pay the amounts collected to the fiscal agent at the close of each month, and the fiscal agent shall deposit the amounts into the Fund as offsetting collections.

(2)(A) The Commission shall calculate the rate for the public benefits charge for each calendar year at an amount—

(i) equal to \$3 billion per year, divided by the estimated kilowatt hours of electric energy to be generated by generators subject to the charge, but

(ii) not to exceed 1 mill per kilowatt-hour.

(B) Amounts collected in excess of \$3 billion in a fiscal year shall be retained in the fund and the assessment in the following year shall be reduced by that amount.

#### (f) DISBURSAL FROM THE FUND.—

(1) The fiscal agent shall disburse amounts in the Fund to participating States and tribal governments as a block grant to carry out eligible public purpose programs in accordance with this subsection and rules prescribed under subsection (d).

(2)(A) The fiscal agent shall disburse amounts for a calendar year from the Fund to a State or tribal government in twelve equal monthly payments beginning two months after the beginning of the calendar year.

(B) The fiscal agent shall make distributions to the State or tribal government or to an entity designated by the State or tribal government to receive payments. The State or tribal government may designate a non-regulated utility as an entity to receive payments under this section.

(C) A State or tribal government may use amounts received only for the eligible public purpose programs the State or tribal government designated in its submission to the fiscal agent and the fiscal agent determined eligible.

(g) REPORT.—One year before the date of expiration of this section, the Secretary shall report to Congress whether a public benefits fund should continue to exist.

(h) SUNSET.—This section expires at midnight on December 31, 2015.”

**SEC. 1104. NATIONAL OIL HEAT RESEARCH ALLIANCE ACT**

**SEC. 101. DEFINITIONS.**

In this section:

(1) ALLIANCE.—The term “Alliance” means a national oil heat research alliance established under section 104.

(2) CONSUMER EDUCATION.—The term “consumer education” means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE.—The term “exchange” means an agreement that—

(A) entitles each party or its customers to receive oilheat from the other party; and

(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION.—The term “industry trade association” means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat industry.

(5) NO. 1 DISTILLATE.—The term “No. 1 distillate” means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

(6) NO. 2 DYED DISTILLATE.—The term “No. 2 dyed distillate” means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

“(7) OILHEAT.—The term ‘oilheat’ means—

“(A) No. 1 distillate; and

“(B) No. 2 dyed distillate;

that is used as a fuel for nonindustrial commercial or residential space or hot water heating.

“(8) OILHEAT INDUSTRY.—

“(A) IN GENERAL.—The term ‘oilheat industry’ means—

“(i) persons in the production, transportation, or sale of oilheat; and

“(ii) persons engaged in the manufacture or distribution of oilheat utilization equipment.

“(B) EXCLUSION.—The term ‘oilheat industry’ does not include ultimate consumers of oilheat.

“(9) PUBLIC MEMBER.—The term ‘public member’ means a member of the Alliance described in section 105(c)(1)(F).

“(10) QUALIFIED INDUSTRY ORGANIZATION.—The term ‘qualified industry organization’ means the National Association for Oilheat Research and Education or a successor organization.

“(11) QUALIFIED STATE ASSOCIATION.—The term ‘qualified State association’ means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

“(12) RETAIL MARKETER.—The term ‘retail marketer’ means a person engaged primarily in the sale of oilheat to ultimate consumers.

“(13) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(14) WHOLESALER DISTRIBUTOR.—The term ‘wholesale distributor’ means a person that—

“(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

“(ii) imports No. 1 distillate or No. 2 dyed distillate; or

“(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

“(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

“(15) STATE.—The term ‘State’ means the several States, except the State of Alaska.

**“SEC. 102. REFERENDA.**

“(a) CREATION OF PROGRAM.—

“(1) IN GENERAL.—The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat research alliance.

“(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

“(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

“(4) VOTING RIGHTS.—

“(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

“(B) WHOLESALER DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

“(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat voted in the retail marketer class and two-thirds of the total weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 107.

“(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

“(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm the volume of oilheat, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

“(7) NOTIFICATION.—Not later than 90 days after the date of enactment of this title, a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

“(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat industry in a State that has not

participated initially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

“(c) TERMINATION OR SUSPENSION.—

“(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 35 percent of the volume of oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat industry favors termination or suspension of the Alliance.

“(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by—

“(A) persons representing more than one-half of the total volume of oilheat voted in the retail marketer class and more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class; or

“(B) persons representing more than two-thirds of the total volume of fuel voted in either such class.

“(d) CALCULATION OF OILHEAT SALES.—For the purposes of this section and section 105, the volume of oilheat sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

**“SEC. 103. MEMBERSHIP.**

“(a) SELECTION.—

“(1) IN GENERAL.—Except as provided in subsection (c)(1)(C), the qualified industry organization shall select members of the Alliance representing the oilheat industry in a State from a list of nominees submitted by the qualified State association in the State.

“(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

“(b) REPRESENTATION.—In selecting members of the Alliance, the qualified industry organization shall make best efforts to select members that are representative of the oilheat industry, including representation of—

“(1) interstate and intrastate operators among retail marketers;

“(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

“(3) large and small companies among wholesale distributors and retail marketers; and

“(4) diverse geographic regions of the country.

“(c) NUMBER OF MEMBERS.—

“(1) IN GENERAL.—The membership of the Alliance shall be as follows:

“(A) One member representing each State with oilheat sales in excess of 32,000,000 gallons per year.

“(B) If fewer than 24 States are represented under subparagraph (A), 1 member representing each of the States with the highest volume of annual oilheat sales, as necessary to cause the total number of States represented under subparagraph (A) and this subparagraph to equal 24.

“(C) 5 representatives of retail marketers, 1 each to be selected by the qualified State associations of the 5 States with the highest volume of annual oilheat sales.

“(D) 5 additional representatives of retail marketers.

“(E) 21 representatives of wholesale distributors.

“(F) 6 public members, who shall be representatives of significant users of oilheat, the oilheat research community, State energy officials, or other groups knowledgeable about oilheat.

“(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

“(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

“(e) TERMS.—

“(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

“(2) TERM LIMIT.—A member may serve not more than 2 full consecutive terms.

“(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

“(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

#### SEC. 104. FUNCTIONS.

“(a) IN GENERAL.—

“(1) PROGRAMS, PROJECTS, CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

“(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this title, including programs—

“(i) to enhance consumer and employee safety and training;

“(ii) to provide for research, development, and demonstration of clean and efficient oilheat utilization equipment; and

“(iii) for consumer education; and

“(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 107.

“(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade associations and other persons as appropriate to provide delivery of services and to avoid unnecessary duplication of activities.

“(3) ACTIVITIES.—

“(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

“(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

“(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

“(I) all activities incidental to research, development, and demonstration of clean and efficient oilheat utilization equipment; and

“(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

“(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

“(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

“(1) research, development, and demonstration;

“(2) safety;

“(3) consumer education; and

“(4) training.

“(c) ADMINISTRATION.—

“(1) OFFICERS, COMMITTEES; BYLAWS.—The Alliance—

“(A) shall select from among its members a chairperson and other officers as necessary;

“(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

“(C) shall adopt bylaws for the conduct of business and the implementation of this title.

“(2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

“(3) ADVISORY COMMITTEES.—The Alliance may establish advisory committees consisting of persons other than Alliance members.

“(4) VOTING.—Each member of the Alliance shall have 1 vote in matters before the Alliance.

“(d) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 107) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assessments collected in any calendar year, except that during the first year of operation of the Alliance such expenses and amounts shall not exceed 10 percent of the amount of assessments.

“(2) REIMBURSEMENT OF THE SECRETARY.—

“(A) IN GENERAL.—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

“(B) LIMITATION.—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of 1 employee of the Department of Energy.

“(e) BUDGET.—

“(1) PUBLICATION OF PROPOSED BUDGET.—Before August 1 of each year, the Alliance shall publish for public review and comment a proposed budget for the next calendar year, including the probable costs of all programs, projects, and contracts and other agreements.

“(2) SUBMISSION TO THE SECRETARY AND CONGRESS.—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

“(3) RECOMMENDATIONS BY THE SECRETARY.—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

“(4) IMPLEMENTATION.—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

“(f) RECORDS; AUDITS—

“(1) RECORDS.—The Alliance shall—

“(A) keep records that clearly reflect all of the acts and transactions of the Alliance; and

“(B) make the records available to the public.

“(2) AUDITS.—

“(A) IN GENERAL.—The records of the Alliance (including fee assessment reports and applications for refunds under section 107(b)(4)) shall be audited by a certified pub-

lic accountant at least once each year and at such other times as the Alliance may designate.

“(B) AVAILABILITY OF AUDIT REPORTS.—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and the qualified industry organization, and, on request, to other members of the oilheat industry.

“(C) POLICIES AND PROCEDURES—

“(i) IN GENERAL.—The Alliance shall establish policies and procedures for auditing compliance with this title.

“(ii) CONFORMITY WITH GAAP.—The policies and procedures established under clause (i) shall conform with generally accepted accounting principles.

“(g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS—

“(1) PUBLIC NOTICE.—The Alliance shall give at least 30 days' public notice of each meeting of the Alliance.

“(2) MEETINGS OPEN TO THE PUBLIC.—Each meeting of the Alliance shall be open to the public.

“(3) MINUTES.—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

“(h) ANNUAL REPORT.—Each year the Alliance shall prepare and make publicly available a report that—

“(1) includes a description of all programs, projects, and contracts and other agreements undertaken by the Alliance during the previous year and those planned for the current year; and

“(2) details the allocation of Alliance resources for each such program and project.

#### SEC. 105. ASSESSMENTS.

“(a) RATE.—The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate and No. 2 dyed distillate.

“(b) COLLECTION RULES—

“(1) COLLECTION AT POINT OF SALE.—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

“(2) RESPONSIBILITY FOR PAYMENT.—A wholesale distributor—

“(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

“(B) shall provide to the Alliance certification of the volume of fuel sold.

“(3) NO OWNERSHIP INTEREST.—A person that has no ownership interest in No. 1 distillate or No. 2 dyed distillate shall not be responsible for payment of an assessment under this section.

“(4) FAILURE TO RECEIVE PAYMENT—

“(A) REFUND.—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

“(B) AMOUNT.—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

“(5) IMPORTATION AFTER POINT OF SALE.—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

“(A) shall be responsible for payment of the assessment to the Alliance at the point at which the product enters the United States; and

“(B) shall provide to the Alliance certification of the volume of fuel imported.

“(6) LATE PAYMENT CHARGE.—The Alliance may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Alliance any amount due under this title.

“(7) ALTERNATIVE COLLECTION RULES.—The Alliance may establish, or approve a request of the oilheat industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

“(c) SALE FOR USE OTHER THAN AS OILHEAT.—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat are excluded from the assessment.

“(d) INVESTMENT OF FUNDS.—Pending disbursement under a program, project, or contract or other agreement the Alliance may invest funds collected through assessments, and any other funds received by the Alliance, only—

“(1) in obligations of the United States or any agency of the United States;

“(2) in general obligations of any State or any political subdivision of a State;

“(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

“(4) in obligations fully guaranteed as to principal and interest by the United States.

“(e) STATE, LOCAL, AND REGIONAL PROGRAMS—

“(1) COORDINATION.—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

“(2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS—

“(A) IN GENERAL—

“(i) BASE AMOUNT.—The Alliance shall make available to the qualified State association of each State an amount equal to 15 percent of the amount of assessments collected in the State.

“(ii) ADDITIONAL AMOUNT.—

“(I) IN GENERAL.—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State.

“(II) REQUEST REQUIREMENTS.—A request under this clause shall—

“(aa) specify the amount of funds requested;

“(bb) describe in detail the specific uses for which the requested funds are sought;

“(cc) include a commitment to comply with this title in using the requested funds; and

“(dd) be made publicly available.

“(III) DIRECT BENEFIT.—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance determines that the funds will be used to directly benefit the oilheat industry.

“(IV) MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.—The Alliance shall—

“(aa) monitor the use of funds provided under this clause; and

“(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this title.

“SEC. 106. MARKET SURVEY AND CONSUMER PROTECTION.

“(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual national average

basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance.

“(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

“SEC. 107. COMPLIANCE.

“(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 107.

“(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

“SEC. 108. LOBBYING RESTRICTIONS.

“No funds derived from assessments under section 107 collected by the Alliance shall be used to influence legislation or elections, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this title or other laws that would further the purposes of this title.

“SEC. 109. DISCLOSURE.

“Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

“SEC. 110. VIOLATIONS.

“(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 107, that includes—

“(1) a reference to a private brand name;

“(2) a false or unwarranted claim on behalf of oil heat or related products; or

“(3) a reference with respect to the attributes or use of any competing product.

“(b) COMPLAINTS—

“(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

“(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.—A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

“(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until—

“(A) the complaint is withdrawn; or

“(B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

“(c) RESOLUTION BY PARTIES—

“(1) IN GENERAL.—Not later than 10 days after a complaint is filed and transmitted

under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made shall meet to attempt to resolve the complaint.

“(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

“(d) JUDICIAL REVIEW—

“(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

“(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

“(A) the complaint is withdrawn; or

“(B) the court has determined that the consumer education activity complained of does not constitute a violation of subsection (a).

“(e) ATTORNEY'S FEES—

“(a) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

“(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

“(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

“SEC. 111. SUNSET.

“This title shall cease to be effective as of the date that is 4 years after the date on which the Alliance is established.”

## TITLE XII—ELECTRICITY

SEC. 1201. COMPREHENSIVE INDIAN ENERGY PROGRAM.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501-3506) is amended by adding after section 2606 the following new section—

“SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

“(a) Definitions.—For purposes of this section—

“(1) “Director” means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

“(2) “Indian land” means—

“(A) any land within the limits of an Indian reservation, pueblo, or ranchera;

“(B) any land not within the limits of an Indian reservation, pueblo, or ranchera whose title on the date of enactment of this section was held—

“(i) in trust by the United States for the benefit of an Indian tribe,

“(ii) by an Indian tribe subject to restriction by the United States against alienation, or

“(iii) by a dependent Indian community; and

“(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

“(b) Indian Energy Education, Planning and Management Assistance.—(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to

assist Indian tribes to meet their energy education, research and development, planning, and management needs.

“(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

“(A) renewable, energy efficiency, and conservation programs;

“(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities; and

“(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities.

“(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

“(A) total number of acres of Indian land owned by an Indian tribe;

“(B) total number of households on the tribe's Indian land;

“(C) total number of households on the Indian tribe's Indian land that have no electricity service or are underserved; and

“(D) financial or other assets available to the tribe from any source.

“(4) In making a grant under paragraph (2)(E), the Director shall give priority to an application received from an Indian tribe that is not served or served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

“(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

“(c) Application of Buy Indian Act.—(1) An agency or department of the United States Government may give, in the purchase and sale of electricity, oil, gas, coal, or other energy product or by-product produced, converted, or transferred on Indian lands, preference, under section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the “Buy Indian Act”), to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by an Indian, a tribal government, or a business, enterprise, or operation of the American Indian Tribal Governments.

“(2) In implementing this subsection, an agency or department shall pay no more for energy production than the prevailing market price and shall obtain no less than existing market terms and conditions.

“(d) This section does not—

“(1) limit the discretion vested in an Administrator of a Federal Power Administration to market and allocate Federal power, or

“(2) alter Federal laws under which a Federal Power Administration markets, allocates, or purchases power.”

(b) Office of Indian Policy and Programs. Title II of the Department of Energy Organization Act is amended by inserting the following after section 216:

“OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

“SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of Title 5, United States Code. The Director shall perform the duties assigned the Director under the Comprehensive Indian Energy Act and this section.

“(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

“(1) promote tribal energy efficiency and utilization;

“(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

“(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

“(4) lower or stabilize energy costs; and

“(5) electrify tribal members' homes and tribal lands.

“(c) The Director shall carry out the duties assigned the Secretary under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).”

(c) Conforming Amendment. Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

“(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

(b) The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

“217. Office of Indian Energy Policy and Programs.”

(c) Section 5315 of title 5, United States Code, is amended by inserting “Director, Office of Indian Energy Policy and Programs, Department of Energy.” after “Director, Office of Science, Department of Energy.”

SEC. 1202. INTERCONNECTION.

Title II of the Federal Power Act is further amended by adding after section 210 (16 U.S.C. 824i) the following:

“SEC. 210A. INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES.

“(a) RULEMAKING AUTHORITY.—Not later than one year after the date of enactment of this section, the Commission shall adopt rules to ensure the interconnection of distributed generation facilities to local distribution facilities of an electric utility.

“(b) INTERCONNECTION AUTHORITY.—Upon the application of the owner or operator of a distributed generation facility, the Commission may issue an order requiring the physical connection of the local distribution facilities of an electric utility with the distributed generation facility of the applicant.

“(c) STATE AUTHORITY.—Any interconnection ordered under this section shall be subject to regulation by the appropriate State commission.

“(d) DEFINITION.—As used in this section, the term “distributed generation facility” means—

“(1) a small-scale electric power generation facility that is designed to serve customers at or near the facility, or

“(2) a facility using a single fuel source to produce at the point of use either electric or mechanical power and thermal energy.”

MIKULSKI (AND OTHERS)  
AMENDMENTS NOS. 4228–4229

(Ordered to lie on the table.)

Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2045, supra; as follows:

AMENDMENT No. 4228

At the appropriate place, insert the following:

SEC. \_\_\_\_ COMMUNITY TECHNOLOGY CENTERS.

Part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C.

6811 et seq.) is amended by adding at the end the following:

“Subpart 5—Community Technology Centers  
“SEC. 3161. PURPOSE; PROGRAM AUTHORITY.

“(a) PURPOSE.—It is the purpose of this subpart to assist eligible applicants to—

“(1) create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

“(2) provide technical assistance and support to community technology centers.

“(b) PROGRAM AUTHORITY.—

“(1) IN GENERAL.—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist such applicants in—

“(A) creating or expanding community technology centers; or

“(B) providing technical assistance and support to community technology centers.

“(2) PERIOD OF AWARD.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 3 years.

“(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 in community technology centers.

“SEC. 3162. ELIGIBILITY AND APPLICATION REQUIREMENTS.

“(a) ELIGIBLE APPLICANTS.—In order to be eligible to receive an award under this subpart, an applicant shall—

“(1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access); and

“(2) be—

“(A) an entity such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization;

“(B) an institution of higher education;

“(C) a State educational agency;

“(D) a local educational agency; or

“(E) a consortium of entities described in subparagraphs (A), (B), (C), or (D).

“(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—

“(1) a description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community;

“(2) a demonstration of—

“(A) the commitment, including the financial commitment, of entities such as institutions, organizations, business and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project; and

“(B) the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community;

“(3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and

“(4) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

“(c) **MATCHING REQUIREMENTS.**—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

**“SEC. 3163. USES OF FUNDS.**

“(a) **REQUIRED USES.**—A recipient shall use funds under this subpart for—

“(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

“(2) evaluating the effectiveness of the project.

“(b) **PERMISSIBLE USES.**—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

“(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

“(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

“(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of pre-school preparation, academic achievement, lifelong learning, and workforce development, such as the following:

“(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

“(B) Adult education and family literacy activities through technology and the Internet, including—

“(i) General Education Development, English as a Second Language, and adult basic education classes or programs;

“(ii) introduction to computers;

“(iii) intergenerational activities; and

“(iv) lifelong learning opportunities.

“(C) Career development and job preparation activities, such as—

“(i) training in basic and advanced computer skills;

“(ii) resume writing workshops; and

“(iii) access to databases of employment opportunities, career information, and other online materials.

“(D) Small business activities, such as—

“(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

“(ii) access to information on business start-up programs that is available online, or from other sources.

“(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

**“SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.**

“For purposes of carrying out this subpart, there is authorized to be appropriated \$100,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

**SEC. \_\_\_\_ . SCHOOL TECHNOLOGY RESOURCE GRANTS.**

Section 3114(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6814(a)) is amended by adding at the end the following:

“(3) **TEACHER TRAINING IN TECHNOLOGY.**—In addition to any other funds appropriated to carry out subpart 2, there are authorized to be appropriated \$127,000,000 to carry out subpart 2 (other than section 3136) for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years. Funds appropriated under this paragraph shall be used to carry out teacher training in technology in accordance with subpart 2 (other than section 3136).”.

**SEC. \_\_\_\_ . NEW TEACHER TRAINING.**

(a) **GRANTS AUTHORIZED.**—The Secretary of Education is authorized to award grants, on a competitive basis, to institutions of higher education to enable the institutions to train students entering the teaching workforce to use technology effectively in the classroom.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection \$150,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

—  
**AMENDMENT NO. 4229**

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . COMMUNITY TECHNOLOGY CENTERS.**

Part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6811 et seq.) is amended by adding at the end the following:

**“Subpart 5—Community Technology Centers**

**“SEC. 3161. PURPOSE; PROGRAM AUTHORITY.**

“(a) **PURPOSE.**—It is the purpose of this subpart to assist eligible applicants to—

“(1) create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

“(2) provide technical assistance and support to community technology centers.

“(b) **PROGRAM AUTHORITY.**—

“(1) **IN GENERAL.**—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist such applicants in—

“(A) creating or expanding community technology centers; or

“(B) providing technical assistance and support to community technology centers.

“(2) **PERIOD OF AWARD.**—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 3 years.

“(3) **SERVICE OF AMERICORPS PARTICIPANTS.**—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 in community technology centers.

**“SEC. 3162. ELIGIBILITY AND APPLICATION REQUIREMENTS.**

“(a) **ELIGIBLE APPLICANTS.**—In order to be eligible to receive an award under this subpart, an applicant shall—

“(1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access); and

“(2) be—

“(A) an entity such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization;

“(B) an institution of higher education;

“(C) a State educational agency;

“(D) a local educational agency; or

“(E) a consortium of entities described in subparagraphs (A), (B), (C), or (D).

“(b) **APPLICATION REQUIREMENTS.**—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—

“(1) a description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community;

“(2) a demonstration of—

“(A) the commitment, including the financial commitment, of entities such as institutions, organizations, business and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project; and

“(B) the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community;

“(3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and

“(4) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

“(c) **MATCHING REQUIREMENTS.**—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

**“SEC. 3163. USES OF FUNDS.**

“(a) **REQUIRED USES.**—A recipient shall use funds under this subpart for—

“(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

“(2) evaluating the effectiveness of the project.

“(b) **PERMISSIBLE USES.**—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

“(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

“(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

“(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of pre-school preparation, academic achievement, lifelong learning, and workforce development, such as the following:

“(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

“(B) Adult education and family literacy activities through technology and the Internet, including—

“(i) General Education Development, English as a Second Language, and adult basic education classes or programs;

“(ii) introduction to computers;

“(iii) intergenerational activities; and

“(iv) lifelong learning opportunities.

“(C) Career development and job preparation activities, such as—

“(i) training in basic and advanced computer skills;

“(ii) resume writing workshops; and

“(iii) access to databases of employment opportunities, career information, and other online materials.

“(D) Small business activities, such as—

“(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

“(ii) access to information on business start-up programs that is available online, or from other sources.

“(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

#### “SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.

“For purposes of carrying out this subpart, there is authorized to be appropriated \$100,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.”

#### SEC. \_\_\_\_ . SCHOOL TECHNOLOGY RESOURCE GRANTS.

Section 3114(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6814(a)) is amended by adding at the end the following:

“(3) **TEACHER TRAINING IN TECHNOLOGY.**—In addition to any other funds appropriated to carry out subpart 2, there are authorized to be appropriated \$127,000,000 to carry out subpart 2 (other than section 3136) for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years. Funds appropriated under this paragraph shall be used to carry out teacher training in technology in accordance with subpart 2 (other than section 3136).”

#### SEC. \_\_\_\_ . NEW TEACHER TRAINING.

(a) **GRANTS AUTHORIZED.**—The Secretary of Education is authorized to award grants, on a competitive basis, to institutions of higher education to enable the institutions to train students entering the teaching workforce to use technology effectively in the classroom.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection \$150,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

#### CONRAD AMENDMENT NO. 4230

(Ordered to lie on the table.)

Mr. CONRAD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by them to the bill, S. 2045, supra; as follows:

At the appropriate place, add the following:

#### SEC. . EXCLUSION OF CERTAIN “J” NON-IMMIGRANTS FROM NUMERICAL LIMITATIONS APPLICABLE TO “H-1B” NONIMMIGRANTS.

The numerical limitations contained in section 2 of this Act shall not apply to any nonimmigrant alien granted a waiver that is subject to the limitation contained in paragraph (1)(B) of the first section 214(1) of the Immigration and Nationality Act (relating to restrictions on waivers).

#### KENNEDY AMENDMENTS NOS. 4231–4237

(Ordered to lie on the table.)

Mr. KENNEDY submitted seven amendments intended to be proposed by him to the bill, S. 2045, supra; as follows:

#### AMENDMENT NO. 4231

At the appropriate place, add the following:

#### IMPOSITION OF FEES.

Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A)) is amended by striking “(excluding)” and all that follows through “2001” and inserting “(excluding any employer any that is a primary or secondary education installation, an institution of the higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing”.

#### AMENDMENT NO. 4232

At the appropriate place, add the following:

#### RECRUITMENT FROM UNDERREPRESENTED MINORITY GROUPS.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), as amended by section 202, is further amended by inserting after subparagraph (H) the following:

“(D) The employer certifies that the employer—

“(i) is taking steps to recruit qualified United States workers who are members of underrepresented minority groups, including—

“(I) recruiting at a wide geographical distribution of institutions of higher education, including historically black colleges and universities, other minority institutions, community colleges, and vocational and technical colleges; and

“(II) advertising of jobs to publications reaching underrepresented groups of United States workers, including workers older than 35, minority groups, non-English speakers, and disabled veterans, and

“(ii) will submit to the Secretary of Labor at the end of each fiscal year in which the employer employs an H-1B worker a report that describes the steps so taken.

For purposes of this subparagraph, the term ‘minority’ includes individuals who are African-American, Hispanic, Asian, and women.”

#### AMENDMENT NO. 4233

At the appropriate place, add the following:

#### DEPARTMENT OF LABOR SURVEY; REPORT.

(1) **SURVEY.**—The Secretary of Labor shall conduct an ongoing survey of the level of compliance by employers with the provisions and requirements of the H-1B visa program. In conducting this survey, the Secretary shall use an independently developed random sample of employers that have petitioned the INS for H-1B visas. The Secretary is authorized to pursue appropriate penalties where appropriate.

(2) **REPORT.**—Beginning 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of Labor shall submit a report to Congress containing the findings of the survey conducted during the preceding 2-year period.

#### AMENDMENT NO. 4234

At the appropriate place, add the following:

#### USE OF FEES FOR DUTIES RELATING TO PETITIONS.

Section 286(s)(5) of the Immigration and Nationality Act (8 U.S.C. (s)(5)) is amended to read as follows:—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 214(c) related to petitions made for nonimmigrants described in section 101(a)(15)(H)(i)(b), under paragraph (1)(c) or (D) of section 204 related to petitions for immigrants described in section 203(b), and under section 212(n)(5).

Notwithstanding any other provision of this Act, the figure on page 11, line 2 is deemed to be “22 percent”; the figure on page 12, line 25 deemed to be “4 percent”; and the figure on page 13 line 2 is deemed to be “2 percent”.

#### AMENDMENT NO. 4235

At the appropriate place, add the following:

#### PARTNERSHIP CONSIDERATIONS.

Consideration in the awarding of grants shall be given to any partnership that involves a labor-management partnership, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of United States workers and obtaining services to meet such needs.

#### AMENDMENT NO. 4236

Notwithstanding any other provisions, section (g)(5) is null and void and the following section shall apply in lieu thereof:

Section 214(g) of the Immigration and nationality Act (8 U.S.C. 1184(g)), as amended by section 2, is further amended by adding at the end of the following new paragraphs:

“(5)(A) Of the total number of aliens authorized to be granted nonimmigrant status under section 101(a)(15)(H)(i)(b) in a fiscal year, not less than 12,000 shall be nonimmigrant aliens issued visas or otherwise provided status under section 101(a)(15)(H)(i)(b) who are employed (or have received an offer of employment) at—

“(i) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity;

“(ii) a nonprofit entity that engages in established curriculum-related clinical training of students registered at any such institution; or

“(iii) a nonprofit research organization or a government research organization.

“(B) To the extent the 12,000 visas or grants of status specified in subparagraph (A) are not issued or provided by the end of the third quarter of each fiscal year, available for aliens described in paragraph (6) as well as aliens described in subparagraph (A).

“(6) Of the total number of aliens authorized to be granted nonimmigrant status under section 101(a)(15)(H)(i)(b), not less than 40 percent for fiscal year 2000, not less than 45 percent for fiscal year 2001, and not less than 50 percent for fiscal year 2002, are authorized for such status only if the aliens have attained at least a master’s degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States or an equivalent degree (as determined in a credential evaluation performed by a private entity prior to filing a petition) from such an institution abroad.”

Notwithstanding any other provision of this Act, the figure on page 2, line 3 is deemed to be “200,000”; the figure on page 2, line 4 is deemed to be “200,000”; and the figure on page 2, line 5 is deemed to be “200,000”.

## AMENDMENT NO. 4237

Notwithstanding any other provisions, section (g)(5) is null and void and the following section shall apply in lieu thereof:

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 2, is further amended by adding at the end the following new paragraphs:

“(5)(A) Of the total number of aliens authorized to be granted nonimmigrant status under section 101(a)(15)(H)(i)(b) in a fiscal year, not less than 12,000 shall be nonimmigrant aliens issued visas or otherwise provided status under section 101(a)(15)(H)(i)(b) who are employed (or have received an offer of employment) at—

“(i) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity;

“(ii) a nonprofit entity that engages in established curriculum-related clinical training of students registered at any such institution; or

“(iii) a nonprofit research organization or a governmental research organization.

“(B) To the extent the 12,000 visas or grants of status specified in subparagraph (A) are not issued or provided by the end of the third quarter of each fiscal year, available for aliens described in paragraph (6) as well as aliens described in subparagraph (A).

“(6) Of the total number of aliens authorized to be granted nonimmigrant status under section 101(a)(15)(H)(i)(b), not less than 40 percent for fiscal year 2000, not less than 45 percent for fiscal year 2001, and not less than 50 percent for fiscal year 2002, are authorized for such status only if the aliens have attained at least a master's degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States or an equivalent degree (as determined in a credential evaluation performed by a private entity prior to filing a petition) from such an institution abroad.”

Notwithstanding any other provision of this Act, the figure on page 2, line 3 is deemed to be “200,000”; the figure on page 2, line 4 is deemed to be “200,000”; and the figure on page 2, line 5 is deemed to be “200,000”.

KENNEDY (AND OTHERS)  
AMENDMENT NO. 4238

(Ordered to lie on the table.)

Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. REED, Mr. GRAHAM, Mr. LEAHY, Mr. WELLSTONE, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, S. 2045, supra; as follows:

At the appropriate place, insert the following:

**TITLE —LATINO AND IMMIGRANT  
FAIRNESS ACT OF 2000**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Latino and Immigrant Fairness Act of 2000”.

**Subtitle A—Central American and Haitian  
Parity**

**SEC. 11. SHORT TITLE.**

This subtitle may be cited as the “Central American and Haitian Parity Act of 2000”.

**SEC. 12. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS FROM EL SALVADOR, GUATEMALA, HONDURAS, AND HAITI.**

Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in the section heading, by striking “NICARAGUANS AND CUBANS” and inserting

“NICARAGUANS, CUBANS, SALVADORANS, GUATEMALANS, HONDURANS, AND HAITIANS”;

(2) in subsection (a)(1)(A), by striking “2000” and inserting “2003”;

(3) in subsection (b)(1), by striking “Nicaragua or Cuba” and inserting “Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti”;

(4) in subsection (d)—

(A) in subparagraph (A), by striking “Nicaragua or Cuba” and inserting “Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti”; and

(B) in subparagraph (E), by striking “2000” and inserting “2003”.

**SEC. 13. APPLICATIONS PENDING UNDER AMENDMENTS MADE BY SECTION 203 OF THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.**

An application for relief properly filed by a national of Guatemala or El Salvador under the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, shall, at the election of the applicant, be considered to be an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by sections 12 and 15 of this Act, upon the payment of any fees, and in accordance with procedures, that the Attorney General shall prescribe by regulation. The Attorney General may not refund any fees paid in connection with an application filed by a national of Guatemala or El Salvador under the amendments made by section 203 of that Act.

**SEC. 14. APPLICATIONS PENDING UNDER THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.**

An application for adjustment of status properly filed by a national of Haiti under the Haitian Refugee Immigration Fairness Act of 1998 which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, may be considered by the Attorney General to also constitute an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by sections 12 and 15 of this Act.

**SEC. 15. TECHNICAL AMENDMENTS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.**

(a) IN GENERAL.—Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in subsection (a)—

(A) by inserting before the period at the end of paragraph (1)(B) the following: “, and the Attorney General may, in the unreviewable discretion of the Attorney General, waive the grounds of inadmissibility specified in section 212(a)(1) (A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General's consent to reapply for admission with-

out regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act.”; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

“(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General grants the application for adjustment of status, the Attorney General shall cancel the order.”;

(2) in subsection (b)(1), by adding at the end the following: “Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for relief under that subsection in deportation or removal proceedings.”;

(3) in subsection (c)(1), by adding at the end the following: “Nothing in this Act requires the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.”;

(4) in subsection (d)—

(A) by amending the subsection heading to read as follows: “SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—”;

(B) by amending the heading of paragraph (1) to read as follows: “ADJUSTMENT OF STATUS.—”;

(C) by amending paragraph (1)(A) to read as follows:

“(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000.”;

(D) in paragraph (1)(B), by striking “except that in the case of” and inserting the following: “except that—

“(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

“(ii) in the case of”;

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

“(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

“(A) IN GENERAL.—In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or child—

“(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

“(ii) applies for such a visa within a time period to be established by such regulations.

“(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such fees—

“(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

“(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.”;

(5) in subsection (g), by inserting “, or an immigrant classification,” after “for permanent residence”; and

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

“(i) STATUTORY CONSTRUCTION.—Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.”.

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if included in the enactment of the Nicaraguan and Central American Relief Act. The amendments made by paragraphs (1) (A)–(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

**SEC. 16. TECHNICAL AMENDMENTS TO THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.**

(a) IN GENERAL.—Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 is amended—

(1) in subsection (a)—

(A) by inserting before the period at the end of paragraph (1)(B) the following: “, and the Attorney General may waive the grounds of inadmissibility specified in section 212(a) (1)(A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, or for permission to reapply for admission to the United States for the purpose of adjustment of status under this section, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General’s consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien’s reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act.”; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

“(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any pro-

vision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General grants the application for adjustment of status, the Attorney General shall cancel the order.”;

(2) in subsection (b)(1), by adding at the end the following: “Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for such relief under that subsection in deportation or removal proceedings.”;

(3) in subsection (c)(1), by adding at the end the following: “Nothing in this Act shall require the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.”;

(4) in subsection (d)—

(A) by amending the subsection heading to read as follows: “SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.—”;

(B) by amending the heading of paragraph (1) to read as follows: “ADJUSTMENT OF STATUS.—”;

(C) by amending paragraph (1)(A), to read as follows:

“(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000”;

(D) in paragraph (1)(B), by striking “except that in the case of” and inserting the following: “except that—

“(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

“(ii) in the case of”;

(E) by adding at the end of paragraph (1) the following new subparagraph:

“(E) the alien applies for such adjustment before April 3, 2003.”; and

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

“(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

“(A) IN GENERAL.—In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or child—

“(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

“(ii) applies for such a visa within a time period to be established by such regulations.

“(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.—The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such fees—

“(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

“(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.”;

(5) in subsection (g), by inserting “, or an immigrant classification,” after “for permanent residence”;

(6) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(7) by inserting after subsection (h) the following new subsection:

“(i) STATUTORY CONSTRUCTION.—Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.”.

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if included in the enactment of the Haitian Refugee Immigration Fairness Act of 1998. The amendments made by paragraphs (1) (A)–(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

**SEC. 17. MOTIONS TO REOPEN.**

(a) NATIONALS OF HAITI.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Haiti who, on the date of enactment of this Act, has a final administrative denial of an application for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998, and is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998.

(b) NATIONALS OF CUBA.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Cuba or Nicaragua who, on the date of enactment of the Act, has a final administrative denial of an application for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act, and who is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act.

**Subtitle B—Adjustment of Status of Other Aliens**

**SEC. 21. ADJUSTMENT OF STATUS.**

(a) GENERAL AUTHORITY.—Notwithstanding any other provision of law, an alien described in paragraph (1) or (2) of subsection (b) shall be eligible for adjustment of status by the Attorney General under the same procedures and under the same grounds of eligibility as are applicable to the adjustment of status of aliens under section 202 of the Nicaraguan Adjustment and Central American Relief Act.

(b) COVERED ALIENS.—An alien referred to in subsection (a) is—

(1) any alien who was a national of the Soviet Union, Russia, any republic of the

former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, any or state of the former Yugoslavia and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days; and

(2) any alien who is a national of Liberia and who has been physically present in the United States for a continuous period, beginning not later than December 31, 1996, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

**Subtitle C—Restoration of Section 245(i)  
Adjustment of Status Benefits**

**SEC. 31. REMOVAL OF CERTAIN LIMITATIONS ON ELIGIBILITY FOR ADJUSTMENT OF STATUS UNDER SECTION 245(i).**

(a) IN GENERAL.—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended by striking “(i)(1)” through “The Attorney General” and inserting the following:

“(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

“(A) entered the United States without inspection; or

“(B) is within one of the classes enumerated in subsection (c) of this section; may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119; 111 Stat. 2440).

**SEC. 32. USE OF SECTION 245(i) FEES.**

Section 245(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(3)(B)) is amended to read as follows:

“(B) One-half of any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 286(m), and one-half of any remaining portion of such fees shall be deposited by the Attorney General into the Breached Bond/Detention Fund established under section 286(r).”.

**Subtitle D—Extension of Registry Benefits**

**SEC. 41. SHORT TITLE.**

This subtitle may be cited as the “Date of Registry Act of 2000”.

**SEC. 42. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS.**

(a) IN GENERAL.—Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended—

(1) in subsection (a), by striking “January 1, 1972” and inserting “January 1, 1986”; and

(2) by striking “JANUARY 1, 1972” in the heading and inserting “JANUARY 1, 1986”.

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) EXTENSION OF DATE OF REGISTRY.—

(A) PERIOD BEGINNING JANUARY 1, 2002.—Beginning on January 1, 2002, section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended by striking “January 1, 1986” each place it appears and inserting “January 1, 1987”.

(B) PERIOD BEGINNING JANUARY 1, 2003.—Beginning on January 1, 2003, section 249 of such Act is amended by striking “January 1, 1987” each place it appears and inserting “January 1, 1988”.

(C) PERIOD BEGINNING JANUARY 1, 2004.—Beginning January 1, 2004, section 249 of such Act is amended by striking “January 1, 1988” each place it appears and inserting “January 1, 1989”.

(D) PERIOD BEGINNING JANUARY 1, 2005.—Beginning on January 1, 2005, section 249 of such Act is amended by striking “January 1, 1989” each place it appears and inserting “January 1, 1990”.

(E) PERIOD BEGINNING JANUARY 1, 2006.—Beginning on January 1, 2006, section 249 of such Act is amended by striking “January 1, 1990” each place it appears and inserting “January 1, 1991”.

“RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JULY 1, 1924 OR JANUARY 1, 1986”.

(3) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act is amended by amending the item relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to July 1, 1924 or January 1, 1986.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2001, and the amendment made by subsection (a) shall apply to applications to record lawful admission for permanent residence that are filed on or after January 1, 2001.

**HATCH AMENDMENT NO. 4239**

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill, S. 2045, supra; as follows:

On page 1 of the amendment, line 10, strike “(vi)” and insert “(vii)”.

On page 2 of the amendment, strike lines 1 through 5 and insert the following:

(2) by striking clause (iv) and inserting the following:

“(iv) 195,000 in fiscal year 2001;

“(v) 195,000 in fiscal year 2002;

“(vi) 195,000 in fiscal year 2003; and”.

On page 2 of the amendment, line 6, strike “FISCAL YEAR 1999.—” and insert “FISCAL YEARS 1999 AND 2000.—”.

On page 2 of the amendment, line 7, strike “Notwithstanding” and insert “(A) Notwithstanding”.

On page 2 of the amendment, between lines 17 and 18, insert the following:

(B) In the case of any alien on behalf of whom a petition for status under section 101(a)(15)(H)(I)(b) is filed before September 1, 2000, and is subsequently approved, that alien shall be counted toward the numerical ceiling for fiscal year 2000 notwithstanding the date of the approval of the petition. Notwithstanding section 214(g)(1)(A)(iii) of the Immigration and Nationality Act, the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 2000 is increased by a number equal to the number of aliens who may be issued visas or otherwise provided non-

immigrant status who filed a petition during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(iii) is reached and ending on August 31, 2000.

On page 6 of the amendment, strike lines 16 through 18 and insert the following:

(2) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs.

On page 7 of the amendment, strike lines 22 through 24 and insert the following:

“(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.”.

On page 9 of the amendment, between lines 3 and 4, insert the following:

(c) INCREASED JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS.—

(1) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

“(j) JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS TO PERMANENT RESIDENCE.—A petition under subsection (a)(1)(D) for an individual whose application for adjustment of status pursuant to section 245 has been filed and remained unadjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed.”.

(2) Section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following new clause:

“(iv) LONG DELAYED ADJUSTMENT APPLICANTS.—A certification made under clause (i) with respect to an individual whose petition is covered by section 204(j) shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued.”.

(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the number of employment-based visas (as defined in paragraph (3)) made available for a fiscal year (beginning with fiscal year 2001) shall be increased by the number described in paragraph (2). Visas made available under this subsection shall only be available in a fiscal year to employment-based immigrants under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act.

(2) NUMBER AVAILABLE.—

(A) IN GENERAL.—Subject to subparagraph (B), the number described in this paragraph is the difference between the number of employment-based visas that were made available in fiscal year 1999 and 2000 and the number of such visas that were actually used in such fiscal years.

(B) REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the application of section 201(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(3)(C)).

(3) EMPLOYMENT-BASED VISAS DEFINED.—For purposes of this subsection, the term “employment-based visa” means an immigrant visa which is issued pursuant to the numerical limitation under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)).

On page 12 of the amendment, line 3, strike "used" and insert "use".

On page 12 of the amendment, line 21, strike "this" and insert "the".

On page 15 of the amendment, beginning on line 18, strike "All training" and all that follows through "demonstrated" on line 20 and insert the following: "The need for the training shall be justified".

On page 18 of the amendment, line 10, strike "that are in shortage".

On page 18 of the amendment, line 23 and 24, strike "H-1B skill shortage." and insert "single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act."

On page 19 of the amendment, strike lines 1 through 6.

On page 20 of the amendment, line 23, strike "and".

On page 21 of the amendment, line 2, strike the period and insert "; and".

On page 21 of the amendment, between lines 2 and 3, insert the following:

"(iii) in the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i)."

On page 21 of the amendment, after line 25, insert the following new section:

**SEC. 12. IMPOSITION OF FEES.**

Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A)) is amended by striking "(excluding" and all that follows through "2001)" and inserting "(excluding any employer that is a primary or secondary education institution, an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), a nonprofit entity related to or affiliated with any such institution, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing".

On page 22 of the amendment, line 1, strike "SEC. 12." and insert "SEC. 13."

On page 27 of the amendment, line 1, strike "SEC. 13." and insert "SEC. 14."

**ABRAHAM AMENDMENTS NOS.  
4240-4259**

(Ordered to lie on the table.)

Mr. ABRAHAM submitted 20 amendments intended to be proposed by him to the bill, S. 2045, supra; as follows:

**AMENDMENT No. 4240**

On page 1 of the amendment, line 10, strike "(vi)" and insert "(vii)".

**AMENDMENT No. 4241**

On page 2 of the amendment, strike lines 1 through 5 and insert the following:

(2) by striking clause (iv) and inserting the following:

"(iv) 195,000 in fiscal year 2001;

"(v) 195,000 in fiscal year 2002;

"(vi) 195,000 in fiscal year 2003; and".

**AMENDMENT No. 4242**

On page 2 of the amendment, line 6, strike "FISCAL YEAR 1999." and insert "FISCAL YEARS 1999 AND 2000."

**AMENDMENT No. 4243**

On page 2 of the amendment, line 7, strike "Notwithstanding" and insert "(A) Notwithstanding".

**AMENDMENT No. 4244**

On page 2 of the amendment, between lines 17 and 18, insert the following:

(B) In the case of any alien on behalf of whom a petition for status under section 101(a)(15)(H)(I)(b) is filed before September 1, 2000, and is subsequently approved, that alien shall be counted toward the numerical ceiling for fiscal year 2000 notwithstanding the date of the approval of the petition. Notwithstanding section 214(g)(1)(A)(iii) of the Immigration and Nationality Act, the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 2000 is increased by a number equal to the number of aliens who may be issued visas or otherwise provided nonimmigrant status who filed a petition during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(iii) is reached and ending on August 31, 2000.

**AMENDMENT No. 4245**

On page 6 of the amendment, strike lines 16 through 18 and insert the following:

"(2) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs."

**AMENDMENT No. 4246**

On page 7 of the amendment, strike lines 22 through 24 and insert the following:

"(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition."

**AMENDMENT No. 4247**

On page 9 of the amendment, between lines 3 and 4, insert the following:

(c) INCREASED JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS.—

(1) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(j) JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS TO PERMANENT RESIDENCE.—A petition under subsection (a)(1)(D) for an individual whose application for adjustment of status pursuant to section 245 has been filed and remained adjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed."

(2) Section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following new clause:

"(iv) LONG DELAYED ADJUSTMENT APPLICANTS.—A certification made under clause (i) with respect to an individual whose petition is covered by section 204(j) shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued."

(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the number of employment-based visas (as defined in paragraph (3)) made available for a fiscal year (beginning with fiscal year 2001) shall be increased by the number described in paragraph (2). Visas made available under this subsection shall only be available in a fiscal year to employment-based immigrants under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act.

(2) NUMBER AVAILABLE.—

(A) IN GENERAL.—Subject to subparagraph (B), the number described in this paragraph

is the difference between the number of employment-based visas that were made available in fiscal year 1999 and 2000 and the number of such visas that were actually used in such fiscal years.

(B) REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the application of section 201(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(3)(C)).

(3) EMPLOYMENT-BASED VISAS DEFINED.—For purposes of this subsection, the term "employment-based visa" means an immigrant visa which is issued pursuant to the numerical limitation under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)).

**AMENDMENT No. 4248**

On page 12 of the amendment, line 3, strike "used" and insert "use".

**AMENDMENT No. 4249**

On page 12 of the amendment, line 21, strike "this" and insert "the".

**AMENDMENT No. 4250**

On page 15 of the amendment, beginning on line 18, strike "All training" and all that follows through "demonstrated" on line 20 and insert the following: "The need for the training shall be justified".

**AMENDMENT No. 4251**

On page 16 of the amendment, line 6, insert "section 116(b) or" before "section 117".

**AMENDMENT No. 4252**

On page 16 of the amendment, line 20, strike "; and" and insert the following: "Provided, That the activities of such local or regional public-private partnership described in this subsection shall be conducted in coordination with the activities of the relevant local workforce investment board or boards established under the Workforce Investment Act of 1998 (29 U.S.C. 2832)".

**AMENDMENT No. 4253**

On page 18 of the amendment, line 10, strike "that are in shortage".

**AMENDMENT No. 4254**

On page 18 of the amendment, line 23 and 24, strike "H-1B skill shortage." and insert "single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act."

**AMENDMENT No. 4255**

On page 19 of the amendment, strike lines 1 through 6.

**AMENDMENT No. 4256**

On page 20 of the amendment, line 23, strike "and".

**AMENDMENT No. 4257**

On page 21 of the amendment, line 2, strike the period and insert "; and".

**AMENDMENT No. 4258**

On page 21 of the amendment, between lines 2 and 3, insert the following:

"(iii) in the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i)."

## AMENDMENT NO. 4259

On page 21 of the amendment, after line 25, insert the following new section:

**SEC. 12. IMPOSITION OF FEES.**

Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A)) is amended by striking “(excluding)” and all that follows through “2001)” and inserting “(excluding any employer that is a primary or secondary education institution, an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), a nonprofit entity related to or affiliated with any such institution, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing”.

## CLELAND AMENDMENTS NOS. 4260–4261

(Ordered to lie on the table.)

Mr. CLELAND submitted two amendments intended to be proposed by him to the bill, S. 2045, supra; as follows:

## AMENDMENT NO. 4260

At the end, add the following:

**SEC. \_\_\_\_ IMMIGRANTS TO NEW AMERICANS MODEL PROGRAMS.**

(a) **SHORT TITLE.**—This section may be cited as the “Immigrants to New Americans Act”.

(b) **FINDINGS.**—Congress finds the following:

(1) In 1997, there were an estimated 25,800,000 foreign-born individuals residing in the United States. That number is the largest number of such foreign-born individuals ever in United States history and represents a 6,000,000, or 30 percent, increase over the 1990 census figure of 19,800,000 of such foreign-born individuals. The Bureau of the Census estimates that the recently arrived immigrant population (including the refugee population) currently residing in the Nation will account for 75 percent of the population growth in the United States over the next 50 years.

(2) For millions of immigrants settling into the Nation’s hamlets, towns, and cities, the dream of ‘life, liberty, and the pursuit of happiness’ has become a reality. The wave of immigrants, from various nationalities, who have chosen the United States as their home, has positively influenced the Nation’s image and relationship with other nations. The diverse cultural heritage of the Nation’s immigrants has helped define the Nation’s culture, customs, economy, and communities. By better understanding the people who have immigrated to the Nation, individuals in the United States better understand what it means to be an American.

(3) There is a critical shortage of teachers with the skills needed to educate immigrant students and their families in nonconcentrated, nontraditional, immigrant communities as well as communities with large immigrant populations. The large influx of immigrant families over the last decade presents a national dilemma: The number of such families with school-age children, requiring assistance to successfully participate in elementary schools, secondary schools, and communities in the United States, is increasing without a corresponding increase in the number of teachers with skills to accommodate their needs.

(4) Immigrants arriving in communities across the Nation generally settle into high-poverty areas, where funding for programs to provide immigrant students and their families with the services the students and fami-

lies need to successfully participate in elementary schools, secondary schools, and communities in the United States is inadequate.

(5) The influx of immigrant families settling into many United States communities is often the result of concerted efforts by local employers who value immigrant labor. Those employers realize that helping immigrants to become productive, prosperous members of a community is beneficial for the local businesses involved, the immigrants, and the community. Further, local businesses benefit from the presence of the immigrant families because the families present businesses with a committed and effective workforce and help to open up new market opportunities. However, many of the communities into which the immigrants have settled need assistance in order to give immigrant students and their families the services the students and families need to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(c) **PURPOSE.**—The purpose of this section is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations for the development of model programs to provide to immigrant students and their families the services the students and families need to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(d) **DEFINITIONS.**—

(1) **IMMIGRANT.**—In this section, the term “immigrant” has the meaning given the term in section 101 of the Immigration and Nationality Act.

(2) **OTHER TERMS.**—The terms used in this section have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965.

(e) **PROGRAM AUTHORIZED.**—

(1) **IN GENERAL.**—The Secretary of Education is authorized to award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(A) assist immigrant students to achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(B) assist parents of immigrant students by offering such services as parent education and literacy development services and by coordinating activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(2) **DURATION.**—Each grant awarded under this section shall be awarded for a period of not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

(f) **APPLICATIONS FOR GRANTS.**—

(1) **IN GENERAL.**—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) **ELIGIBLE PARTNERSHIPS.**—To be eligible to receive a grant under this section, a partnership—

(A) shall include—

- (i) at least 1 local educational agency; and
- (ii) at least 1 community-based organization; and

(B) may include another entity such as an institution of higher education, a local or State government agency, a private sector

entity, or another entity with expertise in working with immigrants.

(3) **REQUIRED DOCUMENTATION.**—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(A) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(B) the leadership of each participating school has been involved in the development and planning of the program in the school.

(4) **OTHER APPLICATION CONTENTS.**—Each application submitted by a partnership under this section for a proposed program shall include—

(A) a list of the organizations entering into the partnership;

(B) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency, in the schools or school districts to be served through the program and the characteristics of the students described in this subparagraph, including—

(i) the native languages of the students to be served;

(ii) the proficiency of the students in English and the native languages;

(iii) achievement data for the students in—

- (I) reading or language arts (in English and in the native languages, if applicable); and
- (II) mathematics; and

(iv) the previous schooling experiences of the students;

(C) a description of the goals of the program;

(D) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(E) a description of activities that will be pursued by the partnership through the program, including a description of—

(i) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) how the activities will further the academic achievement of immigrant students served through the program;

(iii) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(iv) methods of coordinating comprehensive community social services to assist immigrant families;

(F) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(G) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this section that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(H) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(g) **SELECTION OF GRANTEEES.**—

(1) **CRITERIA.**—The Secretary, through a peer review process, shall select partnerships to receive grants under this section on the basis of the quality of the programs proposed

in the applications submitted under subsection (f), taking into consideration such factors as—

(A) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(B) the quality of the activities proposed by a partnership;

(C) the extent of parental, student, and community involvement;

(D) the extent to which the partnership will ensure the coordination of comprehensive community social services with the program;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be achieved.

(2) GEOGRAPHIC DISTRIBUTION OF PROGRAMS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

(h) EVALUATION AND PROGRAM DEVELOPMENT.—

(1) REQUIREMENT.—Each partnership receiving a grant under this section shall—

(A) conduct a comprehensive evaluation of the program assisted under this section, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(B) prepare and submit to the Secretary a report containing the results of the evaluation.

(2) EVALUATION REPORT COMPONENTS.—Each evaluation report submitted under this section for a program shall include—

(A) data on the partnership's progress in achieving the goals of the program;

(B) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(i) data comparing the students served to other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(ii) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this section is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(C) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(D) such other information as the Secretary may require.

(i) ADMINISTRATIVE FUNDS.—A partnership that receives a grant under this section may use not more than 5 percent of the grant funds received under this section for administrative purposes.

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$10,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

AMENDMENT No. 4261

At the end, add the following:

**SEC. \_\_\_\_ IMMIGRANTS TO NEW AMERICANS MODEL PROGRAMS.**

(a) SHORT TITLE.—This section may be cited as the "Immigrants to New Americans Act".

(b) FINDINGS.—Congress finds the following:

(1) In 1997, there were an estimated 25,800,000 foreign-born individuals residing in the United States. That number is the largest number of such foreign-born individuals ever in United States history and represents a 6,000,000, or 30 percent, increase over the 1990 census figure of 19,800,000 of such foreign-born individuals. The Bureau of the Census estimates that the recently arrived immigrant population (including the refugee population) currently residing in the Nation will account for 75 percent of the population growth in the United States over the next 50 years.

(2) For millions of immigrants settling into the Nation's hamlets, towns, and cities, the dream of "life, liberty, and the pursuit of happiness" has become a reality. The wave of immigrants, from various nationalities, who have chosen the United States as their home, has positively influenced the Nation's image and relationship with other nations. The diverse cultural heritage of the Nation's immigrants has helped define the Nation's culture, customs, economy, and communities. By better understanding the people who have immigrated to the Nation, individuals in the United States better understand what it means to be an American.

(3) There is a critical shortage of teachers with the skills needed to educate immigrant students and their families in nonconcentrated, nontraditional, immigrant communities as well as communities with large immigrant populations. The large influx of immigrant families over the last decade presents a national dilemma: The number of such families with school-age children, requiring assistance to successfully participate in elementary schools, secondary schools, and communities in the United States, is increasing without a corresponding increase in the number of teachers with skills to accommodate their needs.

(4) Immigrants arriving in communities across the Nation generally settle into high-poverty areas, where funding for programs to provide immigrant students and their families with the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States is inadequate.

(5) The influx of immigrant families settling into many United States communities is often the result of concerted efforts by local employers who value immigrant labor. Those employers realize that helping immigrants to become productive, prosperous members of a community is beneficial for the local businesses involved, the immigrants, and the community. Further, local businesses benefit from the presence of the immigrant families because the families present businesses with a committed and effective workforce and help to open up new market opportunities. However, many of the communities into which the immigrants have settled need assistance in order to give immigrant students and their families the services the students and families need to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(c) PURPOSE.—The purpose of this section is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations for the development of model programs to provide to immigrant students and their

families the services the students and families need to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(d) DEFINITIONS.—

(1) IMMIGRANT.—In this section, the term "immigrant" has the meaning given the term in section 101 of the Immigration and Nationality Act.

(2) OTHER TERMS.—The terms used in this section have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965.

(e) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education is authorized to award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(A) assist immigrant students to achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(B) assist parents of immigrant students by offering such services as parent education and literacy development services and by coordinating activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

(f) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) ELIGIBLE PARTNERSHIPS.—To be eligible to receive a grant under this section, a partnership—

(A) shall include—

(i) at least 1 local educational agency; and

(ii) at least 1 community-based organization; and

(B) may include another entity such as an institution of higher education, a local or State government agency, a private sector entity, or another entity with expertise in working with immigrants.

(3) REQUIRED DOCUMENTATION.—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(A) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(B) the leadership of each participating school has been involved in the development and planning of the program in the school.

(4) OTHER APPLICATION CONTENTS.—Each application submitted by a partnership under this section for a proposed program shall include—

(A) a list of the organizations entering into the partnership;

(B) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency, in the schools or school districts to be served through the program and the characteristics of the students described in this subparagraph, including—

(i) the native languages of the students to be served;

(ii) the proficiency of the students in English and the native languages;

(iii) achievement data for the students in—

(I) reading or language arts (in English and in the native languages, if applicable); and

(II) mathematics; and  
(iv) the previous schooling experiences of the students;

(C) a description of the goals of the program;

(D) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(E) a description of activities that will be pursued by the partnership through the program, including a description of—

(i) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) how the activities will further the academic achievement of immigrant students served through the program;

(iii) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(iv) methods of coordinating comprehensive community social services to assist immigrant families;

(F) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(G) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this section that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(H) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(g) **SELECTION OF GRANTEES.—**

(1) **CRITERIA.**—The Secretary, through a peer review process, shall select partnerships to receive grants under this section on the basis of the quality of the programs proposed in the applications submitted under subsection (f), taking into consideration such factors as—

(A) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(B) the quality of the activities proposed by a partnership;

(C) the extent of parental, student, and community involvement;

(D) the extent to which the partnership will ensure the coordination of comprehensive community social services with the program;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be achieved.

(2) **GEOGRAPHIC DISTRIBUTION OF PROGRAMS.**—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

(h) **EVALUATION AND PROGRAM DEVELOPMENT.**—

(1) **REQUIREMENT.**—Each partnership receiving a grant under this section shall—

(A) conduct a comprehensive evaluation of the program assisted under this section, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(B) prepare and submit to the Secretary a report containing the results of the evaluation.

(2) **EVALUATION REPORT COMPONENTS.**—Each evaluation report submitted under this section for a program shall include—

(A) data on the partnership's progress in achieving the goals of the program;

(B) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(i) data comparing the students served to other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(ii) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this section is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(C) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(D) such other information as the Secretary may require.

(i) **ADMINISTRATIVE FUNDS.**—A partnership that receives a grant under this section may use not more than 5 percent of the grant funds received under this section for administrative purposes.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$10,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

**FEINGOLD AMENDMENT NO. 4262**

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill, S. 2045, supra; as follows:

At the end of the substitute, add the following:

**SECTION 12. TRAFFIC STOPS STATISTICS STUDY.**

(a) **SHORT TITLE.**—This section may be cited as the "Traffic Stops Statistics Study Act of 2000".

(b) **STUDY.**—

(1) **IN GENERAL.**—The Attorney General shall conduct a nationwide study of stops for traffic violations by law enforcement officers.

(2) **INITIAL ANALYSIS.**—The Attorney General shall perform an initial analysis of existing data, including complaints alleging and other information concerning traffic stops motivated by race and other bias.

(3) **DATA COLLECTION.**—After completion of the initial analysis under paragraph (2), the Attorney General shall then gather the following data on traffic stops from a nationwide sample of jurisdictions, including jurisdictions identified in the initial analysis:

(A) The traffic infraction alleged to have been committed that led to the stop.

(B) Identifying characteristics of the driver stopped, including the race, gender, ethnicity, and approximate age of the driver.

(C) Whether immigration status was questioned, immigration documents were requested, or an inquiry was made to the Im-

migration and Naturalization Service with regard to any person in the vehicle.

(D) The number of individuals in the stopped vehicle.

(E) Whether a search was instituted as a result of the stop and whether consent was requested for the search.

(F) Any alleged criminal behavior by the driver that justified the search.

(G) Any items seized, including contraband or money.

(H) Whether any warning or citation was issued as a result of the stop.

(I) Whether an arrest was made as a result of either the stop or the search and the justification for the arrest.

(J) The duration of the stop.

(c) **REPORTING.**—Not later than 120 days after the date of enactment of this Act, the Attorney General shall report the results of its initial analysis to Congress, and make such report available to the public, and identify the jurisdictions for which the study is to be conducted. Not later than 2 years after the date of the enactment of this Act, the Attorney General shall report the results of the data collected under this Act to Congress, a copy of which shall also be published in the Federal Register.

(d) **GRANT PROGRAM.**—In order to complete the study described in subsection (b), the Attorney General may provide grants to law enforcement agencies to collect and submit the data described in subsection (b) to the appropriate agency as designated by the Attorney General.

(e) **LIMITATION ON USE OF DATA.**—Information released pursuant to this section shall not reveal the identity of any individual who is stopped or any law enforcement officer involved in a traffic stop.

(f) **DEFINITIONS.**—For purposes of this section:

(1) **LAW ENFORCEMENT AGENCY.**—The term "law enforcement agency" means an agency of a State or political subdivision of a State, authorized by law or by a Federal, State, or local government agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws, or a federally recognized Indian tribe.

(2) **INDIAN TRIBE.**—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**FEINGOLD AMENDMENT NO. 4263**

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the amendment No. 4177 proposed by Mr. LOTT to the bill, S. 2045, supra; as follows:

At the end of the matter proposed to be inserted, add the following:

**SECTION 12. TRAFFIC STOPS STATISTICS STUDY.**

(a) **SHORT TITLE.**—This section may be cited as the "Traffic Stops Statistics Study Act of 2000".

(b) **STUDY.**—

(1) **IN GENERAL.**—The Attorney General shall conduct a nationwide study of stops for traffic violations by law enforcement officers.

(2) **INITIAL ANALYSIS.**—The Attorney General shall perform an initial analysis of existing data, including complaints alleging and other information concerning traffic stops motivated by race and other bias.

(3) **DATA COLLECTION.**—After completion of the initial analysis under paragraph (2), the

Attorney General shall then gather the following data on traffic stops from a nationwide sample of jurisdictions, including jurisdictions identified in the initial analysis:

(A) The traffic infraction alleged to have been committed that led to the stop.

(B) Identifying characteristics of the driver stopped, including the race, gender, ethnicity, and approximate age of the driver.

(C) Whether immigration status was questioned, immigration documents were requested, or an inquiry was made to the Immigration and Naturalization Service with regard to any person in the vehicle.

(D) The number of individuals in the stopped vehicle.

(E) Whether a search was instituted as a result of the stop and whether consent was requested for the search.

(F) Any alleged criminal behavior by the driver that justified the search.

(G) Any items seized, including contraband or money.

(H) Whether any warning or citation was issued as a result of the stop.

(I) Whether an arrest was made as a result of either the stop or the search and the justification for the arrest.

(J) The duration of the stop.

(c) **REPORTING.**—Not later than 120 days after the date of enactment of this Act, the Attorney General shall report the results of its initial analysis to Congress, and make such report available to the public, and identify the jurisdictions for which the study is to be conducted. Not later than 2 years after the date of the enactment of this Act, the Attorney General shall report the results of the data collected under this Act to Congress, a copy of which shall also be published in the Federal Register.

(d) **GRANT PROGRAM.**—In order to complete the study described in subsection (b), the Attorney General may provide grants to law enforcement agencies to collect and submit the data described in subsection (b) to the appropriate agency as designated by the Attorney General.

(e) **LIMITATION ON USE OF DATA.**—Information released pursuant to this section shall not reveal the identity of any individual who is stopped or any law enforcement officer involved in a traffic stop.

(f) **DEFINITIONS.**—For purposes of this section:

(1) **LAW ENFORCEMENT AGENCY.**—The term “law enforcement agency” means an agency of a State or political subdivision of a State, authorized by law or by a Federal, State, or local government agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws, or a federally recognized Indian tribe.

(2) **INDIAN TRIBE.**—The term “Indian tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### HUTCHISON AMENDMENT NO. 4264

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 2045, supra; as follows:

At the appropriate place, insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the ‘International Patient Act of 2000’.

#### SEC. 2. THREE-YEAR PILOT PROGRAM TO EXPAND VOLUNTARY DEPARTURE PERIOD FOR CERTAIN NONIMMIGRANT ALIENS REQUIRING MEDICAL TREATMENT WHO WERE ADMITTED UNDER VISA WAIVER PILOT PROGRAM.

Section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)) is amended to read as follows:

“(2) PERIOD.—

“(A) IN GENERAL.—Subject to subparagraph (B), permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

“(B) 3-YEAR PILOT PROGRAM WAIVER.—During the period October 1, 2000, through September 30, 2003, and subject to subparagraphs (C) and (D)(ii), the Attorney General may, in the discretion of the Attorney General for humanitarian purposes, waive application of subparagraph (A) in the case of an alien—

“(i) who was admitted to the United States as a nonimmigrant visitor (described in section 101(a)(15)(B)) under the provisions of the visa waiver pilot program established pursuant to section 217, seeks the waiver for the purpose of continuing to receive medical treatment in the United States from a physician associated with a health care facility, and submits to the Attorney General—

“(I) a detailed diagnosis statement from the physician, which includes the treatment being sought and the expected time period the alien will be required to remain in the United States;

“(II) a statement from the health care facility containing an assurance that the alien’s treatment is not being paid through any Federal or State public health assistance, that the alien’s account has no outstanding balance, and that such facility will notify the Service when the alien is released or treatment is terminated; and

“(III) evidence of financial ability to support the alien’s day-to-day expenses while in the United States (including the expenses of any family member described in clause (ii)) and evidence that any such alien or family member is not receiving any form of public assistance; or

“(ii) who—

“(I) is a spouse, parent, brother, sister, son, daughter, or other family member of a principal alien described in clause (i); and

“(II) entered the United States accompanying, and with the same status as, such principal alien.

“(C) WAIVER LIMITATIONS—

“(i) Waivers under subparagraph (B) may be granted only upon a request submitted by a Service district office to Service headquarters.

“(ii) Not more than 300 waivers may be granted for any fiscal year for a principal alien under subparagraph (B)(i).

“(iii)(I) Except as provided in subclause (II), in the case of each principal alien described in subparagraph (B)(i) not more than one audit may be granted a waiver under subparagraph (B)(ii).

“(II) Not more than two adults may be granted a waiver under subparagraph (B)(ii) in a case in which—

“(aa) the principal alien described in subparagraph (B)(i) is a dependent under the age of 18; or

“(bb) one such adult is age 55 or older or is physically handicapped.

“(D) REPORT TO CONGRESS; SUSPENSION OF WAIVER AUTHORITY—

“(i) Not later than March 30 of each year, the Commissioner shall submit to the Congress an annual report regarding all waivers granted under subparagraph (B) during the preceding fiscal year.

“(ii) Notwithstanding any other provision of law, the authority of the Attorney Gen-

eral under subparagraph (B) shall be suspended during any period in which an annual report under clause (i) is past due and has not been submitted.’.

#### FEINSTEIN AMENDMENTS NOS. 4265–4266

(Ordered to lie on the table.)

Mr. DASCHLE (for Mrs. FEINSTEIN) submitted two amendments intended to be proposed by her to the bill, S. 2045, supra; as follows:

AMENDMENT NO. 4265

At the appropriate place, insert the following:

#### TITLE II—IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS

##### SEC. 201. SHORT TITLE.

This title may be cited as the ‘Immigration Services and Infrastructure Improvements Act of 2000’.

##### SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSES.

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

(1) Applications for naturalization have increased dramatically in recent years, outpacing the Immigration and Naturalization Service’s ability to process them.

(2) The dramatic increase in applications for naturalization and the inability of the Immigration and Naturalization Service to deal with them adequately has resulted in an unacceptably large backlog in naturalization adjudications.

(3) The processing times in the Immigration and Naturalization Service’s other immigration benefits have been unacceptably long. Applicants for family- and employment-based visas are waiting as long as 3 to 4 years to obtain a visa or an adjustment to lawful permanent resident status.

(4) In California, the delays in processing adjustment of status applications have averaged 52 months. In Texas, the delays have averaged 69 months. Residents of New York have had to wait up to 28 months; in Florida, 26 months; in Illinois, 37 months; in Oregon, 31 months; and in Arizona, 49 months. Most other States have experienced unacceptably long processing and adjudication delays.

(5) Applicants pay fees to have their applications adjudicated in a timely manner. These fees have increased dramatically in recent years without a commensurate increase in the capability of that Immigration and Naturalization Service to process and adjudicate these cases in an efficient manner.

(6) Processing these applications in a timely fashion is critical. Each 12-month delay in adjudicating an adjustment of status application requires the alien to file applications to extend employment authorization to work and advance parole documents to travel.

(7) The enormous delays in processing applications for families and businesses have had a negative impact on the reunification of spouses and minor children and the ability of law-abiding and contributing members of our communities to participate fully in the civic life of the United States.

(8) United States employers have also experienced debilitating delays in hiring employees who contribute to the economic growth of the United States. These delays have forced employers to send highly skilled and valued employees out of the United States because their immigrant petitions were not approved in a timely fashion. Such disruptions seriously threaten the competitive edge of the United States in the global marketplace.

(b) **PURPOSES.**—The purposes of this title are to—

(1) provide the Immigration and Naturalization Service with the mechanisms it

needs to eliminate the current backlog in the processing of immigration benefit applications within 1 year after enactment of this Act and to maintain the elimination of the backlog in future years; and

(2) provide for regular congressional oversight of the performance of the Immigration and Naturalization Service in eliminating the backlog and processing delays in immigration benefits adjudications.

(c) **POLICY.**—It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that a petition for a non-immigrant visa under section 214(c) of the Immigration and Nationality Act should be processed not later than 30 days after the filing of the petition.

#### SEC. 203. DEFINITIONS.

In this title:

(1) **BACKLOG.**—The term “backlog” means, with respect to an immigration benefit application, the period of time in excess of 180 days that such application has been pending before the Immigration and Naturalization Service.

(2) **IMMIGRATION BENEFIT APPLICATION.**—The term “immigration benefit application” means any application or petition to confer, certify, change, adjust, or extend any status granted under the Immigration and Nationality Act.

#### SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENT ACCOUNT.

(a) **AUTHORITY OF THE ATTORNEY GENERAL.**—The Attorney General shall take such measures as may be necessary to—

(1) reduce the backlog in the processing of immigration benefit applications, with the objective of the total elimination of the backlog not later than one year after the date of enactment of this Act;

(2) make such other improvements in the processing of immigration benefit applications as may be necessary to ensure that a backlog does not develop after such date; and

(3) make such improvements in infrastructure as may be necessary to effectively provide immigration services.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Department of Justice from time to time such sums as may be necessary for the Attorney General to carry out subsection (a).

(2) **DESIGNATION OF ACCOUNT IN TREASURY.**—Amounts appropriated pursuant to paragraph (1) may be referred to as the “Immigration Services and Infrastructure Improvements Account”.

(3) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(4) **LIMITATION ON EXPENDITURES.**—None of the funds appropriated pursuant to paragraph (1) may be expended until the report described in section 205(a) has been submitted to Congress.

#### SEC. 205. REPORTS TO CONGRESS.

(a) **BACKLOG ELIMINATION PLAN.**—

(1) **REPORT REQUIRED.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning—

(A) the backlogs in immigration benefit applications in existence as of the date of enactment of this title; and

(B) the Attorney General’s plan for eliminating such backlogs.

(2) **REPORT ELEMENTS.**—The report shall include—

(A) an assessment of the data systems used in adjudicating and reporting on the status

of immigration benefit applications, including—

(i) a description of the adequacy of existing computer hardware, computer software, and other mechanisms to comply with the adjudications and reporting requirements of this title; and

(ii) a plan for implementing improvements to existing data systems to accomplish the purpose of this title, as described in section 202(b);

(B) a description of the quality controls to be put into force to ensure timely, fair, accurate, and complete processing and adjudication of such applications;

(C) the elements specified in subsection (b)(2);

(D) an estimate of the amount of appropriated funds that would be necessary in order to eliminate the backlogs in each category of immigration benefit applications described in subsection (b)(2); and

(E) a detailed plan on how the Attorney General will use any funds in the Immigration Services and Infrastructure Improvements Account to comply with the purposes of this title.

(b) **ANNUAL REPORTS.**—

(1) **IN GENERAL.**—Beginning 90 days after the end of the first fiscal year for which any appropriation authorized by section 204(b) is made, and 90 days after the end of each fiscal year thereafter, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning the status of—

(A) the Immigration Services and Infrastructure Improvements Account including any unobligated balances of appropriations in the Account; and

(B) the Attorney General’s efforts to eliminate backlogs in any immigration benefit application described in paragraph (2).

(2) **REPORT ELEMENTS.**—The report shall include—

(A) State-by-State data on—

(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for naturalization applications;

(iii) the number of naturalization applications pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) estimated processing times adjudicating newly submitted naturalization applications;

(v) an analysis of the appropriate processing times for naturalization applications; and

(vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;

(B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—

(i) the number of cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for such applications or petitions;

(iii) the number of applications or petitions pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) the estimated processing times adjudicating newly submitted applications or petitions;

(v) an analysis of the appropriate processing times for applications or petitions; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications; and

(C) a status report on—

(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

(ii) petitions for nonimmigrant visas under section 214 of the Immigration and Nationality Act;

(iii) petitions filed under section 204 of such Act to classify aliens as immediate relatives or preference immigrants under section 203 of such Act;

(iv) applications for asylum under section 208 of such Act;

(v) registrations for Temporary Protected Status under section 244 of such Act; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications.

(3) **ABSENCE OF APPROPRIATED FUNDS.**—In the event that no funds are appropriated subject to section 204(b) in the fiscal year in which this Act is enacted, the Attorney General shall submit a report to Congress not later than 90 days after the end of such fiscal year, and each fiscal year thereafter, containing the elements described in paragraph (2).

#### AMENDMENT NO. 4266

At the appropriate place, insert the following:

### TITLE II—IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Immigration Services and Infrastructure Improvements Act of 2000”.

#### SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSES.

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

(1) Applications for naturalization have increased dramatically in recent years, outpacing the Immigration and Naturalization Service’s ability to process them.

(2) The dramatic increase in applications for naturalization and the inability of the Immigration and Naturalization Service to deal with them adequately has resulted in an unacceptably large backlog in naturalization adjudications.

(3) The processing times in the Immigration and Naturalization Service’s other immigration benefits have been unacceptably long. Applicants for family- and employment-based visas are waiting as long as 3 to 4 years to obtain a visa or an adjustment to lawful permanent resident status.

(4) In California, the delays in processing adjustment of status applications have averaged 52 months. In Texas, the delays have averaged 69 months. Residents of New York have had to wait up to 28 months; in Florida, 26 months; in Illinois, 37 months; in Oregon, 31 months; and in Arizona, 49 months. Most other States have experienced unacceptably long processing and adjudication delays.

(5) Applicants pay fees to have their applications adjudicated in a timely manner. These fees have increased dramatically in recent years without a commensurate increase in the capability of that Immigration and Naturalization Service to process and adjudicate these cases in an efficient manner.

(6) Processing these applications in a timely fashion is critical. Each 12-month delay in adjudicating an adjustment of status application requires the alien to file applications to extend employment authorization to work and advance parole documents to travel.

(7) The enormous delays in processing applications for families and businesses have had a negative impact on the reunification of spouses and minor children and the ability of law-abiding and contributing members of our communities to participate fully in the civic life of the United States.

(8) United States employers have also experienced debilitating delays in hiring employees who contribute to the economic growth of the United States. These delays have forced employers to send highly skilled and valued employees out of the United States because their immigrant petitions were not approved in a timely fashion. Such disruptions seriously threaten the competitive edge of the United States in the global marketplace.

(b) PURPOSES.—The purposes of this title are to—

(1) provide the Immigration and Naturalization Service with the mechanisms it needs to eliminate the current backlog in the processing of immigration benefit applications within 1 year after enactment of this Act and to maintain the elimination of the backlog in future years; and

(2) provide for regular congressional oversight of the performance of the Immigration and Naturalization Service in eliminating the backlog and processing delays in immigration benefits adjudications.

(c) POLICY.—It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that a petition for a non-immigrant visa under section 214(c) of the Immigration and Nationality Act should be processed not later than 30 days after the filing of the petition.

#### SEC. 203. DEFINITIONS.

In this title:

(1) BACKLOG.—The term “backlog” means, with respect to an immigration benefit application, the period of time in excess of 180 days that such application has been pending before the Immigration and Naturalization Service.

(2) IMMIGRATION BENEFIT APPLICATION.—The term “immigration benefit application” means any application or petition to confer, certify, change, adjust, or extend any status granted under the Immigration and Nationality Act.

#### SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENT ACCOUNT.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General shall take such measures as may be necessary to—

(1) reduce the backlog in the processing of immigration benefit applications, with the objective of the total elimination of the backlog not later than one year after the date of enactment of this Act;

(2) make such other improvements in the processing of immigration benefit applications as may be necessary to ensure that a backlog does not develop after such date; and

(3) make such improvements in infrastructure as may be necessary to effectively provide immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice from time to time such sums as may be necessary for the Attorney General to carry out subsection (a).

(2) DESIGNATION OF ACCOUNT IN TREASURY.—Amounts appropriated pursuant to paragraph (1) may be referred to as the “Immigration Services and Infrastructure Improvements Account”.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(4) LIMITATION ON EXPENDITURES.—None of the funds appropriated pursuant to paragraph (1) may be expended until the report described in section 205(a) has been submitted to Congress.

#### SEC. 205. REPORTS TO CONGRESS.

(a) BACKLOG ELIMINATION PLAN.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning—

(A) the backlogs in immigration benefit applications in existence as of the date of enactment of this title; and

(B) the Attorney General’s plan for eliminating such backlogs.

(2) REPORT ELEMENTS.—The report shall include—

(A) an assessment of the data systems used in adjudicating and reporting on the status of immigration benefit applications, including—

(i) a description of the adequacy of existing computer hardware, computer software, and other mechanisms to comply with the adjudications and reporting requirements of this title; and

(ii) a plan for implementing improvements to existing data systems to accomplish the purpose of this title, as described in section 202(b);

(B) a description of the quality controls to be put into force to ensure timely, fair, accurate, and complete processing and adjudication of such applications;

(C) the elements specified in subsection (b)(2);

(D) an estimate of the amount of appropriated funds that would be necessary in order to eliminate the backlogs in each category of immigration benefit applications described in subsection (b)(2); and

(E) a detailed plan on how the Attorney General will use any funds in the Immigration Services and Infrastructure Improvements Account to comply with the purposes of this title.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Beginning 90 days after the end of the first fiscal year for which any appropriation authorized by section 204(b) is made, and 90 days after the end of each fiscal year thereafter, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning the status of—

(A) the Immigration Services and Infrastructure Improvements Account including any unobligated balances of appropriations in the Account; and

(B) the Attorney General’s efforts to eliminate backlogs in any immigration benefit application described in paragraph (2).

(2) REPORT ELEMENTS.—The report shall include—

(A) State-by-State data on—

(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for naturalization applications;

(iii) the number of naturalization applications pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) estimated processing times adjudicating newly submitted naturalization applications;

(v) an analysis of the appropriate processing times for naturalization applications; and

(vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;

(B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—

(i) the number of cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for such applications or petitions;

(iii) the number of applications or petitions pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) the estimated processing times adjudicating newly submitted applications or petitions;

(v) an analysis of the appropriate processing times for applications or petitions; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications; and

(C) a status report on—

(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

(ii) petitions for nonimmigrant visas under section 214 of the Immigration and Nationality Act;

(iii) petitions filed under section 204 of such Act to classify aliens as immediate relatives or preference immigrants under section 203 of such Act;

(iv) applications for asylum under section 208 of such Act;

(v) registrations for Temporary Protected Status under section 244 of such Act; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications.

(3) ABSENCE OF APPROPRIATED FUNDS.—In the event that no funds are appropriated subject to section 204(b) in the fiscal year in which this Act is enacted, the Attorney General shall submit a report to Congress not later than 90 days after the end of such fiscal year, and each fiscal year thereafter, containing the elements described in paragraph (2).

#### FEINSTEIN AMENDMENTS NOS. 4267–4268

(Ordered to lie on the table.)

Mr. DASCHLE (for Mrs. FEINSTEIN) submitted two amendments to be proposed by her to amendment No. 4183 proposed by Mr. LOTT (for Mr. CONRAD) to the bill, S. 2045, supra; as follows:

#### AMENDMENT NO. 4267

On line 9, strike “waivers).”, and insert the following:

waivers and authority to change status).

#### TITLE II—IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS

##### SEC. 201. SHORT TITLE.

This title may be cited as the “Immigration Services and Infrastructure Improvements Act of 2000”.

##### SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSES.

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

(1) Applications for naturalization have increased dramatically in recent years, outpacing the Immigration and Naturalization Service’s ability to process them.

(2) The dramatic increase in applications for naturalization and the inability of the Immigration and Naturalization Service to deal with them adequately has resulted in an unacceptably large backlog in naturalization adjudications.

(3) The processing times in the Immigration and Naturalization Service’s other immigration benefits have been unacceptably long. Applicants for family- and employment-based visas are waiting as long as 3 to 4 years to obtain a visa or an adjustment to lawful permanent resident status.

(4) In California, the delays in processing adjustment of status applications have averaged 52 months. In Texas, the delays have

averaged 69 months. Residents of New York have had to wait up to 28 months; in Florida, 26 months; in Illinois, 37 months; in Oregon, 31 months; and in Arizona, 49 months. Most other States have experienced unacceptably long processing and adjudication delays.

(5) Applicants pay fees to have their applications adjudicated in a timely manner. These fees have increased dramatically in recent years without a commensurate increase in the capability of that Immigration and Naturalization Service to process and adjudicate these cases in an efficient manner.

(6) Processing these applications in a timely fashion is critical. Each 12-month delay in adjudicating an adjustment of status application requires the alien to file applications to extend employment authorization to work and advance parole documents to travel.

(7) The enormous delays in processing applications for families and businesses have had a negative impact on the reunification of spouses and minor children and the ability of law-abiding and contributing members of our communities to participate fully in the civic life of the United States.

(8) United States employers have also experienced debilitating delays in hiring employees who contribute to the economic growth of the United States. These delays have forced employers to send highly skilled and valued employees out of the United States because their immigrant petitions were not approved in a timely fashion. Such disruptions seriously threaten the competitive edge of the United States in the global marketplace.

(b) PURPOSES.—The purposes of this title are to—

(1) provide the Immigration and Naturalization Service with the mechanisms it needs to eliminate the current backlog in the processing of immigration benefit applications within 1 year after enactment of this Act and to maintain the elimination of the backlog in future years; and

(2) provide for regular congressional oversight of the performance of the Immigration and Naturalization Service in eliminating the backlog and processing delays in immigration benefits adjudications.

(c) POLICY.—It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that a petition for a non-immigrant visa under section 214(c) of the Immigration and Nationality Act should be processed not later than 30 days after the filing of the petition.

#### SEC. 203. DEFINITIONS.

In this title:

(1) BACKLOG.—The term “backlog” means, with respect to an immigration benefit application, the period of time in excess of 180 days that such application has been pending before the Immigration and Naturalization Service.

(2) IMMIGRATION BENEFIT APPLICATION.—The term “immigration benefit application” means any application or petition to confer, certify, change, adjust, or extend any status granted under the Immigration and Nationality Act.

#### SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENT ACCOUNT.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General shall take such measures as may be necessary to—

(1) reduce the backlog in the processing of immigration benefit applications, with the objective of the total elimination of the backlog not later than one year after the date of enactment of this Act;

(2) make such other improvements in the processing of immigration benefit applica-

tions as may be necessary to ensure that a backlog does not develop after such date; and

(3) make such improvements in infrastructure as may be necessary to effectively provide immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice from time to time such sums as may be necessary for the Attorney General to carry out subsection (a).

(2) DESIGNATION OF ACCOUNT IN TREASURY.—Amounts appropriated pursuant to paragraph (1) may be referred to as the “Immigration Services and Infrastructure Improvements Account”.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(4) LIMITATION ON EXPENDITURES.—None of the funds appropriated pursuant to paragraph (1) may be expended until the report described in section 205(a) has been submitted to Congress.

#### SEC. 205. REPORTS TO CONGRESS.

(a) BACKLOG ELIMINATION PLAN.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning—

(A) the backlogs in immigration benefit applications in existence as of the date of enactment of this title; and

(B) the Attorney General’s plan for eliminating such backlogs.

(2) REPORT ELEMENTS.—The report shall include—

(A) an assessment of the data systems used in adjudicating and reporting on the status of immigration benefit applications, including—

(i) a description of the adequacy of existing computer hardware, computer software, and other mechanisms to comply with the adjudications and reporting requirements of this title; and

(ii) a plan for implementing improvements to existing data systems to accomplish the purpose of this title, as described in section 202(b);

(B) a description of the quality controls to be put into force to ensure timely, fair, accurate, and complete processing and adjudication of such applications;

(C) the elements specified in subsection (b)(2);

(D) an estimate of the amount of appropriated funds that would be necessary in order to eliminate the backlogs in each category of immigration benefit applications described in subsection (b)(2); and

(E) a detailed plan on how the Attorney General will use any funds in the Immigration Services and Infrastructure Improvements Account to comply with the purposes of this title.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Beginning 90 days after the end of the first fiscal year for which any appropriation authorized by section 204(b) is made, and 90 days after the end of each fiscal year thereafter, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning the status of—

(A) the Immigration Services and Infrastructure Improvements Account including any unobligated balances of appropriations in the Account; and

(B) the Attorney General’s efforts to eliminate backlogs in any immigration benefit application described in paragraph (2).

(2) REPORT ELEMENTS.—The report shall include—

(A) State-by-State data on—

(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for naturalization applications;

(iii) the number of naturalization applications pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) estimated processing times adjudicating newly submitted naturalization applications;

(v) an analysis of the appropriate processing times for naturalization applications; and

(vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;

(B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—

(i) the number of cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for such applications or petitions;

(iii) the number of applications or petitions pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) the estimated processing times adjudicating newly submitted applications or petitions;

(v) an analysis of the appropriate processing times for applications or petitions; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications; and

(C) a status report on—

(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

(ii) petitions for nonimmigrant visas under section 214 of the Immigration and Nationality Act;

(iii) petitions filed under section 204 of such Act to classify aliens as immediate relatives or preference immigrants under section 203 of such Act;

(iv) applications for asylum under section 208 of such Act;

(v) registrations for Temporary Protected Status under section 244 of such Act; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications.

(3) ABSENCE OF APPROPRIATED FUNDS.—In the event that no funds are appropriated subject to section 204(b) in the fiscal year in which this Act is enacted, the Attorney General shall submit a report to Congress not later than 90 days after the end of such fiscal year, and each fiscal year thereafter, containing the elements described in paragraph (2).

#### AMENDMENT NO. 4268

On line 9, strike “(waivers).”, and insert the following: (waivers and authority to change status).

#### TITLE II—IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS

##### SEC. 201. SHORT TITLE.

This title may be cited as the “Immigration Services and Infrastructure Improvements Act of 2000”.

##### SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSES.

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

(1) Applications for naturalization have increased dramatically in recent years, outpacing the Immigration and Naturalization Service’s ability to process them.

(2) The dramatic increase in applications for naturalization and the inability of the Immigration and Naturalization Service to deal with them adequately has resulted in an unacceptably large backlog in naturalization adjudications.

(3) The processing times in the Immigration and Naturalization Service's other immigration benefits have been unacceptably long. Applicants for family- and employment-based visas are waiting as long as 3 to 4 years to obtain a visa or an adjustment to lawful permanent resident status.

(4) In California, the delays in processing adjustment of status applications have averaged 52 months. In Texas, the delays have averaged 69 months. Residents of New York have had to wait up to 28 months; in Florida, 26 months; in Illinois, 37 months; in Oregon, 31 months; and in Arizona, 49 months. Most other States have experienced unacceptably long processing and adjudication delays.

(5) Applicants pay fees to have their applications adjudicated in a timely manner. These fees have increased dramatically in recent years without a commensurate increase in the capability of that Immigration and Naturalization Service to process and adjudicate these cases in an efficient manner.

(6) Processing these applications in a timely fashion is critical. Each 12-month delay in adjudicating an adjustment of status application requires the alien to file applications to extend employment authorization to work and advance parole documents to travel.

(7) The enormous delays in processing applications for families and businesses have had a negative impact on the reunification of spouses and minor children and the ability of law-abiding and contributing members of our communities to participate fully in the civic life of the United States.

(8) United States employers have also experienced debilitating delays in hiring employees who contribute to the economic growth of the United States. These delays have forced employers to send highly skilled and valued employees out of the United States because their immigrant petitions were not approved in a timely fashion. Such disruptions seriously threaten the competitive edge of the United States in the global marketplace.

(b) PURPOSES.—The purposes of this title are to—

(1) provide the Immigration and Naturalization Service with the mechanisms it needs to eliminate the current backlog in the processing of immigration benefit applications within 1 year after enactment of this Act and to maintain the elimination of the backlog in future years; and

(2) provide for regular congressional oversight of the performance of the Immigration and Naturalization Service in eliminating the backlog and processing delays in immigration benefits adjudications.

(c) POLICY.—It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that a petition for a non-immigrant visa under section 214(c) of the Immigration and Nationality Act should be processed not later than 30 days after the filing of the petition.

#### SEC. 203. DEFINITIONS.

In this title:

(1) BACKLOG.—The term “backlog” means, with respect to an immigration benefit application, the period of time in excess of 180 days that such application has been pending before the Immigration and Naturalization Service.

(2) IMMIGRATION BENEFIT APPLICATION.—The term “immigration benefit application” means any application or petition to confer,

certify, change, adjust, or extend any status granted under the Immigration and Nationality Act.

#### SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENT ACCOUNT.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General shall take such measures as may be necessary to—

(1) reduce the backlog in the processing of immigration benefit applications, with the objective of the total elimination of the backlog not later than one year after the date of enactment of this Act;

(2) make such other improvements in the processing of immigration benefit applications as may be necessary to ensure that a backlog does not develop after such date; and

(3) make such improvements in infrastructure as may be necessary to effectively provide immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice from time to time such sums as may be necessary for the Attorney General to carry out subsection (a).

(2) DESIGNATION OF ACCOUNT IN TREASURY.—Amounts appropriated pursuant to paragraph (1) may be referred to as the “Immigration Services and Infrastructure Improvements Account”.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(4) LIMITATION ON EXPENDITURES.—None of the funds appropriated pursuant to paragraph (1) may be expended until the report described in section 205(a) has been submitted to Congress.

#### SEC. 205. REPORTS TO CONGRESS.

(a) BACKLOG ELIMINATION PLAN.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning—

(A) the backlogs in immigration benefit applications in existence as of the date of enactment of this title; and

(B) the Attorney General's plan for eliminating such backlogs.

(2) REPORT ELEMENTS.—The report shall include—

(A) an assessment of the data systems used in adjudicating and reporting on the status of immigration benefit applications, including—

(i) a description of the adequacy of existing computer hardware, computer software, and other mechanisms to comply with the adjudications and reporting requirements of this title; and

(ii) a plan for implementing improvements to existing data systems to accomplish the purpose of this title, as described in section 202(b);

(B) a description of the quality controls to be put into force to ensure timely, fair, accurate, and complete processing and adjudication of such applications;

(C) the elements specified in subsection (b)(2);

(D) an estimate of the amount of appropriated funds that would be necessary in order to eliminate the backlogs in each category of immigration benefit applications described in subsection (b)(2); and

(E) a detailed plan on how the Attorney General will use any funds in the Immigration Services and Infrastructure Improvements Account to comply with the purposes of this title.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Beginning 90 days after the end of the first fiscal year for which any

appropriation authorized by section 204(b) is made, and 90 days after the end of each fiscal year thereafter, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning the status of—

(A) the Immigration Services and Infrastructure Improvements Account including any unobligated balances of appropriations in the Account; and

(B) the Attorney General's efforts to eliminate backlogs in any immigration benefit application described in paragraph (2).

(2) REPORT ELEMENTS.—The report shall include—

(A) State-by-State data on—

(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for naturalization applications;

(iii) the number of naturalization applications pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) estimated processing times adjudicating newly submitted naturalization applications;

(v) an analysis of the appropriate processing times for naturalization applications; and

(vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;

(B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—

(i) the number of cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for such applications or petitions;

(iii) the number of applications or petitions pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) the estimated processing times adjudicating newly submitted applications or petitions;

(v) an analysis of the appropriate processing times for applications or petitions; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications; and

(C) a status report on—

(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

(ii) petitions for nonimmigrant visas under section 214 of the Immigration and Nationality Act;

(iii) petitions filed under section 204 of such Act to classify aliens as immediate relatives or preference immigrants under section 203 of such Act;

(iv) applications for asylum under section 208 of such Act;

(v) registrations for Temporary Protected Status under section 244 of such Act; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications.

(3) ABSENCE OF APPROPRIATED FUNDS.—In the event that no funds are appropriated subject to section 204(b) in the fiscal year in which this Act is enacted, the Attorney General shall submit a report to Congress not later than 90 days after the end of such fiscal year, and each fiscal year thereafter, containing the elements described in paragraph (2).

## LOTT AMENDMENT NO. 4269

Mr. LOTT proposed an amendment to the instructions of the motion to recommit the bill, S. 2045, supra; as follows:

Strike all after the first word and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American Competitiveness in the Twenty-first Century Act of 2000".

**SEC. 2. TEMPORARY INCREASE IN VISA ALLOTMENTS.**

(a) FISCAL YEARS 2000–2002.—Section 214(g)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by striking clauses (iii) and (iv) and inserting the following:

“(iii) 195,000 in fiscal year 2000; and

“(iv) 195,000 in fiscal year 2001;

“(v) 195,000 in fiscal year 2002; and”.

(b) ADDITIONAL VISAS FOR FISCAL YEAR 1999.—

(1) IN GENERAL.—Notwithstanding section 214(g)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)(ii)), the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 1999 is increased by a number equal to the number of aliens who are issued such a visa or provided such status during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(ii) is reached and ending on September 30, 1999.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if included in the enactment of section 411 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277).

**SEC. 3. SPECIAL RULE FOR UNIVERSITIES, RESEARCH FACILITIES, AND GRADUATE DEGREE RECIPIENTS; COUNTING RULES.**

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following new paragraphs:

“(5) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b)—

“(A) who is employed (or has received an offer of employment) at—

“(i) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

“(ii) a nonprofit research organization or a governmental research organization; or

“(B) for whom a petition is filed not more than 90 days before or not more than 180 days after the nonimmigrant has attained a master's degree or higher degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).

“(6) Any alien who ceases to be employed by an employer described in paragraph (5)(A) shall, if employed as a nonimmigrant alien described in section 101(a)(15)(H)(i)(b), who has not previously been counted toward the numerical limitations contained in paragraph (1)(A), be counted toward those limitations the first time the alien is employed by an employer other than one described in paragraph (5)(A).

“(7) Any alien who has already been counted, within the 6 years prior to the approval

of a petition described in subsection (c), toward the numerical limitations of paragraph (1)(A) shall not again be counted toward those limitations unless the alien would be eligible for a full 6 years of authorized admission at the time the petition is filed. Where multiple petitions are approved for 1 alien, that alien shall be counted only once.”.

**SEC. 4. LIMITATION ON PER COUNTRY CEILING WITH RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.**

(a) SPECIAL RULES.—Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

“(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

“(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

“(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (E).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended by striking “paragraphs (3) and (4)” and inserting “paragraphs (3), (4), and (5)”.

(2) Section 202(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1152(e)(3)) is amended by striking “the proportion of the visa numbers” and inserting “except as provided in subsection (a)(5), the proportion of the visa numbers”.

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)), any alien who—

(1) is the beneficiary of a petition filed under section 204(a) of that Act for a preference status under paragraph (1), (2), or (3) of section 203(b) of that Act; and

(2) would be subject to the per country limitations applicable to immigrants but for this subsection, may apply for, and the Attorney General may grant, an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

**SEC. 5. INCREASED PORTABILITY OF H-1B STATUS.**

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

“(m)(1) A nonimmigrant alien described in paragraph (2) who was previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such authorization shall cease.

“(2) A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

“(A) who has been lawfully admitted into the United States;

“(B) on whose behalf an employer has filed a nonfrivolous petition for new employment before the date of expiration of the period of stay authorized by the Attorney General; and

“(C) who has not been employed without authorization before or during the pendency of such petition for new employment in the United States.”.

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

**SEC. 6. SPECIAL PROVISIONS IN CASES OF LENGTHY ADJUDICATIONS.**

(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of that Act on whose behalf a petition under section 204(b) of that Act to accord the alien immigrant status under section 203(b) of that Act, or an application for adjustment of status under section 245 of that Act to accord the alien status under such section 203(b), has been filed, if 365 days or more have elapsed since—

(1) the filing of a labor certification application on the alien's behalf (if such certification is required for the alien to obtain status under such section 203(b)); or

(2) the filing of the petition under such section 204(b).

(b) EXTENSION OF H-1-B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made on the alien's lawful permanent residence.

**SEC. 7. EXTENSION OF CERTAIN REQUIREMENTS AND AUTHORITIES THROUGH FISCAL YEAR 2002.**

(a) ATTESTATION REQUIREMENTS.—Section 212(n)(1)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)(E)(ii)) is amended by striking “October 1, 2001” and inserting “October 1, 2002”.

(b) DEPARTMENT OF LABOR INVESTIGATIVE AUTHORITIES.—Section 413(e)(2) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277) is amended by striking “September 30, 2001” and inserting “September 30, 2002”.

**SEC. 8. RECOVERY OF VISAS USED FRAUDULENTLY.**

Section 214(g)(3) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(3)) is amended to read as follows:

“(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status. If an alien who was issued a visa or otherwise provided nonimmigrant status and counted against the numerical limitations of paragraph (1) is found to have been issued such visa or otherwise provided such status by fraud or willfully misrepresenting a material fact and such visa or nonimmigrant status is revoked, then one number shall be restored to the total number of aliens who may be issued visas or otherwise provided such status under the numerical limitations of paragraph (1) in the fiscal year in which the petition is revoked, regardless of the fiscal year in which the petition was approved.”.

**SEC. 9. NSF STUDY AND REPORT ON THE "DIGITAL DIVIDE".**

(a) **STUDY.**—The National Science Foundation shall conduct a study of the divergence in access to high technology (commonly referred to as the "digital divide") in the United States.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Director of the National Science Foundation shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

**SEC. 10. MODIFICATION OF NONIMMIGRANT PETITIONER ACCOUNT PROVISIONS.**

(a) **ALLOCATION OF FUNDS.**—Section 286(s) of the Immigration and Nationality Act (8 U.S.C. 1356(s)) is amended—

(1) in paragraph (2), by striking "56.3 percent" and inserting "55 percent";

(2) in paragraph (3), by striking "28.2 percent" and inserting "23.5 percent";

(3) by amending paragraph (4) to read as follows:

"(4) **NATIONAL SCIENCE FOUNDATION COMPETITIVE GRANT PROGRAM FOR K-12 MATH, SCIENCE AND TECHNOLOGY EDUCATION.**—

"(A) **IN GENERAL.**—15 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support private-public partnerships in K-12 education.

"(B) **TYPES OF PROGRAMS COVERED.**—The Director shall award grants to such programs, including those which support the development and implementation of standards-based instructional materials models and related student assessments that enable K-12 students to acquire an understanding of science, mathematics, and technology, as well as to develop critical thinking skills; provide systemic improvement in training K-12 teachers and education for students in science, mathematics, and technology; support the professional development of K-12 math and science teachers in the use of technology in the classroom; stimulate system-wide K-12 reform of science, mathematics, and technology in rural, economically disadvantaged regions of the United States; provide externships and other opportunities for students to increase their appreciation and understanding of science, mathematics, engineering, and technology (including summer institutes sponsored by an institution of higher education for students in grades 7-12 that provide instruction in such fields); involve partnerships of industry, educational institutions, and community organizations to address the educational needs of disadvantaged communities; provide college preparatory support to expose and prepare students for careers in science, mathematics, engineering, and technology; and provide for carrying out systemic reform activities under section 3(a)(1) of this National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)).";

(4) in paragraph (6), by striking "6 percent" and inserting "5 percent"; and

(5) in paragraph (6), by striking "3 percent" each place it appears and inserting "2.5 percent".

(b) **LOW-INCOME SCHOLARSHIP PROGRAM.**—Section 414(d)(3) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277) is amended by striking "\$2,500 per year." and inserting "\$3,125 per year. The Director may renew scholarships for up to 4 years."

(c) **REPORTING REQUIREMENT.**—Section 414 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-

277) is amended by adding at the end the following new subsection:

"(e) **REPORTING REQUIREMENT.**—The Secretary of Labor and the Director of the National Science Foundation shall—

"(1) track and monitor the performance of programs receiving H-1B Nonimmigrant Fee grant money; and

"(2) not later than one year after the date of enactment of this subsection, submit a report to the Committees on the Judiciary of the House of Representatives and the Senate—

"(A) the tracking system to monitor the performance of programs receiving H-1B grant funding; and

"(B) the number of individuals who have completed training and have entered the high-skill workforce through these programs."

**SEC. 11. DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.**

Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277; 112 Stat. 2681-653) is amended to read as follows:

"(c) **DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.**—

"(1) **IN GENERAL.**—

"(A) **FUNDING.**—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

"(B) **TRAINING PROVIDED.**—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skill levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. All training shall be justified with evidence of skill shortages as demonstrated through reliable regional, State, or local data.

"(2) **GRANTS.**—

"(A) **ELIGIBILITY.**—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the H-1B Nonimmigrant Petitioner Account, award—

"(i) 75 percent of the grants to a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

"(I) one workforce investment board;

"(II) one community-based organization or higher education institution or labor union; and

"(III) one business or business-related nonprofit organization such as a trade association; and

"(ii) 25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs

under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multistate, regional, or rural area (such as rural telework programs) basis.

"(B) **DESIGNATION OF RESPONSIBLE FISCAL AGENTS.**—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

"(C) **PARTNERSHIP CONSIDERATIONS.**—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

"(D) **ALLOCATION OF GRANTS.**—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

"(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills that are in shortage in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

"(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any H-1B skill shortage.

"(E) **H-1B SKILL SHORTAGE.**—In subparagraph (D)(ii), the term 'H-1B skill shortage' means a shortage of skills necessary for employment in a specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act.

"(3) **START-UP FUNDS.**—

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed \$75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

"(B) **EXCEPTION.**—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or \$150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

"(C) **DURATION OF START-UP PERIOD.**—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

"(4) **TRAINING OUTCOMES.**—

"(A) **CONSIDERATION FOR CERTAIN PROGRAMS AND PROJECTS.**—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

"(i) hire or effectuate the hiring of unemployed trainees (where applicable);

“(ii) increase the wages or salary of incumbent workers (where applicable); and

“(iii) provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

“(B) REQUIREMENTS FOR GRANT APPLICATIONS.—Applications for grants shall—

“(i) articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured; and

“(ii) include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness.

“(5) MATCHING FUNDS.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

“(6) ADMINISTRATIVE COSTS.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project.”.

**SEC. 12. KIDS 2000 CRIME PREVENTION AND COMPUTER EDUCATION INITIATIVE.**

(a) **SHORT TITLE.**—This section may be cited as the “Kids 2000 Act”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) There is an increasing epidemic of juvenile crime throughout the United States.

(2) It is well documented that the majority of juvenile crimes take place during after-school hours.

(3) Knowledge of technology is becoming increasingly necessary for children in school and out of school.

(4) The Boys and Girls Clubs of America have 2,700 clubs throughout all 50 States, serving over 3,000,000 boys and girls primarily from at-risk communities.

(5) The Boys and Girls Clubs of America have the physical structures in place for immediate implementation of an after-school technology program.

(6) Building technology centers and providing integrated content and full-time staffing at those centers in the Boys and Girls Clubs of America nationwide will help foster education, job training, and an alternative to crime for at-risk youth.

(7) Partnerships between the public sector and the private sector are an effective way of providing after-school technology programs in the Boys and Girls Clubs of America.

(8) PowerUp: Bridging the Digital Divide is an entity comprised of more than a dozen nonprofit organizations, major corporations, and Federal agencies that have joined together to launch a major new initiative to help ensure that America’s underserved young people acquire the skills, experiences, and resources they need to succeed in the digital age.

(9) Bringing PowerUp into the Boys and Girls Clubs of America will be an effective way to ensure that our youth have a safe, crime-free environment in which to learn the technological skills they need to close the

divide between young people who have access to computer-based information and technology-related skills and those who do not.

(c) **AFTER-SCHOOL TECHNOLOGY GRANTS TO THE BOYS AND GIRLS CLUBS OF AMERICA.**—

(1) **PURPOSES.**—The Attorney General shall make grants to the Boys and Girls Clubs of America for the purpose of funding effective after-school technology programs, such as PowerUp, in order to provide—

(A) constructive technology-focused activities that are part of a comprehensive program to provide access to technology and technology training to youth during after-school hours, weekends, and school vacations;

(B) supervised activities in safe environments for youth; and

(C) full-time staffing with teachers, tutors, and other qualified personnel.

(2) **SUBAWARDS.**—The Boys and Girls Clubs of America shall make subawards to local boys and girls clubs authorizing expenditures associated with providing technology programs such as PowerUp, including the hiring of teachers and other personnel, procurement of goods and services, including computer equipment, or such other purposes as are approved by the Attorney General.

(d) **APPLICATIONS.**—

(1) **ELIGIBILITY.**—In order to be eligible to receive a grant under this section, an applicant for a subaward (specified in subsection (c)(2)) shall submit an application to the Boys and Girls Clubs of America, in such form and containing such information as the Attorney General may reasonably require.

(2) **APPLICATION REQUIREMENTS.**—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a subgrant to be used for the purposes of this section;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this section will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this section;

(D) written assurances that all activities funded under this section will be supervised by qualified adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs;

(F) a plan outlining the utilization of content-based programs such as PowerUp, and the provision of trained adult personnel to supervise the after-school technology training; and

(G) any additional statistical or financial information that the Boys and Girls Clubs of America may reasonably require.

(e) **GRANT AWARDS.**—In awarding subgrants under this section, the Boys and Girls Clubs of America shall consider—

(1) the ability of the applicant to provide the intended services;

(2) the history and establishment of the applicant in providing youth activities; and

(3) the extent to which services will be provided in crime-prone areas and technologically underserved populations, and efforts to achieve an equitable geographic distribution of the grant awards.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated \$20,000,000 for each of the fiscal years 2001 through 2006 to carry out this section.

(2) **SOURCE OF FUNDS.**—Funds to carry out this section may be derived from the Violent Crime Reduction Trust Fund.

(3) **CONTINUED AVAILABILITY.**—Amounts made available under this subsection shall remain available until expended.

**SEC. 13. SEVERABILITY.**

If any provision of this Act (or any amendment made by this Act) or the application thereof to any person or circumstance is held invalid, the remainder of the Act (and the amendments made by this Act) and the application of such provision to any other person or circumstance shall not be affected thereby. This section shall be enacted one day after effective date.

**LOTT AMENDMENT NO. 4270**

Mr. LOTT proposed an amendment to amendment No. 4269 proposed by himself to the bill S. 2045, supra; as follows:

In lieu of the matter proposed insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “American Competitiveness in the Twenty-first Century Act of 2000”.

**SEC. 2. TEMPORARY INCREASE IN VISA ALLOTMENTS.**

(a) **FISCAL YEARS 2000–2002.**—Section 214(g)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by striking clauses (iii) and (iv) and inserting the following:

“(iii) 195,000 in fiscal year 2000; and

“(iv) 195,000 in fiscal year 2001;

“(v) 195,000 in fiscal year 2002; and”.

(b) **ADDITIONAL VISAS FOR FISCAL YEAR 1999.**—

(1) **IN GENERAL.**—Notwithstanding section 214(g)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)(ii)), the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 1999 is increased by a number equal to the number of aliens who are issued such a visa or provided such status during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(ii) is reached and ending on September 30, 1999.

(2) **EFFECTIVE DATE.**—Paragraph (1) shall take effect as if included in the enactment of section 411 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277).

**SEC. 3. SPECIAL RULE FOR UNIVERSITIES, RESEARCH FACILITIES, AND GRADUATE DEGREE RECIPIENTS; COUNTING RULES.**

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following new paragraphs:

“(5) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b)—

“(A) who is employed (or has received an offer of employment) at—

“(i) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

“(ii) a nonprofit research organization or a governmental research organization; or

“(B) for whom a petition is filed not more than 90 days before or not more than 180 days after the nonimmigrant has attained a master’s degree or higher degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).

“(6) Any alien who ceases to be employed by an employer described in paragraph (5)(A)

shall, if employed as a nonimmigrant alien described in section 101(a)(15)(H)(i)(b), who has not previously been counted toward the numerical limitations contained in paragraph (1)(A), be counted toward those limitations the first time the alien is employed by an employer other than one described in paragraph (5)(A).

“(7) Any alien who has already been counted, within the 6 years prior to the approval of a petition described in subsection (c), toward the numerical limitations of paragraph (1)(A) shall not again be counted toward those limitations unless the alien would be eligible for a full 6 years of authorized admission at the time the petition is filed. Where multiple petitions are approved for 1 alien, that alien shall be counted only once.”

**SEC. 4. LIMITATION ON PER COUNTRY CEILING WITH RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.**

(a) SPECIAL RULES.—Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

“(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

“(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

“(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (E).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).”

(b) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended by striking “paragraphs (3) and (4)” and inserting “paragraphs (3), (4), and (5)”.

(2) Section 202(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1152(e)(3)) is amended by striking “the proportion of the visa numbers” and inserting “except as provided in subsection (a)(5), the proportion of the visa numbers”.

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)), any alien who—

(1) is the beneficiary of a petition filed under section 204(a) of that Act for a preference status under paragraph (1), (2), or (3) of section 203(b) of that Act; and

(2) would be subject to the per country limitations applicable to immigrants but for this subsection,

may apply for, and the Attorney General may grant, an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

**SEC. 5. INCREASED PORTABILITY OF H-1B STATUS.**

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

“(m)(1) A nonimmigrant alien described in paragraph (2) who was previously issued a

visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such authorization shall cease.

“(2) A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

“(A) who has been lawfully admitted into the United States;

“(B) on whose behalf an employer has filed a nonfrivolous petition for new employment before the date of expiration of the period of stay authorized by the Attorney General; and

“(C) who has not been employed without authorization before or during the pendency of such petition for new employment in the United States.”

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

**SEC. 6. SPECIAL PROVISIONS IN CASES OF LENGTHY ADJUDICATIONS.**

(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of that Act on whose behalf a petition under section 204(b) of that Act to accord the alien immigrant status under section 203(b) of that Act, or an application for adjustment of status under section 245 of that Act to accord the alien status under such section 203(b), has been filed, if 365 days or more have elapsed since—

(1) the filing of a labor certification application on the alien's behalf (if such certification is required for the alien to obtain status under such section 203(b)); or

(2) the filing of the petition under such section 204(b).

(b) EXTENSION OF H-1B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made on the alien's lawful permanent residence.

**SEC. 7. EXTENSION OF CERTAIN REQUIREMENTS AND AUTHORITIES THROUGH FISCAL YEAR 2002.**

(a) ATTESTATION REQUIREMENTS.—Section 212(n)(1)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)(E)(ii)) is amended by striking “October 1, 2001” and inserting “October 1, 2002”.

(b) DEPARTMENT OF LABOR INVESTIGATIVE AUTHORITIES.—Section 413(e)(2) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277) is amended by striking “September 30, 2001” and inserting “September 30, 2002”.

**SEC. 8. RECOVERY OF VISAS USED FRAUDULENTLY.**

Section 214(g)(3) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(3)) is amended to read as follows:

“(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status. If an alien who was issued a visa or otherwise provided nonimmigrant status and counted against the numerical limitations of paragraph (1) is found to have been issued such visa or otherwise provided such status by

fraud or willfully misrepresenting a material fact and such visa or nonimmigrant status is revoked, then one number shall be restored to the total number of aliens who may be issued visas or otherwise provided such status under the numerical limitations of paragraph (1) in the fiscal year in which the petition is revoked, regardless of the fiscal year in which the petition was approved.”

**SEC. 9. NSF STUDY AND REPORT ON THE “DIGITAL DIVIDE”.**

(a) STUDY.—The National Science Foundation shall conduct a study of the divergence in access to high technology (commonly referred to as the “digital divide”) in the United States.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director of the National Science Foundation shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

**SEC. 10. MODIFICATION OF NONIMMIGRANT PETITIONER ACCOUNT PROVISIONS.**

(a) ALLOCATION OF FUNDS.—Section 286(s) of the Immigration and Nationality Act (8 U.S.C. 1356(s)) is amended—

(1) in paragraph (2), by striking “56.3 percent” and inserting “55 percent”;

(2) in paragraph (3), by striking “28.2 percent” and inserting “23.5 percent”;

(3) by amending paragraph (4) to read as follows:

“(4) NATIONAL SCIENCE FOUNDATION COMPETITIVE GRANT PROGRAM FOR K-12 MATH, SCIENCE AND TECHNOLOGY EDUCATION.—

“(A) IN GENERAL.—15 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support private-public partnerships in K-12 education.

“(B) TYPES OF PROGRAMS COVERED.—The Director shall award grants to such programs, including those which support the development and implementation of standards-based instructional materials models and related student assessments that enable K-12 students to acquire an understanding of science, mathematics, and technology, as well as to develop critical thinking skills; provide systemic improvement in training K-12 teachers and education for students in science, mathematics, and technology; support the professional development of K-12 math and science teachers in the use of technology in the classroom; stimulate system-wide K-12 reform of science, mathematics, and technology in rural, economically disadvantaged regions of the United States; provide externships and other opportunities for students to increase their appreciation and understanding of science, mathematics, engineering, and technology (including summer institutes sponsored by an institution of higher education for students in grades 7-12 that provide instruction in such fields); involve partnerships of industry, educational institutions, and community organizations to address the educational needs of disadvantaged communities; provide college preparatory support to expose and prepare students for careers in science, mathematics, engineering, and technology; and provide for carrying out systemic reform activities under section 3(a)(1) of this National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)).”

(4) in paragraph (6), by striking “6 percent” and inserting “5 percent”; and

(5) in paragraph (6), by striking “3 percent” each place it appears and inserting “2.5 percent”.

(b) LOW-INCOME SCHOLARSHIP PROGRAM.—Section 414(d)(3) of the American Competitiveness and Workforce Improvement Act of

1998 (as contained in title IV of division C of Public Law 105-277) is amended by striking "\$2,500 per year." and inserting "\$3,125 per year. The Director may renew scholarships for up to 4 years."

(c) REPORTING REQUIREMENT.—Section 414 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277) is amended by adding at the end the following new subsection:

"(e) REPORTING REQUIREMENT.—The Secretary of Labor and the Director of the National Science Foundation shall—

"(1) track and monitor the performance of programs receiving H-1B Nonimmigrant Fee grant money; and

"(2) not later than one year after the date of enactment of this subsection, submit a report to the Committees on the Judiciary of the House of Representatives and the Senate—

"(A) the tracking system to monitor the performance of programs receiving H-1B grant funding; and

"(B) the number of individuals who have completed training and have entered the high-skill workforce through these programs."

**SEC. 11. DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.**

Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277; 112 Stat. 2681-653) is amended to read as follows:

"(c) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.—

"(1) IN GENERAL.—

"(A) FUNDING.—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

"(B) TRAINING PROVIDED.—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skill levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. All training shall be justified with evidence of skill shortages as demonstrated through reliable regional, State, or local data.

"(2) GRANTS.—

"(A) ELIGIBILITY.—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the H-1B Nonimmigrant Petitioner Account, award—

"(i) 75 percent of the grants to a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

"(I) one workforce investment board;

"(II) one community-based organization or higher education institution or labor union; and

"(III) one business or business-related nonprofit organization such as a trade association; and

"(ii) 25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multistate, regional, or rural area (such as rural telework programs) basis.

"(B) DESIGNATION OF RESPONSIBLE FISCAL AGENTS.—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

"(C) PARTNERSHIP CONSIDERATIONS.—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

"(D) ALLOCATION OF GRANTS.—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

"(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills that are in shortage in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

"(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any H-1B skill shortage.

"(E) H-1B SKILL SHORTAGE.—In subparagraph (D)(ii), the term 'H-1B skill shortage' means a shortage of skills necessary for employment in a specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act.

"(3) START-UP FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed \$75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

"(B) EXCEPTION.—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or \$150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

"(C) DURATION OF START-UP PERIOD.—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

"(4) TRAINING OUTCOMES.—

"(A) CONSIDERATION FOR CERTAIN PROGRAMS AND PROJECTS.—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

"(i) hire or effectuate the hiring of unemployed trainees (where applicable);

"(ii) increase the wages or salary of incumbent workers (where applicable); and

"(iii) provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

"(B) REQUIREMENTS FOR GRANT APPLICATIONS.—Applications for grants shall—

"(i) articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured; and

"(ii) include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness.

"(5) MATCHING FUNDS.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

"(6) ADMINISTRATIVE COSTS.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project."

**SEC. 12. KIDS 2000 CRIME PREVENTION AND COMPUTER EDUCATION INITIATIVE.**

(a) SHORT TITLE.—This section may be cited as the "Kids 2000 Act".

(b) FINDINGS.—Congress makes the following findings:

(1) There is an increasing epidemic of juvenile crime throughout the United States.

(2) It is well documented that the majority of juvenile crimes take place during after-school hours.

(3) Knowledge of technology is becoming increasingly necessary for children in school and out of school.

(4) The Boys and Girls Clubs of America have 2,700 clubs throughout all 50 States, serving over 3,000,000 boys and girls primarily from at-risk communities.

(5) The Boys and Girls Clubs of America have the physical structures in place for immediate implementation of an after-school technology program.

(6) Building technology centers and providing integrated content and full-time staffing at those centers in the Boys and Girls Clubs of America nationwide will help foster education, job training, and an alternative to crime for at-risk youth.

(7) Partnerships between the public sector and the private sector are an effective way of providing after-school technology programs in the Boys and Girls Clubs of America.

(8) PowerUp: Bridging the Digital Divide is an entity comprised of more than a dozen nonprofit organizations, major corporations, and Federal agencies that have joined together to launch a major new initiative to

help ensure that America's underserved young people acquire the skills, experiences, and resources they need to succeed in the digital age.

(9) Bringing PowerUp into the Boys and Girls Clubs of America will be an effective way to ensure that our youth have a safe, crime-free environment in which to learn the technological skills they need to close the divide between young people who have access to computer-based information and technology-related skills and those who do not.

(c) AFTER-SCHOOL TECHNOLOGY GRANTS TO THE BOYS AND GIRLS CLUBS OF AMERICA.—

(1) PURPOSES.—The Attorney General shall make grants to the Boys and Girls Clubs of America for the purpose of funding effective after-school technology programs, such as PowerUp, in order to provide—

(A) constructive technology-focused activities that are part of a comprehensive program to provide access to technology and technology training to youth during after-school hours, weekends, and school vacations;

(B) supervised activities in safe environments for youth; and

(C) full-time staffing with teachers, tutors, and other qualified personnel.

(2) SUBAWARDS.—The Boys and Girls Clubs of America shall make subawards to local boys and girls clubs authorizing expenditures associated with providing technology programs such as PowerUp, including the hiring of teachers and other personnel, procurement of goods and services, including computer equipment, or such other purposes as are approved by the Attorney General.

(d) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, an applicant for a subaward (specified in subsection (c)(2)) shall submit an application to the Boys and Girls Clubs of America, in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a subgrant to be used for the purposes of this section;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this section will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this section;

(D) written assurances that all activities funded under this section will be supervised by qualified adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs;

(F) a plan outlining the utilization of content-based programs such as PowerUp, and the provision of trained adult personnel to supervise the after-school technology training; and

(G) any additional statistical or financial information that the Boys and Girls Clubs of America may reasonably require.

(e) GRANT AWARDS.—In awarding subgrants under this section, the Boys and Girls Clubs of America shall consider—

(1) the ability of the applicant to provide the intended services;

(2) the history and establishment of the applicant in providing youth activities; and

(3) the extent to which services will be provided in crime-prone areas and technologically underserved populations, and efforts to achieve an equitable geographic distribution of the grant awards.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated \$20,000,000 for each of the fiscal years 2001 through 2006 to carry out this section.

(2) SOURCE OF FUNDS.—Funds to carry out this section may be derived from the Violent Crime Reduction Trust Fund.

(3) CONTINUED AVAILABILITY.—Amounts made available under this subsection shall remain available until expended.

#### SEC. 13. SEVERABILITY.

If any provision of this Act (or any amendment made by this Act) or the application thereof to any person or circumstance is held invalid, the remainder of the Act (and the amendments made by this Act) and the application of such provision to any other person or circumstance shall not be affected thereby. This section shall be enacted one day after the effective date.

### DISTRICT OF COLUMBIA APPROPRIATIONS 2001

#### HUTCHISON (AND DURBIN) AMENDMENT NO. 4271

Mr. LOTT (for Mrs. HUTCHISON (for herself and Mr. DURBIN)) proposed an amendment to the bill (S. 3041) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 8 at line 21, strike "acquisition,".  
On page 8 line 22, strike "lease, maintenance,".

On page 8 at line 22, strike "operation" and insert "hire".

On page 9 at line 2, strike "108,527,000" and insert "112,527,000" and strike "65,018,000" and insert "67,521,000".

On page 9 at line 6, strike "18,487,000" and insert "18,778,000".

On page 9 at line 8, strike "25,022,000" and insert "26,228,000".

On page 10 following line 9 insert the following:

#### "FEDERAL PAYMENT FOR BROWNFIELD REMEDIATION

"For a Federal payment to the District of Columbia, \$3,450,000 for environmental and infrastructure costs at Poplar Point: *Provided*, That of said amount, \$2,150,000 shall be available for environmental assessment, site remediation and wetlands restoration of the eleven acres of real property under the jurisdiction of the District of Columbia: *Provided further*, That no more than \$1,300,000 shall be used for infrastructure costs for an entrance to Anacostia Park: *Provided further*, That none of said funds shall be used by the District of Columbia to purchase private property in the Poplar Point area."

On page 11, line 1, after "except" strike "for" and insert the following: "as provided in section 450A of the District of Columbia Home Rule Act and".

Strike all matter beginning on line 7 on page 13 after the colon to and including line 16 on page 13.

On page 20 at line 23, strike "WSF" and insert "Weighted Student Formula".

On page 23 at line 9, after "clinics" insert "": *Provided further*, That notwithstanding any other provision of law, the District of Columbia may increase the Human Support Services appropriation under this Act by an amount equal to not more than 15% of the local funds in the appropriation in order to augment the District of Columbia subsidy for the Public Benefit Corporation for the

purpose of restructuring the delivery of health services in the District of Columbia pursuant to a restructuring plan approved by the Mayor, Council of the District of Columbia, District of Columbia Financial Responsibility and Management Assistance Authority, and Chief Financial Officer".

Page 25, strike line 6 through line 17 of page 32 and insert the following:

#### RESERVE

For a reserve to be established by the Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority, \$150,000,000 of local funds.

Insert at the appropriate place under the heading relating to "RESERVE FUNDS" in the Senate bill the following:

#### EMERGENCY RESERVE FUND

For the emergency reserve fund established under section 450A(a) of the District of Columbia Home Rule Act, the amount provided for fiscal year 2001 under such section, to be derived from local funds.

Strike all matter beginning on line 9 on page 4 after "TO" to and including line 10 on page 4 and insert "COVENANT HOUSE WASHINGTON".

Strike all matter beginning on line 11 on page 4 after "to" through "Services" on line 12 on page 4 and insert "Covenant House Washington".

On page 43 at line 8, after "reprogramming" insert "or inter-appropriation transfer".

On page 43 at line 19, after "less;" strike "or".

On page 43 at line 21, after "center;" insert "or (8) transfers an amount from one appropriation to another, provided that the amount transferred shall not exceed 2 percent of the local funds in the appropriation".

On page 43 at line 24 after "reprogramming" insert "or inter-appropriation transfer".

On page 51 at line 22, after "action" insert "or any attorney who defends any action".

On page 52 at line 2, strike "120" and insert "250".

On page 52 at line 6, strike "120" and insert "250".

On page 52 at line 12, insert after "Code" the following: "; and,

(3) in no case may the compensation limits in paragraphs (1) and (2) exceed \$2,500."

On page 52 at line 14, strike "District of Columbia Financial Responsibility and Management Assistance Authority".

On page 52 at line 20, after "section" insert "to both the attorney who represents the prevailing party and the attorney who defends the action."

On page 81 at line 1, strike "or" and insert "of".

Strike all matter beginning on line 4, page 73 over to and including line 16 on page 80, and insert in lieu thereof the following:

#### APPOINTMENT AND DUTIES OF CHIEF FINANCIAL OFFICER

SEC. 143. (a) APPOINTMENT AND DISMISSAL.—Section 424(b) of the District of Columbia Home Rule Act (sec. 47-317.2, D.C. Code) is amended—

(1) in paragraph (1)(B), by adding at the end the following: "Upon confirmation by the Council, the name of the Chief Financial Officer shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the appointment takes effect."; and

(2) in paragraph (2)(B), by striking the period at the end and inserting the following:

“upon dismissal by the Mayor and approval of that dismissal by a 2/3 vote of the Council of the District of Columbia. Upon approval of the dismissal by the Council, notice of the dismissal shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the dismissal takes effect.”

(b) FUNCTIONS.—

(1) IN GENERAL.—Section 424(c) of such Act (sec. 47-317.3, D.C. Code) is amended—

(A) in the heading, by striking “DURING A CONTROL YEAR”;

(B) in the matter preceding paragraph (1), by striking “During a control year, the Chief Financial Officer” and inserting “The Chief Financial Officer”;

(C) in paragraph (1), by striking “Preparing” and inserting “During a control year, preparing”;

(D) in paragraph (3), by striking “Assuring” and inserting “During a control year, assuring”;

(E) in paragraph (5), by striking “With the Approval” and all that follows through “the Council—” and inserting “Preparing and submitting to the Mayor and the Council, with the approval of the Authority during a control year—”;

(F) in paragraph (11), by striking “or the Authority” and inserting “(or by the Authority during a control year)”; and

(G) by adding at the end the following new paragraphs:

“(18) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency).

“(19) Administering all borrowing programs of the District government for the issuance of long-term and short-term indebtedness.

“(20) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

“(21) Administering the centralized District government payroll and retirement systems.

“(22) Governing the accounting policies and systems applicable to the District government.

“(23) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

“(24) Not later than 120 days after the end of each fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4).”

(2) CONFORMING AMENDMENTS.—Section 424 of such Act (sec. 47-317.1 et seq., D.C. Code) is amended—

(A) by striking subsection (d);

(B) in subsection (e)(2), by striking “or subsection (d)”;

(C) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Insert at the appropriate place the following new section:

RESERVE FUNDS

SEC. \_\_\_\_ (a) ESTABLISHMENT OF RESERVE FUNDS.—

(1) IN GENERAL.—The District of Columbia Home Rule Act is amended by inserting after section 450 the following new section:

“RESERVE FUNDS

“SEC. 450A. (a) EMERGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established an emergency cash reserve fund (in this subsection referred to as the ‘emergency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in cash not later than February 15 of each fiscal year (or not later than October 1, 2000, in the case of fiscal year 2001) such amount as may be required to maintain a balance in the fund of at least 4 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2004, such amount as may be required to maintain a balance in the fund of at least the minimum emergency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM EMERGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum emergency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2001, 1 percent.

“(i) For fiscal year 2002, 2 percent.

“(i) For fiscal year 2003, 3 percent.

“(3) INTEREST.—Interest earned on the emergency reserve fund shall remain in the account and shall only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN EMERGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy to govern the emergency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The emergency reserve fund may be used to provide for unanticipated and non-recurring extraordinary needs of an emergency nature, including a natural disaster or calamity as defined by section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 100-707) or unexpected obligations by Federal law.

“(B) The emergency reserve fund may also be used in the event of a State of Emergency as declared by the Mayor pursuant to section 5 of the District of Columbia Public Emergency Act of 1980 (sec. 6-1504, D.C. Code).

“(C) The emergency reserve fund may not be used to fund—

“(i) any department, agency, or office of the Government of the District of Columbia which is administered by a receiver or other official appointed by a court;

“(ii) shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year; or

“(iii) settlements and judgments made by or against the Government of the District of Columbia.

“(5) ALLOCATION OF EMERGENCY CASH RESERVE FUNDS.—Funds may be allocated from the emergency reserve fund only after—

“(A) an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the emergency reserve fund; and

“(B) with respect to fiscal years beginning with fiscal year 2005, the contingency reserve fund established by subsection (b) has been projected by the Chief Financial Officer to be exhausted at the time of the allocation.

“(6) NOTICE.—The Mayor, the Council, and (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the District of Columbia Financial Responsibility and Management Assistance Authority shall notify the Committees on Appropriations of the Senate and House of Representatives in writing not more than 30 days after the expenditure of funds from the emergency reserve fund.

“(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal year by the following fiscal year. Once the emergency reserve equals 4 percent of total budget appropriated for operating expenditures for the fiscal year, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding year to maintain a balance of at least 4 percent of total funds appropriated for operating expenditures by the following fiscal year.

“(b) CONTINGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established a contingency cash reserve fund (in this subsection referred to as the ‘contingency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in cash not later than October 1 of each fiscal year (beginning with fiscal year 2005) such amount as may be required to maintain a balance in the fund of at least 3 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2007, such amount as may be required to maintain a balance in the fund of at least the minimum contingency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM CONTINGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum contingency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2005, 1 percent.

“(ii) For fiscal year 2006, 2 percent.

“(3) INTEREST.—Interest earned on the contingency reserve fund shall remain in the account and may only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN CONTINGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy governing the use of the contingency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The contingency reserve fund may only be used to provide for nonrecurring or unforeseen needs that arise during the fiscal year, including expenses associated with unforeseen weather or other natural disasters, unexpected obligations created by Federal law or new public safety or health needs or requirements that have been identified after the budget process has occurred, or opportunities to achieve cost savings.

“(B) The contingency reserve fund may be used, if needed, to cover revenue shortfalls experienced by the District government for 3

consecutive months (based on a 2 month rolling average) that are 5 percent or more below the budget forecast.

“(C) The contingency reserve fund may not be used to fund any shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year.

“(5) ALLOCATION OF CONTINGENCY CASH RESERVE.—Funds may be allocated from the contingency reserve fund only after an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the contingency reserve fund.

“(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal year by the following fiscal year. Once the contingency reserve equals 3 percent of total funds appropriated for operating expenditures, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding year to maintain a balance of at least 3 percent of total funds appropriated for operating expenditures by the following fiscal year.

“(C) QUARTERLY REPORTS.—The Chief Financial Officer shall submit a quarterly report to the Mayor, the Council, the District of Columbia Financial Responsibility and Management Assistance Authority (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), and the Committees on Appropriations of the Senate and House of Representatives that includes a monthly statement on the balance and activities of the contingency and emergency reserve funds.”.

(2) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Home Rule Act is amended by inserting after the item relating to section 450 the following new item:

“Sec. 450A. Reserve funds.”.

(b) CONFORMING AMENDMENTS.—

(1) CURRENT RESERVE FUND.—Section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47–392.2(j), D.C. Code) is amended by striking “Beginning with fiscal year 2000, the plan or budget submitted pursuant to this Act” and inserting “For each of the fiscal years 2000 through 2004, the budget of the District government for the fiscal year”.

(2) POSITIVE FUND BALANCE.—Section 202(k) of such Act (sec. 47–392.2(k), D.C. Code) is repealed.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000.

#### COASTAL BARRIER RESOURCES REAUTHORIZATION ACT OF 2000

##### SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4272

Mr. LOTT (for Mr. SMITH of New Hampshire) proposed an amendment to the bill (S. 1752) to reauthorize and amend the Coastal Barrier Resources Act; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Coastal Barrier Resources Reauthorization Act of 2000”.

#### SEC. 2. GUIDELINES FOR CERTAIN RECOMMENDATIONS AND DETERMINATIONS.

Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503), as otherwise amended by this Act, is further amended by adding at the end the following:

“(g) GUIDELINES FOR CERTAIN RECOMMENDATIONS AND DETERMINATIONS.—

“(1) IN GENERAL.—In making any recommendation to the Congress regarding the addition of any area to the System or in determining whether, at the time of the inclusion of a System unit within the System, a coastal barrier is undeveloped, the Secretary shall consider whether within the area—

“(A) the density of development is less than 1 structure per 5 acres of land above mean high tide; and

“(B) there is existing infrastructure consisting of—

“(i) a road, with a reinforced road bed, to each lot or building site in the area;

“(ii) a wastewater disposal system sufficient to serve each lot or building site in the area;

“(iii) electric service for each lot or building site in the area; and

“(iv) a fresh water supply for each lot or building site in the area.

“(2) STRUCTURE DEFINED.—In paragraph (1), the term ‘structure’ means a walled and roofed building, other than a gas or liquid storage tank, that—

“(A) is principally above ground and affixed to a permanent site, including a manufactured home on a permanent foundation; and

“(B) covers an area of at least 200 square feet.

“(3) SAVINGS CLAUSE.—Nothing in this subsection supersedes the official maps referred to in subsection (a).”.

#### SEC. 3. VOLUNTARY ADDITIONS TO JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM.

(a) IN GENERAL.—Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended by inserting after subsection (c) the following:

“(d) ADDITIONS TO SYSTEM.—The Secretary may add a parcel of real property to the System, if—

“(1) the owner of the parcel requests, in writing, that the Secretary add the parcel to the System; and

“(2) the parcel is an undeveloped coastal barrier.”.

(b) TECHNICAL AMENDMENTS RELATING TO ADDITIONS OF EXCESS PROPERTY.—

(1) IN GENERAL.—Section 4(d) of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591)—

(A) is redesignated and moved so as to appear as subsection (e) of section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503); and

(B) is amended—

(i) in paragraph (1)—

(I) by striking “one hundred and eighty” and inserting “180”; and

(II) in subparagraph (B), by striking “shall”; and

(ii) in paragraph (2), by striking “subsection (d)(1)(B)” and inserting “paragraph (1)(B)”; and

(iii) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—Section 4 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591) is amended—

(A) in subsection (b)(2), by striking “subsection (d) of this section” and inserting “section 4(e) of the Coastal Barrier Resources Act (16 U.S.C. 3503(e))”; and

(B) by striking subsection (f).

(c) ADDITIONS TO SYSTEM.—Section 4 of the Coastal Barrier Resources Act (16 U.S.C.

3503) is further amended by inserting after subsection (e) (as added by subsection (b)(1)) the following:

“(f) MAPS.—The Secretary shall—

“(1) keep a map showing the location of each boundary modification made under subsection (c) and of each parcel of real property added to the System under subsection (d) or (e) on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service and in such other offices of the Service as the Director considers appropriate;

“(2) provide a copy of the map to—

“(A) the State and unit of local government in which the property is located;

“(B) the Committees; and

“(C) the Federal Emergency Management Agency; and

“(3) revise the maps referred to in subsection (a) to reflect each boundary modification under subsection (c) and each addition of real property to the System under subsection (d) or (e), after publishing in the Federal Register a notice of any such proposed revision.”.

(d) CONFORMING AMENDMENT.—Section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) is amended by striking “which shall consist of” and all that follows and inserting the following: “which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled ‘Coastal Barrier Resources System’, dated October 24, 1990, as those maps may be modified, revised, or corrected under—

“(1) subsection (f)(3);

“(2) section 4 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591); or

“(3) any other provision of law enacted on or after November 16, 1990, that specifically authorizes the modification, revision, or correction.”.

#### SEC. 4. CLERICAL AMENDMENTS.

(a) COASTAL BARRIER RESOURCES ACT.—The Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) is amended—

(1) in section 3(2) (16 U.S.C. 3502(2)), by striking “refers to the Committee on Merchant Marine and Fisheries” and inserting “means the Committee on Resources”; and

(2) in section 3(3) (16 U.S.C. 3502(3)), in the matter following subparagraph (D), by striking “Effective October 1, 1983, such” and inserting “Such”; and

(3) by repealing section 10 (16 U.S.C. 3509).

(b) COASTAL BARRIER IMPROVEMENT ACT OF 1990.—Section 8 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591) is repealed.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is redesignated as section 10, moved to appear after section 9, and amended to read as follows:

#### “SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to the Secretary to carry out this Act \$2,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.”.

#### SEC. 6. DIGITAL MAPPING PILOT PROJECT.

(a) IN GENERAL.—

(1) PROJECT.—The Secretary of the Interior (referred to in this section as the “Secretary”), in consultation with the Director of the Federal Emergency Management Agency, shall carry out a pilot project to determine the feasibility and cost of creating digital versions of the John H. Chafee Coastal Barrier Resources System maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) (as amended by section 3(d)).

(2) NUMBER OF UNITS.—The pilot project shall consist of the creation of digital maps

for no more than 75 units and no fewer than 50 units of the John H. Chafee Coastal Barrier Resources System (referred to in this section as the "System"), 1/3 of which shall be otherwise protected areas (as defined in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101-591)).

(b) DATA.—

(1) USE OF EXISTING DATA.—To the maximum extent practicable, in carrying out the pilot project under this section, the Secretary shall use digital spatial data in the possession of State, local, and Federal agencies including digital orthophotos, and shoreline, elevation, and bathymetric data.

(2) PROVISION OF DATA BY OTHER AGENCIES.—The head of a Federal agency that possesses data referred to in paragraph (1) shall, upon request of the Secretary, promptly provide the data to the Secretary at no cost.

(3) ADDITIONAL DATA.—If the Secretary determines that data necessary to carry out the pilot project under this section do not exist, the Secretary shall enter into an agreement with the Director of the United States Geological Survey under which the Director shall obtain, in cooperation with other Federal agencies, as appropriate, and provide to the Secretary the data required to carry out this section.

(4) DATA STANDARDS.—All data used or created to carry out this section shall comply with—

(A) the National Spatial Data Infrastructure established by Executive Order 12906 (59 Fed. Reg. 17671 (April 13, 1994)); and

(B) any other standards established by the Federal Geographic Data Committee established by Office of Management and Budget Circular A-16.

(c) DIGITAL MAPS NOT CONTROLLING.—Any determination as to whether a location is inside or outside the System shall be made without regard to the digital maps created under this section.

(d) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report that describes the results of the pilot project and the feasibility, data needs, and costs of completing digital maps for the entire System.

(2) CONTENTS.—The report shall include a description of—

(A) the cooperative agreements that would be necessary to complete digital mapping of the entire System;

(B) the extent to which the data necessary to complete digital mapping of the entire System are available;

(C) the need for additional data to complete digital mapping of the entire System;

(D) the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps; and

(E) the amount of funding necessary to complete digital mapping of the entire System.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$500,000 for each of fiscal years 2002 through 2004.

**SEC. 7. ECONOMIC ASSESSMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives an economic assessment of the John H. Chafee Coastal Barrier Resources System.

(b) REQUIRED ELEMENTS.—The assessment shall consider the impact on Federal expend-

itures of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), including impacts resulting from the avoidance of Federal expenditures for—

(1) disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(2) the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.); and

(3) development assistance for roads, potable water supplies, and wastewater infrastructure.

AMENDMENTS SUBMITTED—  
SEPTEMBER 28, 2000

STEM CELL RESEARCH ACT OF  
2000

BROWNBACK AMENDMENT NO. 4273

(Ordered referred to the Committee on Health, Education, Labor, and Pensions.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill (S. 2015) to amend the Public Health Service Act to provide for research with respect to human embryonic stem cells; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pain Relief Promotion Act of 2000".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) in the first decade of the new millennium there should be a new emphasis on pain management and palliative care;

(2) the use of certain narcotics and other drugs or substances with a potential for abuse is strictly regulated under the Controlled Substances Act;

(3) the dispensing and distribution of certain controlled substances by properly registered practitioners for legitimate medical purposes are permitted under the Controlled Substances Act and implementing regulations;

(4) the dispensing or distribution of certain controlled substances for the purpose of relieving pain and discomfort even if it increases the risk of death is a legitimate medical purpose and is permissible under the Controlled Substances Act;

(5) inadequate treatment of pain, especially for chronic diseases and conditions, irreversible diseases such as cancer, and end-of-life care, is a serious public health problem affecting hundreds of thousands of patients every year; physicians should not hesitate to dispense or distribute controlled substances when medically indicated for these conditions; and

(6) for the reasons set forth in section 101 of the Controlled Substances Act (21 U.S.C. 801), the dispensing and distribution of controlled substances for any purpose affect interstate commerce.

**TITLE I—PROMOTING PAIN MANAGEMENT AND PALLIATIVE CARE**

**SEC. 101. ACTIVITIES OF AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.**

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

**"SEC. 903. PROGRAM FOR PAIN MANAGEMENT AND PALLIATIVE CARE RESEARCH AND QUALITY.**

"(a) IN GENERAL.—Subject to subsections (e) and (f) of section 902, the Director shall carry out a program to accomplish the following:

"(1) Promote and advance scientific understanding of pain management and palliative care.

"(2) Collect and disseminate protocols and evidence-based practices regarding pain management and palliative care, with priority given to pain management for terminally ill patients, and make such information available to public and private health care programs and providers, health professions schools, and hospices, and to the general public.

"(b) DEFINITION.—In this section, the term 'pain management and palliative care' means—

"(1) the active, total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far-advanced disease; and

"(2) the evaluation, diagnosis, treatment, and management of primary and secondary pain, whether acute, chronic, persistent, intractable, or associated with the end of life; the purpose of which is to diagnose and alleviate pain and other distressing signs and symptoms and to enhance the quality of life, not to hasten or postpone death."

**SEC. 102. ACTIVITIES OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.**

(a) IN GENERAL.—Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended—

(1) by redesignating sections 754 through 757 as sections 755 through 758, respectively; and

(2) by inserting after section 753 the following:

**"SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN PAIN MANAGEMENT AND PALLIATIVE CARE.**

"(a) IN GENERAL.—The Secretary, in consultation with the Director of the Agency for Healthcare Research and Quality, may award grants, cooperative agreements, and contracts to health professions schools, hospices, and other public and private entities for the development and implementation of programs to provide education and training to health care professionals in pain management and palliative care.

"(b) PRIORITY.—In making awards under subsection (a), the Secretary shall give priority to awards for the implementation of programs under such subsection.

"(c) CERTAIN TOPICS.—An award may be made under subsection (a) only if the applicant for the award agrees that the program to be carried out with the award will include information and education on—

"(1) means for diagnosing and alleviating pain and other distressing signs and symptoms of patients, especially terminally ill patients, including the medically appropriate use of controlled substances;

"(2) applicable laws on controlled substances, including laws permitting health care professionals to dispense or administer controlled substances as needed to relieve pain even in cases where such efforts may unintentionally increase the risk of death; and

"(3) recent findings, developments, and improvements in the provision of pain management and palliative care.

"(d) PROGRAM SITES.—Education and training under subsection (a) may be provided at or through health professions schools, residency training programs and other graduate programs in the health professions, entities that provide continuing medical education,