United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

Vol. 146 WASHINGTON, TUESDAY, OCTOBER 3, 2000 *No. 121*

Senate

(Legislative day of Friday, September 22, 2000)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

God of hope, You have shown us that authentic hope is rooted in Your faithfulness in keeping Your promises. We hear Your assurance, ''Be not afraid, I am with you.'' We place our hope in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace.

Lord, You have helped us discover the liberating power of an unreserved commitment to You. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but we begin to experience the mysterious movement of Your providence. The company of heaven plus people and circumstances begin to rally to our aid. Unexpected resources are released; unexplainable good things start happening. We claim the promise of Psalm 37, ''Commit your way to the Lord, trust also in Him, and He shall bring it to pass.''—vs 5,7. You are our Lord and Saviour. Amen.

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PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS, a Senator from the State of Wyoming, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

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SCHEDULE

Mr. THOMAS. Mr. President, today the Senate will begin final action on the H–1B visa bill, with a vote on final passage scheduled to occur at 10 a.m.

Following the vote, the Senate will proceed to executive session to debate four nominations on the Executive Calendar. Under the previous order, there will be several hours of debate, with votes expected on the nominations during this afternoon's session. The Senate may also consider any appropriations conference reports available for action.

I thank my colleagues for their attention.

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AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding that we are now in the time equally divided on the H–1B matter to be voted on at 10 o'clock.

The PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, H–1B originated in our immigration laws in the 1950's so that trained professionals could work for a limited time in the U.S. In 1990, a cap was set on the category for the first time of 65,000.

Employers in every industry and sector of our economy, including manufacturing, higher education, health care, research, finance and others, have used it.

Employers from major multinational companies to small businesses seeking individuals with specific skills needed to grow their companies have used it.

It became wildly popular in the mid to late 90s following the Internet boom, when hundreds of hungry tech startups across the country began using it to recruit high tech workers from information technology jobs, mostly from India, China, Canada, and Britain. Some 420,000 are here today.

Those individuals have filled a critical shortage of high-tech workers in this country, which in fact, still exists today.

The American Competitiveness in the Twenty-first Century Act of 2000 proposes to raise the caps for the number of H–1B workers that employers can bring into the United States for the next 3 years.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

When Congress set the 65,000 cap on H–1Bs in 1990, it was not based on any economic data or scientific study of the need.

And, this limitation was not challenged until 1997 when for the first time the cap was reached at the end of the fiscal year.

The following year the cap was again reached, but this time by May 1998. The cap has been reached earlier in each successive year.

In response to the increased demand, language was incorporated into the Omnibus Appropriations Act of 1998 to raise the cap on H–1B visas to 115,000 in fiscal year 1999; and 115,000 in fiscal year 2000; and 107,500 in fiscal year 2001.

Under the Omnibus Act of 1998 the cap would return to its original level of 65,000 after fiscal year 2001.

Despite the increases, continuing economic growth has led many in the technology sector particularly, to call for a further increase in the caps.

In fiscal year 1999 the INS reached the H–1B cap in June and stated that there my have been more than 20,000 additional visas issued over and above the ceiling.

The higher demand for H–1B visas has continued in fiscal year 2000.

In March of this year, the INS stopped accepting new H–1B applications, having enough cases in its pipeline to reach the cap.

In order to compensate for the demand, the INS began processing petitions in August 2000 for workers who are set to begin working fiscal year 2001.

Based on past years' filling patterns, the INS may have as many as 60,000 cases already pending to count against the 107,500 visas now available.

Most employers predict that the current visa allotment will expire before January.

There is no question we need to raise the cap for H–1B professionals.

I have always been in support of H–1B, as many of my colleagues have been.

But I have also been in support of the Latino Immigrant and Fairness Act, which I am a cosponsor and which I continue to strongly support.

But supporting one does not rule out supporting the other.

American industry's explosive demand for skilled and highly skilled workers is being stifled by the current federal quota on H–1B visas for foreign-born highly skilled workers.

The quota is hampering output, especially in high-technology sectors, and forcing companies to consider moving production offshore. Some companies already have.

The number of H–1B visas was unlimited before 1990, when it was capped at 65,000 a year.

In 1998 the annual cap was raised to 115,000 for 1999 and 2000 and currently there is a need once more to raise that cap.

The shortage shows no sign of abating.

Demand for core information technology workers in the United States is expected to grow by 150,000 a year for the next 8 years, a rate of growth that cannot be met by the domestic labor supply alone.

H–1B workers create jobs for Americans by enabling the creation of new products and spurring innovation.

High-tech industry executives estimate that a new H–1B engineer will typically create demand for an additional 3–5 American workers.

T.J. Rodgers of Cypress Semiconductor testified last year before Congress that for every H–1B professional he hires, he creates at least 5 more U.S. jobs to develop, manufacture, package, sell and distribute the products created.

H–1B workers are not driving down wages for native workers, in fact, wages are rising fastest and unemployment rates are lowest in industries in which H–1B workers are most prevalent.

High tech wages have risen 27 percent in the last decade, compared to 5 percent for the rest of the private sector.

The current unemployment rate for electrical engineers is 1.4 percent, 1.7 percent for systems analysts and 2.3 percent for computer programmers.

The vast majority of H–1B workers are being paid the legally required prevailing wage or more, undercutting charges that they are driving down wages.

The H–1B program mandates that these individuals be paid the higher of the average wage paid to workers in an area, or what the employer pays their U.S. workforce whichever is higher.

H–1B workers in many cases, because of their unique or highly demanded skills, earn more than U.S. workers.

For the reasons mentioned I am happy to support the American Competitiveness in the Twenty-first Century Act of 2000.

The ability to fill gaps in the workforce with qualified foreign national professionals rapidly, helps American business stay strong.

Mr. President, I am happy to support H–1B. It is good legislation that is very important. I am disappointed that we are not voting at the same time on the Latino and Immigrant Fairness Act, which we debated extensively last week, and I am sorry to say that on a straight party line vote we were prevented from voting up or down on this issue. That is a disappointment to me and to many millions of people in this country. I think the majority made a terrible mistake in that regard. But that does not take away from the need for the H–1B legislation we are going to pass today.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

The Senator from Michigan is recognized.

Mr. ABRAHAM. The chairman of the Judiciary Committee is not here. I believe he would approve of my yielding myself such time as I may need to speak this morning.

Mr. President, the H–1B visa program, which we will be addressing today when we vote on the American Competitiveness in the Twenty-first Century Act, is the subject of much interesting debate in our country today. One thing everybody agrees on is we face a serious worker shortage with respect to high-tech employment and skilled labor in America today. Most of the recent studies that have been produced on this subject indicate there are perhaps as many as 1 million unfilled positions in information technology today. The projections are that we will be creating somewhere between 150,000 and 200,000 new positions in these areas in each of the next 10 years. Yet in spite of the very lucrative and, I think, substantive nature of these jobs, our training programs, our college programs, our high school programs are not producing enough American workers to fill these posts today.

This presents us with a short-term problem and a long-term challenge. The short-term problem is how to fill these key positions immediately so that we don't lose opportunities to foreign competitors, or so that we don't force American businesses to move offshore to where skilled workers might live. The long-term problem is to determine what we can do to make certain that in the future we have a sufficient workforce of trained Americans to fill these jobs, because it is quite clear to me that immigration can only be a stopgap, short-term solution to these problems.

I am pleased we have reached an agreement on this legislation across the aisle with our colleagues because we need to act today. The legislation before us will allow a short-term increase in the number of skilled professionals allowed to work in this country on H–1B temporary visas and will help and encourage more disadvantaged young people to pursue studies related to high-tech. It will assure those young people of good jobs and good wages far into the future, and I believe it will also provide resources for the training and retraining of people in the workforce today, so they can begin to fill more of these positions as well.

To help young people, this bill will provide, we estimate, over 60,000 scholarships for American students in the math and science fields. Scholarships like this have already been available as a result of the American Competitiveness Act, which we passed in 1998—legislation that began the process of diverting application fees connected to the H–1B visas into scholarship and retraining funds.

The bill's training provisions will provide over 150,000 U.S. workers with access to training to help prepare them for the high-tech jobs of today and tomorrow. Interestingly, Mr. President, there is overwhelming unanimity that we must act in this fashion if we are to keep our economy strong. The support

from across the political spectrum for this H–1B visa increase is strong, ranging from the White House—not just the current occupant and staff but such people as former chief economic adviser to President Clinton, Laura D'Andrea, Federal Reserve Chairman Alan Greenspan, and legislative leaders on both sides of the aisle.

Indeed, in hearings we have conducted in the Immigration Subcommittee, we have heard from people throughout industry in America, not just the high-tech companies we think of when we think about these workers but people who employ high-tech workers in other phases and forms of manufacturing across the board; they have all indicated that the need to fill these provisions is significant and immediate. Indeed, we received countless pieces of information that led to a pretty clear indication that if we don't allow these technically skilled workers to come here, companies will be forced to move product lines, divisions perhaps, and whole operations overseas.

That won't help Americans. That will cost Americans jobs. Of course, there are those who have criticized this program over the years—people who are protectionist in their views on these sorts of issues. But it is important to make sure the record is clear that we can build in protections for American workers to make certain that they cannot be taken advantage of through the high-tech H–1B program.

Indeed, in 1998 we addressed many, if not all, of the issues which were raised with respect to H–1B visas and the possible displacement of Americans workers.

In 1988, the bill wrote into law three types of lay-off protections for American workers. And we have also, of course, included in the H–1B program requirements that the prevailing wage be paid to people who come in under this program so companies cannot game the system and somehow or another in any way pay foreign workers less and thus deprive American workers of opportunities. But, as I said, whether it is the Silicon Valley or the Research Triangle or the traditionally well-known high-tech sectors or whether it is in my State of Michigan, the need for these workers is extraordinarily strong.

For instance, the Michigan Economic Development Corporation is spending $2.7 million on an ad campaign and a revamped web site to attract knowledgeable workers to our State. The head of our economic development division says we are the only State to fully redirect our resources to recruiting businesses for recruiting workers to Michigan. Indeed, in one county alone—Oakland County—the estimate is that we currently need 10,000 engineers just to fill the positions that are projected to be needed today and in the immediate future. If we can't find those people, those companies and the jobs that are connected to those engineering jobs will go elsewhere. It is a challenge that we must address.

Let me just say that in the short term the only appropriate way we are going to be able to deal with this is through an increase in the H–1B visa program. But the long-term solution cannot be based on immigration alone. Indeed, this program is only a 3-year increase.

I think it is clear that the world now is competing. Virtually any country that wants to be competitive is working hard to attract the most talented and skilled people to their country and to their businesses to create strength in their economies. Thus, America must, in addition to the passage of today's legislation, focus even more of our resources and more of our attention on the important need of both encouraging young people to pursue careers in math, science, engineering, computer sciences, and so on but also in retraining workers to try to fill more of these positions because I predict that in the very near future immigration will not even come close to meeting our employment needs with respect to these high-tech positions.

For those reasons, the provisions which were launched in the 1998 American Competitiveness Act, and which are strengthened even in this legislation, I hope by the time we finish this process, will provide even more resources for education and training which are key to the long-term needs that we have in this country.

They alone will not be enough because it is pretty obvious that to generate the kind of skilled workforce in the 21st century needed to fill the sorts of technology positions that are going to be created, whether they are positions in the research area or manufacturing area or anywhere else, requires us to go well beyond even what we will have in this legislation.

I am very dedicated to working to make sure that we provide the Federal support necessary to make it possible for those kinds of technology positions to be filled by American workers. But it is going to take a comprehensive effort—an effort that is not just a Federal program but one that incorporates the private sector as well as the public sector, the corporate sector, and the government sector at all levels, and to involve our education system at all levels or we will find ourselves seeing foreign competitors gaining ground on America when it comes to leading the world with respect to advanced technologies.

This means that not only must we make sure that the students today get the training they need but that the college programs be expanded and the retraining programs be generated. It also means that we must address so many other issues—whether it is passing our Millennium Classrooms Act which will provide more computer courses for the classrooms of America, especially those in the economically disadvantaged areas or whether it means working together in a collaborative effort with the private sector to ensure that there are more resources directed at education and the training of workers who are in the workforce today, it is all part of what we must address or we will find that in the global economy of the 21st century our competitive edge is going to be somewhat reduced. We certainly don't want that to happen.

I compliment Senator HATCH for his ongoing leadership on this issue. We have worked together since 1998 when we passed the American Competitiveness Act. He has been a leader on these issues for many years. His leadership in the passage of this legislation, and his willingness to come to the floor and work over a very long period of time to make sure this bill, which we passed out of the Judiciary Committee by an overwhelming vote many months ago, finally, today, gets the consideration it deserves. I think he deserves all of our thanks. Hopefully, this process will now move quickly towards completion, and we will be able to provide the additional workers needed to make sure the key positions in technology in our country will be filled.

I say also to those who have raised some of the other immigration-related issues that as chairman of the subcommittee, I remain anxious to continue to work with people—whether it is on the H–2A visa program, the agricultural workers issues, or Latino fairness issues, and so on. It is unfortunate that we couldn't come to an agreement on this legislation some months ago when we were trying to work out an agreement. But certainly the subcommittee intends to continue to focus on these issues into the future. I look forward to working with my colleagues on all of these.

In conclusion, I thank Senator HATCH for working with me on this. I appreciate his leadership very much.

I yield the floor.

Mr. MCCAIN. Mr. President, I rise today to express my strong support for S. 2045, the American Competitiveness in the Twenty-First Century Act. Although it deals ostensibly with the visa cap on foreign-born high-tech workers, its effect would be far more profound—to enhance the dynamism of the American economy at a time when U.S. companies, if given access to the necessary resources, are poised to dominate the Information Age for decades to come. As the representatives of the American people, we in Congress should do all we can to contribute to their potential for success in the global economy.

I am convinced that the best thing government can often do to advance the fortunes of the private sector is to stay out of its way. I support this bill because it makes progress toward that end, by improving companies' flexibility to hire the talent they need, while providing for the regulatory framework and new educational opportunities to protect and promote American workers. By raising the arbitrary cap on temporary immigrant visas for skilled foreign workers—a cap set in 1990 and insufficiently increased in

1998—this legislation gets government out of the way of American companies, universities, and research labs which simply cannot hire the skilled professionals they need in the domestic labor market because of an arbitrary, anachronistic cap on H–1B visas that does not reflect the forces of supply and demand in the American economy today.

T.J. Rodgers, president and CEO of Cypress Semiconductor Corporation, captures best the logic of the H–1B program when he says, ''It takes two percent of Americans to feed us all, and five percent to make everything we need. Everything else will be service and information technology, and in that world humans and brains will be the key variable. Any country that would limit its brain power to a single select group from that country alone is going to self-destruct.''

The American Competitiveness Act of 1998, which I co-sponsored, raised the annual cap on H–1B visas for skilled professionals from 65,000 in Fiscal Year 1998 to 115,000 in both FY 1999 and FY 2000, and to 107,500 in FY 2001. Nonetheless, even the higher number of H–1B admissions authorized by Congress for FY 1999 was reached only eight months into that fiscal year, and the FY 2000 cap was reached in March 2000, or only six months into the current fiscal year.

S. 2045 authorizes an increase in the annual H–1B cap to 195,000 through FY 2002. All evidence indicates an increase is warranted. However, there is little evidence supporting the specific figure of 195,000. In fact, industry estimates of the number of unfilled high-tech jobs range from 300,000–800,000.

The original H–1B visa ceiling of 65,000, enacted in 1990, did not adequately foresee American companies' need for high-tech foreign workers. As this year's Judiciary Committee report accompanying S. 2045 states, by 1998 ''access [to skilled foreign personnel] was being curbed by a cap on H–1B visas put in place almost a decade earlier, in 1990, when no one understood the scope of the information revolution that was about to hit.'' Yet, our important 1998 legislation raising the H–1B caps similarly missed the mark by understating domestic demand for highly trained professionals. As the 2000 Committee report states, ''In fact, in 1998, the error Congress made was in underestimating the workforce needs of the United States in the year 2000. . . . As a result, the 1998 bill has proven to be insufficient to meet the current demand for skilled professionals.''

While I strongly support passage of this legislation to increase H–1B visa admissions, I also wonder: given Congress' shortsightedness each time we have attempted to forecast the private sector's demand for highly skilled workers, how are we to know this time that we have struck the right balance? To resolve this dilemma, I introduced legislation on October 27, 1999, that would lift the H–1B ceiling while focusing more heavily on the underlying problem resulting in a shortage of skilled American workers. My bill, S. 1804, the 21st Century Technology Resources and Commercial Leadership Act, addresses the need to improve Americans' skills in math, science, engineering, and technology in order to maintain our world leadership in high-tech fields. Several other bills before Congress would raise the H–1B visa cap, but focus less on the long-term goal of educating and training Americans to fill available high-tech jobs.

S. 1804 would encourage innovation in improving elementary and secondary education in math, science, and engineering, as well as provide powerful incentives to retrain American workers who lack the skills to compete in the high-tech economy. In the interim, to provide for the requisite number of highly skilled professionals until we have educated and trained a sufficient number of Americans to fill these jobs, the bill would lift the cap on H–1B visas through 2006. All current information indicates that the supply of American professionals in the math, science, engineering, and technology fields will not meet the demand of American industries through at least that date.

Specifically, S. 1804 provides for grants to be awarded under the supervision of the Secretary of Commerce in consultation with the Office of Technology Policy and the National Science Foundation, on a competitive basis, for implementing programs that will improve the math, science, engineering, and technology skills of American students and professionals. The types of programs to be awarded grants are not specified so that Congress does not unintentionally foreclose new and more innovative ideas from surfacing. The grants would be funded from current H–1B visa application fees and could be awarded to companies, organizations, schools, school districts, teachers, and institutions of higher learning.

My legislation would use H–1B visa fees to encourage innovation in our schools, to teach American students the skills they will need to succeed in the 21st century economy, and in our companies, to train and retain American workers in the high-tech skills American businesses rely upon. The legislation would support corporate partnerships with schools or school districts to improve math and science curricula; scholarships for students willing to study advanced engineering or technology fields, and for those who agree to teach math or science for a period of time after graduating college; and innovative worker training and retraining programs within American companies. It leaves open grant support for any proposal that promises to improve the American talent pool in high-tech fields.

Although I regret that the Congress chose not to take this approach in favor of that proposed by S. 2045, I commend the sponsor of the pending legislation for incorporating provisions involving public-private education partnerships in K–12 math, science, and technology through National Science foundation grants, as my legislation originally proposed. Inclusion of these provisions drawn from S. 1804 significantly strengthens the final bill we are voting on today. As originally introduced, S. 2045 did not contain these components, and I am pleased that the sponsors were able to incorporate them.

Ultimately, the answer to the shortage of highly skilled workers must be found at home, in the form of a new generation of Americans educated in the skills demanded by our knowledge-based economy in this ear of globalization. In the meantime, raising the H–1B cap is the right thing to do. S. 2045, by increasing high-tech visa admissions while devoting new resources to the education and training of American students and workers, represents the way forward for the United States as we seek to sustain our leadership in the Information Age. I commend its swift passage to my colleagues on both sides of the aisle.

Mr. BROWNBACK. Mr. President, I stand in support of the American Competitiveness in the Twenty-First Century Act (S. 2045) which I have co-sponsored with Senators ORRIN HATCH and SPENCER ABRAHAM. This legislation would increase the number of H–1B visas for skilled labor available to U.S. employers from 115,000 to 195,000 slots, starting next fiscal year, among other measures.

This is direly needed legislation. Alarmingly, this year's allotment of H–1B visas ran out very early this year, in March. As a result, hundreds of thousands of highly skilled positions have gone unfilled throughout America.

America is currently riding a very high wave of record economic growth, unmatched in our generation. With that expansion, the number of available jobs which have gone unfilled has increased dramatically. Unfortunately, we have begun to place a cap on this extraordinary economic expansion by limiting the pool of skilled laborers that companies can draw upon by the present limited visa allotment.

The hardest hit sector is the computer industry. This industry functions in six months cycles, with new products being developed and marketed within this short period of time. The computer industry suffers a severe lack of qualified information technicians. Less workers means a longer development period which means a loss of competitive edge. This ultimately results in a loss of market, business and jobs. In this scenario, everyone loses, including the economy, American consumers, companies and workers.

To avoid this wasteful and unnecessary result, we must adopt this legislation and expand the visa slots so that American companies can continue to grow. This is an urgent problem which cannot wait until next year. If we fail to pass this legislation, we could significantly jeopardize our notable competitive edge in a fierce global market.

Some falsely charge that this legislation gives away our most lucrative jobs, while skipping over American workers. This is not true. Clearly, American employers would rather select American workers first over foreign guest workers who must be processed through a burdensome immigration bureaucracy involving significant time delays and complications. This visa process is costly and cumbersome for employers, and can easily be avoided by hiring American workers. However, American businesses cannot fill these positions with only American workers anymore and are forced to search overseas for badly needed talent. Our economy has expanded that significantly and these workers are needed that badly.

If we do not allow American-based businesses to meet this skilled labor need, some may move their operations to other countries which will gladly accommodate them. Why would we encourage this unfortunate result when we can attain just the opposite, that of attracting new and vibrant businesses, by expanding our labor pool?

In addition to the new visa allotments, this legislation creates 20,000 new college scholarships to train American workers in greater numbers. This encourages more degrees among Americans in math, computer science, and engineering—all areas of expertise presently suffering a shortage. Thus, this bill addresses both present and future worker needs.

On October 1st the new fiscal year began, and the Immigration and Naturalization Service estimates that we will use up the entire allotment of H–1B visas before the end of this December. In other words, the H–1B visa allotment will be used up in three months. That leaves the balance of nine months of no additional visas for desperate American computer companies, among other businesses, which will suffer this serious lack of workers.

That's bad business and bad politics, which can be corrected with this bill. Americans continue to dream bigger and create greater innovations, generating an unmatched prosperity which we should encourage, not discourage. That's why we should support the American Competitiveness in the Twenty-First Century Act of 2000.

Mr. CONRAD. Mr. President, today the Senate will complete action on one of the most important bills in the 106th Congress, S. 2045, the American Competitiveness in the 21st Century Act, legislation that will help ensure our nation's continued growth and leadership in information technology (IT). S. 2045 will authorize visas for 195,000 high-tech professionals to work in the U.S. to meet the growing demand for skilled IT workers throughout our economy. The legislation also authorizes long term initiatives to ensure that Americans of all ages are trained to fill critical IT positions in our Information Age economy. I am pleased to strongly support this legislation.

Senate action to increase the ceiling on H1B visas for the next three years, however, is also a warning that we are not providing sufficient incentives or education opportunities to encourage our young people, as well as individuals of all ages, to consider careers or retraining in information technology. In 1998, Congress passed legislation to increase the number of H1B visas for skilled workers to enter the U.S. At that time, the Department of Commerce reported a shortage of 600,000 skilled IT workers in the U.S. Since 1998, the demand for skilled workers has increased dramatically.

Earlier this year, the Information Technology Association released its most recent report, ''Bridging the Gap'', on the demand for skilled IT workers in the U.S. That report estimated a shortage of more than 843,000 skilled workers. Moreover, the Department of Labor projected that the U.S. economy will require more than 130,000 new IT workers every year for the next ten years. Clearly, with our rapidly expanding economy, and the critical need to maintain our leadership in information technology, we face an extraordinary challenge from this shortage of skilled high-tech workers. As economies throughout the world recover, particularly in Asia, we cannot continue to assume that we will meet our demand for high-tech workers by increasing the cap on HIB visa every few years.

Throughout this debate on the IT worker shortage since 1998, I have recommended incentives to encourage IT worker training and partnerships between businesses and the education community. Earlier in the 106th Congress, I introduced legislation, S. 456, to authorize a tax credit of up to $6,000 for employers who provide IT worker training. Unfortunately, the Senate has not yet adopted this legislation. I am, however, very pleased that Vice President GORE has recognized the importance of this IT worker training incentive and included this proposal as a priority on his information technology agenda.

More recently, I also introduced S. 2347, the Information Technology Act of 2000, to encourage IT training partnerships between universities or colleges and the information technology community through a program of matching Federal grants. I urged that these partnerships focus on training for Americans that have traditionally not participated in the growth in information technology—women, veterans, Native Americans, dislocated workers, seniors, and students who have not completed their high school diploma. I am especially pleased to have had such strong endorsements for this proposal from groups including the Disabled Veterans of America, National Education Association, American Association of University Women, Green Thumb and the Computing Technology Industry Association.

Mr. President, while I regret that we have not been able to authorize tax incentives for businesses who provide IT training for workers, I am very pleased that S. 2045 authorizes funding for high-tech partnerships, as I proposed in S. 2347, through the Department of Labor. Funding for the training would come from the fees collected under the H–1B visa program. S. 2045 also expands K–12 training for educators in IT through the National Science Foundation, including the professional development of math and science teachers in the use of technology in the classroom. Expanding opportunities for IT training for educators was another important objective in S. 2347. S. 2045 also helps our educational and research communities by exempting them from the cap on recruiting skilled academic professionals.

Finally, I would like to express particular appreciation to the managers of the bill for accepting my amendment regarding J–1 visa waivers. My amendment will improve underserved communities' access to physician services by ensuring the Conrad State 20 J–1 visa waivers do not count against the H–1B visa cap.

Mr. President, the shortage of skilled high-tech workers will continue to be a major issue during the 107th Congress, and I believe it will be necessary for us to provide additional training incentives in the coming years to meet the growing domestic demand for IT workers. As I noted earlier, as economies throughout the world continue to expand, and countries including Singapore, China, and Malaysia develop their own high tech corridors, it will be difficult to recruit high-tech workers from these Asian countries to fill positions in the U.S.

In my view, rather than continue our dependence on H1B visa holders to meet our skilled worker demand, we must expand our efforts to encourage young people to consider careers in information technology and to train current workers to enter the IT field. This will continue to be a top priority for me during the 107th Congress, and I look forward to working with my colleagues and the information technology community on this critical issue. I commend my colleagues on the Senate Judiciary Committee for reporting a measure that provides important incentives for IT training as well as expanded education and training opportunities for teachers through the National Science Foundation.

Mr. HATCH. Mr. President, I reserve the remainder of our time.

Mr. LEAHY. Mr. President, how much time is remaining on this side of the aisle?

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Vermont has 10 minutes. The Senator from Utah has 1 minute 2 seconds.

Mr. LEAHY. Mr. President, I am very pleased the Senate is poised to pass legislation to increase the number of H–1B visas. The bill that we will pass today is the result of long negotiations. It is significantly improved from

the version reported from the Judiciary Committee earlier this year.

This is an important step that will allow American employers to compensate for the current shortage in highly skilled employees by hiring such employees from abroad.

Thanks to the efforts of Senators KENNEDY, LIEBERMAN, FEINSTEIN, and others, this bill also includes strong education and worker training components. That is going to help American workers and students to erase the skills shortage.

No one on this side of the aisle sees H–1B visas as a permanent solution. It is a stopgap until our renewed commitment to education and training pays dividends. I would like to thank all of those in the corporate world who have supported our efforts on education and training.

Although I am happy about the passage of this bill, I am somewhat disappointed in the severe way in which debate on this bill was restricted.

I had hoped that our consideration of this bill would allow us to achieve other crucially important immigration goals that have been neglected by the majority throughout this Congress.

I had hoped that the Republican majority could agree to at least vote on, if not vote for, limited proposals designed to protect Latino families and other immigrant families.

I had hoped that the majority would consider proposals to restore the due process that was taken away from immigrants by the immigration legislation that Congress passed in 1996.

I thought we could work together to restore some of America's lost luster on immigration issues. That did not happen.

Still, we did have a vote on the Latino and Immigrant Fairness Act that showed where the Senate stood on issues of extreme importance to the Hispanic community, Eastern Europeans, and the Liberians. On that vote, regrettably, every Republican voted no. They refused to even consider the amendment. We should have had a vote. Senators should have the political courage to either vote for it, or vote against it.

I hope my Republican colleagues have the chance to reevaluate their position. The President has said he wants Congress to address these issues before we adjourn. Many Democratic Members of Congress and I join him in that view, and we will continue to work to see that this Congress addresses the real needs of real people, whether they be native-born or immigrant.

Both my mother and my wife are first-generation Americans. I think if Congress had taken some of the attitudes toward immigration that some take today when their families were seeking to enter the United States, neither might be in this country.

I agree that we need to increase the number of H–1B visas. The stunning economic growth we have experienced in the past eight years has led to worker shortages in certain key areas of our economy, and I have been involved in promoting efforts to ease those shortages. Last year, I cosponsored the HITEC Act, S. 1645, legislation that Senator ROBB has introduced that would create a new visa that would be available to companies looking to hire recent foreign graduates of U.S. master's and doctoral programs in math, science, engineering, or computer science.

Although S. 2045 uses a broader approach, the goals are similar. Allowing workers with specialized skills to come to the U.S. and work for 6-year periods, as the H–1B visa does, helps to alleviate worker shortage. In the recently ended fiscal year, 115,000 such visas were available, and they ran out well before the fiscal year ended. That is why we have to change the law now.

If we do not change the law, there will actually be fewer visas available in fiscal year 2001, as the cap drops to 107,500. This will simply be insufficient to allow America's employers—particularly in the information technology industry—to maintain their current rates of growth. As such, I think that we need to increase the number of available visas dramatically. The bill we will vote on today accomplishes that goal, increasing the number of visas to 195,000 for FY 2001. It also contains a provision that will allow educational institutions to use H–1B visas without counting against the cap, which will greatly help our colleges and universities, which are often on a different hiring schedule than our nation's other employers and have been shut out in the past from obtaining needed visas.

Of course, H–1B visas are not a long-term answer to the current mismatch between the demands of the high-tech industry and the supply of workers with technical skills. Although I believe that there is a labor shortage in certain areas of our economy, I do not believe that we should accept that circumstance as an unchangeable fact of life. We need to make a greater effort to give our children the education they need to compete in an increasingly technology-oriented economy, and offer adults the training they need to refashion their careers to suit the changes in our economy. This bill takes significant steps to improve our education and training programs. Since employers pay a $500 fee for a visa, increasing the number of visas will lead to an increase in revenue generated for worker training programs, scholarships for disadvantaged students, and funding for public-private partnerships to improve science and technology education.

I also want to note that the legislation extends current law's attestation requirements. These requirements force employers to certify that they were unable to find qualified Americans to do a job that they have hired a visa recipient to fill. The Labor Department also retains authority under S. 2045 to investigate possible H–1B violations.

I continue to believe that we could have passed this legislation many months ago. The Judiciary Committee reported S. 2045 more than six months ago, with my support. During this long stretch of inactivity, it has often appeared that the Republican majority has been more interested in gaining partisan advantage from a delay than in actually making this bill law. The Democratic Leader said repeatedly that he wanted to pass a bill, and that although Democratic members did want the opportunity to offer amendments, he was ready to agree to limit debate on those amendments so that we could conclude all work on this bill in a single day. Those offers were rebuffed again and again by the majority.

Months went by in which the Republican majority made no attempt to negotiate with us, time which many members of the majority instead spent trying to blame Democrats for the delay in their bringing this legislation to the floor. At many times, it seemed that the majority was more interested in casting blame upon Democrats than in actually passing legislation. Instead of working in good faith with the minority to bring this bill to the floor, the majority spent its time trying to convince leaders in the information technology industry that the Democratic Party was hostile to this bill, which was always false. Considering that three-quarters of the Democrats on the Judiciary Committee voted for this bill, and that the bill has numerous Democratic cosponsors, including Senator LIEBERMAN, this partisan appeal was not only inappropriate but absurd on its face.

I do regret that we have not made more progress on the longstanding proposals that have been combined now under the Latino and Immigrant Fairness Act. These provisions had been proposed throughout this Congress, and in some cases in previous Congresses. They are solid, pro-family proposals that would reward immigrants who are working and paying taxes in the United States. But the Republican majority—as has been shown repeatedly on the Senate floor over the past week—refused even to consider these proposals, instead branding them as rewards for illegal immigrants.

Thankfully, the President has taken action to provide temporary protection for the Liberians who faced imminent return to their conflicted nation, and who would have been protected by the LIFA legislation. It is shameful that the Congress has not taken action on the Liberians' behalf, despite the dogged and dedicated efforts of Senator JACK REED.

I am worried about the things we have not done on immigration issues in this Congress. It is a disturbing but increasingly undeniable fact that the interest of the business community has become a prerequisite for immigration

bills to receive attention on the Senate floor. In fact, we are in the final days of the Congress, and this is the first immigration bill to be debated on the floor. Even humanitarian bills with bipartisan backing have been ignored in this Congress, both in the Judiciary Committee and on the floor of the Senate.

The majority has shown a similar lack of concern for proposals by Senators to restore the due process protections were removed by the passage of the Antiterrorism Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act 4 years ago.

There are still many aspects of those laws that merit our careful review and rethinking, including the inhumane use of expedited removal, which would be sharply reformed by S. 1940, the Refugee Protection Act, which I have introduced with Senator BROWNBACK and our 10 cosponsors.

But the Refugee Protection Act has not even received a hearing in the Judiciary Committee, despite my requests as ranking member. This is quite unusual, because every committee I have served upon has honored such requests on the part of the ranking member. When I was chairman, any request made by a ranking member was honored. Indeed, I have never seen anything like this, especially on a bill that has such bipartisan support.

The bill addresses the issue of expedited removal, a process under which aliens arriving in the United States can be returned immediately to their native land at the say-so of low-level INS officers. Expedited removal was the subject of a major debate in this Chamber in 1996. The Senate voted to use it only during immigration emergencies. The Senate-passed restriction was removed at probably the most partisan conference committee I have ever witnessed. The Refugee Protection Act is modeled closely on the 1996 amendment. I hope someday we can pass it. We should.

As a result of the adoption of expedited removal, we now have a system of removing people arriving here either without proper documentation or with valid documents that INS officers suspect are invalid. This policy ignores the fact that somebody who is fleeing a despotic regime is quite often unable to go in and get a passport from the same regime they are trying to flee, either because of religious persecution or some other type of persecution. The only way to get out of there is with a forged passport.

In the limited time that expedited removal has been in operation, we already have numerous stories of valid asylum seekers who were kicked out of country without the opportunity to convince an immigration judge that they faced persecution in their native lands. To provide just one example, a Kosovo Albanian was summarily removed from the United States after the civil war in Kosovo had already made the front pages of America's newspapers. Imagine what happens to such people when they are forced to return to their native lands.

I also urge the Senate to take up S. 3120, the Immigrant Fairness Restoration Act, which was introduced by Senators KENNEDY and BOB GRAHAM. This bill would go a long way toward undoing the damage done to due process by the 1996 immigration laws, and the House has already passed related, bipartisan legislation. Among other things, S. 3120 would eliminate the retroactive features of those laws, which have led to the deportation of legal permanent residents who committed relatively minor crimes decades ago. I have sponsored legislation that would at the very least provide due process to those who have served in our Armed Forces, the Fairness for Immigrant Veterans Act, S. 871. This legislation has been endorsed by the American Legion, the Vietnam Veterans of America, and other veterans' groups. The Republican majority has refused to consider even this narrow reform.

As important as H–1B visas are for our economy and our nation's employers, this is not the only immigration issue that faces our nation. Although the legislation we are concerned with today is good legislation, it does not test our commitment to the ideals of opportunity and freedom that America has represented at its best. Those tests will apparently be left for another day, or another Congress.

In closing, I commend our leaders in this matter: Senator DASCHLE, Senator HARRY REID, Senator KENNEDY, and their able staffs. In particular, I would like to thank Andrea LaRue with Senator DASCHLE, Eddie Ayoob with Senator REID, Esther Olavarria and Melody Barnes with Senator KENNEDY and the Democratic staff of the Immigration Subcommittee, and Tim Lynch with my Judiciary Committee staff. I have not heard thanks from the other side. I thank Senator ABRAHAM and his staff for cooperation in improving the bill and Senator HATCH for allowing the matter finally to proceed to conclusion. I also thank Lee Otis and Stuart Anderson with Senator ABRAHAM and Sharon Prost with Senator HATCH for their hard work on this legislation.

VISA WAIVER PERMANENT PROGRAM ACT

In addition to passing S. 2045, the Senate has also agreed to pass H.R. 3767, legislation to make the visa waiver pilot program permanent. We pass this legislation only because Senator DASCHLE worked with Senator KENNEDY and me to make sure that the majority agreed to release its hold on the bill as part of our broader agreement on H–1B legislation. I hope that Senator DASCHLE's commitment to this bill is appreciated by the thousands of American travelers who benefit from it.

This legislation will achieve the important goal of making our visa waiver program permanent. We have had a visa waiver pilot project for more than a decade, and it has been a tremendous success in allowing American citizens to travel to some of our most important allies for up to 90 days without obtaining a visa, and in allowing citizens of those countries to travel here under the same terms. Countries must meet a number of requirements to participate in the program, including having very low rates of visa refusals. Of course, the visa waiver does not affect the need for international travelers to carry valid passports.

Despite having expressed no substantive objection to this bill, the majority refused to allow this legislation to go forward for months. I note for the record that every single Democratic Senator said they would vote for this bill. Those from the business community and elsewhere who asked about the bill were assured by Senator DASCHLE, Senator REID and I that every single Democratic Senator supported this.

Even though the travel industry and the State Department urged Republicans to allow this legislation to pass, and even though the visa waiver pilot program had expired April 30, the majority refused to let this bill go forward. They apparently held the bill to use as leverage to promote unrelated legislation, just a chit to be used whenever it seemed to fix a whim. I am glad they finally have reversed course.

The House passed legislation months ago to make this program permanent, heeding the calls of American tourists and business people who are able to travel to almost 30 other nations with only a passport because of the program. By playing political games, the Senate jeopardized our relationships with the other nations who take part in the program. Thankfully, we have finally moved beyond these games and are set to send this legislation back to the House for final approval.

I would like briefly to note the inclusion of an amendment in the visa waiver bill that is of major importance to my State of Vermont and many other States. This provision extends the EB–5 immigrant investor pilot program, which allows foreign investors to obtain resident status in return for substantial investments in regions that are not sharing in the general American prosperity. In my State, this program is starting to bear fruit—I am happy that we are extending it for an additional three years so that we can ensure that its potential is realized.

In conclusion, I would like to thank Senator KENNEDY for all of his work on immigration issues, from H–1B to visa waiver to the countless proposals he has initiated and supported to help immigrant families. He has consistently worked across the aisle with Senators HATCH and ABRAHAM to achieve the best possible solutions to our immigration problems. Immigrants in America should understand they have a devoted ally in the senior Senator from Massachusetts, Mr. KENNEDY. And I thank our Democratic Leader TOM DASCHLE

for his commitment to getting this matter concluded without additional unnecessary delay. They and their staffs, along with the staff of our Republican counterparts, were instrumental in moving this matter to passage.

I thank all on both sides.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is a very important bill. This is a bill that both sides have said they wanted for a long time. I have to say it is pitiful that we had to go through three cloture votes because it was filibustered three times. Even the motion to proceed was filibustered by colleagues on the other side. They have tried to make this into a political brouhaha which it doesn't deserve. Further, when they also brought up a bill that they did not even file until July 25 of this year, the Latino and Immigrant Fairness Act, which is anything but fair. They brought that up and asked, without hearings, without 1 minute of consultation, that we have a rolling amnesty for up to 2 million illegal aliens—perhaps even more than that; certainly they admit to at least 500,000. It shows the length to which politics can go in this body.

I am glad we are at this point. It took continual effort by our leader to push this bill through. There were many times when we thought we might have to pull it down because of the opposition from the other side.

But today, I look forward to an overwhelming vote this morning on this important, bipartisan bill and hope that by week's end, the House of Representatives will have acted favorably and with dispatch as well.

One of our greatest priorities, Mr. President, is and ought to be keeping our economy vibrant, and expanding educational opportunities for America's children and its workers. That is my priority for this country and for my own State of Utah.

I am proud of the growth and development in my own State that has made Utah one of the leaders of the country and the world in our high tech economy.

In Utah and elsewhere, however, our continued economic growth, and our competitive edge in the world economy requires an adequate supply of highly skilled high tech workers. This remains one of our great challenges in the 21st century, requiring both short and long term solutions. The legislation we will pass today, S. 2405, addresses both of these challenges.

Specifically, a tight labor market, increasing globalization, and a burgeoning economy have combined to increase demand for skilled workers well beyond what was forecast when Congress last addressed the issue of temporary visas for highly skilled workers in 1998. Therefore, this legislation once again increases the annual cap for this year and the next three years.

But increasing the number of H–1B visas is nothing more than a short term solution to the workforce needs in my State and the country. The long term solution lies with our own children and our own workers. Our continued success in this global economy depends on our ability to ensure that education and training for our current and future workforce matches the demands in our high tech 21st century global economy. Working with my colleagues, I have included in this bill strong, effective, and forward looking provisions directing the several hundred million dollars in fees expected to be generated by the visas toward the education and retraining of our children and our workforce. Those provisions are included in the substitute which is before us today.

Mr. President there are many to whom I want to express my gratitude this morning. This legislation had, from the beginning, an effective group of Senators at the forefront. That included Senator ABRAHAM, a leader on this issue for many years, as well as Senator GRAMM from Texas. On the other side of the aisle, we were joined early on by Senators GRAHAM, FEINSTEIN, and LIEBERMAN, and all have continued their commitment to the continued improvement of our bill. And finally, Mr. President, I want to thank Senator KENNEDY for his hard work and his tireless dedication to ensuring effective training provisions in this bill for American workers. I would be remiss were I not to also mention Senator PAT LEAHY—the committee's ranking member. He approached this bill in the spirit of bipartisanship and facilitated its consideration both here on the floor and in committee.

Mr. President. I look forward to working with my colleagues in the other body in the coming days to see that this bill becomes law.

I hope we can get this done for American workers and children and for our continued economic expansion.

Finally, Mr. President, I want to thank all of the dedicated staffers here in the Senate whose talent and hard work have helped get this bill passed. First, I'd like to thank my own committee staff, including Chief Counsel and Staff Director Manus Cooney, Deputy Chief Counsel Sharon Prost, and Press Secretary Jeanne Lopatto. The conventional wisdom in Washington a few months ago was that this bill was not going to pass. But they kept fighting for its passage. I want to particularly commend Sharon Prost for her tireless efforts.

I also want to thank Lee Otis and Stuart Anderson, of the Subcommittee on Immigration for their invaluable technical and legal assistance and Esther Olivarria of Senator KENNEDY's staff. My thanks also go to Michael Simmons, of Senator GRAMM's staff, Caroline Berver, with Senator GRAHAM, James Thurston, with Senator LIEBERMAN, and Lavita Strickland with Senator FEINSTEIN. I would also like to thank Jim Hecht of Senator LOTT's staff for his efforts. Finally, I want to thank Bruce Cohen and Tim Lynch of Senator LEAHY's committee staff.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I note that each of the component parts of the Latino and Immigrant Fairness Act were filed long before July 25. Democratic Senators repeatedly asked for hearings on this proposal, and those requests were repeatedly denied.

It is not fair to say that this legislation is neither ''Latino'' nor ''fair.'' If anybody wants to know whether it is something that the Latino community wants and whether the Latino community thinks it is fair, just ask them. They will tell you the Latino fairness bill is supported by the Latino community and it is a fair bill.

I do thank my chairman, my close friend, that we are getting this through.

Mr. HATCH. Mr. President, let me just take a minute to respond to some of the comments of my colleague, Senator LEAHY. The so-called Latino Fairness Act has little to do with fairness for immigrants. This is no limited measure to undo a previous wrong to a limited class of immigrants who otherwise might have been eligible for amnesty under the 1986 act. In fact, it is a major new amnesty program with a price tag of almost $1.4 billion. That has major implications for our national policy on immigration.

The bill purports to be about ''immigrant fairness,'' but it does nothing to increase or preserve the categories of legal immigrants allowed in this country annually. It does nothing to shorten the long waiting period or remove the hurdles for persons who have waited years to legally enter this country. This so-called Latino fairness is no fairness at all to the millions of immigrants who have and will continue to play by the rules.

Moreover, the bill does not even fix a date for the registry. Rather it allows a rolling amnesty. What kind of signal does this send? Our government spends millions each year to combat illegal immigrant and deports thousands of persons each year. With the rolling amnesty, however, if an illegal alien can manage to escape law enforcement for long enough we reward that person with citizenship, or at least permanent resident status.

Finally, it should be noted that all of these dramatic changes were proposed in July of this year with no hearings and with no assessment of competing costs and benefits. The Senate appropriately refused to consider this bill because its many consequences were not addressed by its proponents.

We are proud of the fine bipartisan work that went into the H–1B visa bill and welcome its passage.

The PRESIDING OFFICER (Mr. Crapo). Under the previous order, the hour of 10 o'clock having arrived, the Senate will now vote on the passage of S. 2045. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—96

Abraham	Enzi	McCain
Akaka	Feingold	McConnell
Allard	Fitzgerald	Mikulski
Ashcroft	Frist	Miller
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hutchinson	Santorum
Burns	Hutchison	Sarbanes
Byrd	Inhofe	Schumer
Campbell	Inouye	Sessions
Chafee, L.	Jeffords	Shelby
Cleland	Johnson	Smith (NH)
Cochran	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Craig	Kyl	Stevens
Crapo	Landrieu	Thomas
Daschle	Lautenberg	Thompson
DeWine	Leahy	Thurmond
Dodd	Levin	Torricelli
Domenici	Lincoln	Voinovich
Dorgan	Lott	Warner
Durbin	Lugar	Wellstone
Edwards	Mack	Wyden

NAYS—1

Hollings

NOT VOTING—3

Feinstein	Kennedy	Lieberman

The bill (S. 2045), as amended, was passed, as follows:

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY

SEC. 101. SHORT TITLE.

This title may be cited as the ''American Competitiveness in the Twenty-first Century Act of 2000''.

SEC. 102. TEMPORARY INCREASE IN VISA ALLOTMENTS.

(a) FISCAL YEARS 2001–2003.—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 (vii); and

(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''.

(b) ADDITIONAL VISAS FOR FISCAL YEARS 1999 AND 2000.—

(1) IN GENERAL.—(A) 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.

(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.

(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. 103. 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) who is employed (or has received an offer of employment) at—

''(A) 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

''(B) a nonprofit research organization or a governmental research organization.

''(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).

''(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. 104. 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) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs,

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. 105. 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, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.''.

(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. 106. 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 H1–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.

(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)).

SEC. 107. 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, 2003''.

(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, 2003''.

SEC. 108. 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. 109. 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. 110. 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 systemwide 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 the 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. 111. 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. The need for the training shall be justified 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 116(b) or 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: *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); 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 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 single 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;

''(ii) include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness; and

''(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).

''(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. 112. 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. 113. USE OF FEES FOR DUTIES RELATING TO PETITIONS.

(a) Section 286(s)(5) of the Immigration and Nationality Act (8 U.S.C. 1356(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).''.

(b) Notwithstanding any other provision of this Act, the figure on page 14, line 16 is deemed to be ''22 percent''; the figure on page 16, line 14 is deemed to be ''4 percent''; and the figure on page 16, line 16 is deemed to be ''2 percent''.

SEC. 114. EXCLUSION OF CERTAIN "J" NONIMMIGRANTS FROM NUMERICAL LIMITATIONS APPLICABLE TO "H-1B" NONIMMMIGRANTS.

The numerical limitations contained in section 102 of this title 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(l) of the Immigration and Nationality Act (relating to restrictions on waivers).

SEC. 115. 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).

SEC. 116. SEVERABILITY.

If any provision of this title (or any amendment made by this title) or the application thereof to any person or circumstance is held invalid, the remainder of the title (and the amendments made by this title) and the application of such provision to any other person or circumstance shall not be affected thereby. This section be enacted 2 days after effective date.

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. PURPOSES.

(a) 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.

(b) 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 nonimmigrant 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(a);

(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).

Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I rise to congratulate all those who have worked so hard for so long on the H–1B bill. Senators LEAHY, HATCH, KENNEDY, ABRAHAM, FEINSTEIN, LIEBERMAN and BIDEN have all done an admirable job at putting together a good bipartisan bill that will strengthen our economy and increase the resources that go to technology education and training.

I would also like to thank the Majority Leader for his efforts. While we have disagreements about how the process, here in the Senate, should work, on this bill, we have shared a commitment that the Senate must act to ensure the stability of the H–1B program in the years to come.

Mr. President, as you know, this legislation responds to the pressing need many American companies are facing for highly-skilled workers. The bill increases the annual ceiling for the admission of H–1B non-immigrants to 195,000 for fiscal years 2001, 2002 and 2003. It also includes an important provision to exempt H–1B visa applicants employed by higher education institutions and other non-profits from the yearly numerical limits.

This visa increase could not come at a more important time. With unemployment rates currently at or near historic lows, the H–1B program has become an increasingly important source of skilled labor for U.S. employers. U.S. employers are expected to need roughly 1.6 million information technology workers in the next year. Unfortunately, the demand far exceeds the supply of qualified individuals. This shortage not only threatens the competitiveness of U.S. high technology companies but it also threatens our economy, which owes much of its success to the technology sector.

These labor shortfalls are not just felt in Silicon Valley, Northern Virginia and other high tech clusters—they are felt nationwide. In fact, 35 percent of the unfilled jobs in the information technology sector are in the Midwest. In a study done by the Bureau of Labor Statistics, the state of South Dakota had the greatest high-technology employment growth in the early 1990's—a whopping 172 percent increase. And South Dakota companies, like those in other states, are struggling to find the workers they need to continue to grow.

That said, the H–1B visa program is only a short-term solution to the skills shortage being experienced by American companies. Accordingly, I am proud of the work that was done, largely at the behest of Democratic Senators, to ensure that this bill begins to address our long-term challenge—ensuring that in the future there are enough Americans with the necessary skills to fill these jobs. Indeed, as Senator MIKULSKI reminded us during this debate, America is facing a skills shortage, rather than a worker shortage. It is our job to reverse that trend.

This bill is a step in the right direction. It dedicates over half of the H–1B fees collected to the worker training primarily in the fields of high technology, information technology and biotechnology skills. By increasing the H–1B visa fee modestly, this bill will triple the money going to these important training programs enabling 45,000 workers a year to take advantage of these new training opportunities. In addition, the bill also triples the money dedicated to providing meaningful educational scholarships for students, particularly minority students, who are enrolled in a mathematics, engineering or computer science degree program and for improving science, mathematics and technology education in the K–12 system.

There are millions of Americans who yearn for the opportunity to participate in our new economy and all its rewards. And they need only one thing to do just that—skills training and education.

It is our duty to help these Americans realize their dreams. This bill is an important down-payment in that effort. Thus, I look forward to this bill becoming law in the near future. Both U.S. workers and U.S. companies stand to benefit.

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

• Mrs. FEINSTEIN. Mr. President, as a cosponsor of S. 2045, ''American Competitiveness in the Twenty-first Century Act of 2000,'' I am pleased to see this important legislation pass the Senate today.

One of my most sobering experiences as a U.S. Senator occurred a few years ago when several CEOs of California's leading high-tech companies told me our schools were not producing enough skilled graduates and asked me to support an increase in the number of H–1B temporary visas for skilled foreign workers.

Initially, I did not believe this. But subsequently the problem became very clear at a Senate Judiciary Committee hearing on the subject. California's high-tech sector has fueled our record economic expansion, providing more than 784,000 high-tech jobs in our state alone. But that continued growth is threatened if California cannot produce an adequate number of well-educated workers. Clearly our education system needs major reform.

I asked TechNet, a network of the nation's leading high-tech CEOs, to help me develop a program to reduce our reliance on H–1B workers. The discussions led to a public-private plan, which Senator SPENCER ABRAHAM, R–Mich., and I offered as an amendment to the H–1B visa bill. It was approved by the Judiciary Committee in March.

From the funds collected for H–1B fees over the next three years, the amendment would allocate 15 percent of the H–1B fees, or roughly $23 million for National Science Foundation kindergarten through 12th grade math and science education and skills-development programs. The technology industry will match these funds and then some. This is an incredible commitment by the industry to help develop a pipeline of American students who are better prepared for the workplace of tomorrow.

Additionally, $35 million will be designated for post-secondary school scholarships for 16,000 to 18,000 low-income students to obtain degrees in

science, math or other technology-related disciplines so that they can compete for the cutting-edge jobs in the high-tech sector. At the same time, our amendment provides 23.5 percent, or more than $35 million per year in funding—in addition to that already being provided—for scholarships so that American students and workers can also enjoy the opportunity to work in the high tech and other industries demanding a highly skilled workforce.

Another $83 million, or 55 percent of the H–1B fee revenue, as a result of an amendment by Senator Kennedy, would be allocated to workforce training programs and demonstration projects to provide technical skills training for U.S. workers. I am hopeful that, in the end, we can work in a provision to increase the H–1B visa fee from $500 to $1,000. This will double the amount of funding for these important education and training programs.

I support lifting the H–1B visa cap, but clearly it is only a short-term solution to a long-term problem. The technology industry recognizes this and has already made significant financial contributions to education training programs. These amendments represent an additional industry commitment to educating America's workforce.

Recent research indicates that the number of bachelor of science degrees awarded in computer science and math fell 29 percent from 1985 to 1995. Engineering degrees fell 16 percent from 1985 to 1997; computer and information sciences experience a 42 percent drop. Yet it is expertise in these very areas that businesses, especially high-technology companies, need in order to stay globally competitive.

Our society is undergoing a dramatic technological transformation. Information technology has changed every aspect of our society, from telephone and banking services to commerce and education. Given this, the demand for highly skilled professionals has exploded. Even excluding the biotechnology industry, the high-tech explosion has created over 4.8 million jobs in the United States since 1993 and produced an industry unemployment rate of 1.4 percent.

Despite the billions of dollars that companies spend annually on training, a gap still exists between professionals available in the U.S. workforce and the needs of employers. We need to raise the H–1B cap for the next few years because often employers' needs are immediate; they cannot afford to wait for workforce training or retraining while positions remain unfilled. I look forward to the day when it is not necessary to bring in workers from abroad for these positions because California's schools are producing students who can match the best and brightest from anywhere across the globe.

I am also pleased that the Senate has adopted as an amendment to the H–1B legislation, the provisions of S. 2586, the ''Immigration Services and Infrastructure Improvement Act of 2000,'' which I introduced earlier this year. As we seek to address the needs of the high tech industry by increasing the number of H–1B visas, I am pleased that we are also taking an active role in addressing the unacceptably long backlogs in processing other immigration applications.

We have all heard the horror stories of the long processing delays associated with the Immigration and Naturalization Service (INS). What was once a 6-month process has now become a three- to four-year ordeal. When I first introduced S. 2586, the INS had roughly 2.3 million cases pending. Out of this number, California had 600,000 naturalization and adjustment of status cases pending.

While the INS has made some improvements in reducing processing times for some applications, the INS's overall record keeping and computer systems still suffer from serious flaws. Many forms filed during the application process have been lost, automatically disqualifying immigrants from an immigrant visa or naturalization because they missed their INS appointments.

It is unacceptable that millions of people who have followed our nation's laws, made outstanding contributions to our nation, and paid the requisite fees have had to wait months, and even years, to obtain the immigration services they need. These processing delays have had a negative impact on businesses seeking to employ or retain essential workers.

Faced with a shortage of highly skilled workers in the U.S., many of our nation's businesses, including those in the high tech industry, must increasing rely on the INS to help provide them with access to highly skilled foreign professionals. However, long delays and inconsistencies in INS processing are causing many companies to postpone or cancel major projects that support their fiscal growth.

I believe the backlog reduction provisions included in this bill will send a clear signal to the INS that it is time to change the way they do business. The provisions would require the INS to process H–1B applications and other non-immigrant visa applications within 30 days, and naturalization applications, permanent employment visas, and other immigration visa applications within six months. In addition, the provisions would establish a separate account with the INS to fund backlog reduction efforts.

This account would permit the INS to fund across several fiscal years infrastructure improvements, including additional staff, computer records management, fingerprinting, and nationwide computer integration. Finally, the provisions would require the INS to put together a plan on how it intends to eliminate existing backlogs and report on this plan before it could obtain any appropriated funds.

The backlog reduction provisions are intended to provide the INS with direction and accountability, and would enable millions of law-abiding residents, immigrants, and businesses, who have paid substantial fees to the INS, to have their applications processed in a timely manner. I believe enactment of these provisions as part of the H–1B legislation will send a strong Congressional directive to the INS that timely and efficient service is not merely a goal, but a mandate.

Our nation has undergone a dramatic technological transformation. The U.S. economy has enjoyed unprecedented expansion, in large part because of the high tech industry. In California alone, this growth in technology has made our State number one in high tech employment by creating almost 800,000 jobs and comprising 61 percent of California's exports. I am convinced that the economy of California as well as the rest of the nation could run out of steam if the driving engine—that is, the high tech industry—does not have the resources it needs to continue its unprecedented growth.

Certainly, it is in our interest to ensure that these industries, which are located in the U.S. and help drive our economy, can continue to obtain qualified, highly skilled employees. This bill meets the needs of the industry by providing additional temporary visas for exceptional professional personnel. Despite the billions of dollars that companies spend annually to train their work force, a gap still exists between professionals available in the U.S. work force and the needs of employers. Often employers' needs are immediate; they cannot afford to wait for work force training or retraining while positions remain unfilled.

I look forward to the day when it is not necessary to bring in workers from abroad for these positions because California's schools are producing students who can match the best and brightest from anywhere across the globe.●

Mr. LEVIN. Mr. President, the Senate has now approved an increase in the total number of H–1B non-immigrant visas made available to skilled foreign workers.

I supported that increase because I believe it will help meet this country's growing demand for people with high skills, particularly in fast growing industries such as the high technology industry. However, I want to make clear that I understand this bill to be a short-term fix for the needs of our economy and not a long-term solution.

If Congress is going to deal with the workforce needs in this country we can not simply rely on the H–1B program. The national skill shortage problem must be resolved by expanding training programs for American workers and increasing educational opportunities for our young people.

Section 10 of this bill provides significant new resources for funding new innovative activities in K–12 math and science across the nation. It also represents a major boost beyond what was provided in the H–1B legislation in 1998.

Under the 1998 H–1B bill, the amount of funding for the National Science Foundation (NSF) K–12 activities was fairly small—less than $6 million in FY 2000. Thanks to the leadership of Senator FEINSTEIN and Senator KENNEDY, this legislation would more than double that amount to $15 million.

We can make further progress in our education and training needs by increasing the fee that sponsors pay for H–1B visas. Hopefully, the Conference Committee will increase the fee to $1000 more than tripling the amount made available for job training grants, low income scholarships and NSF enrichment courses—opportunities, which in the long-term, will produce a better trained American workforce. The bill before us today does not increase the fee because the Senate can not originate a revenue measure. However, I supported the bill because of a commitment made by both Republicans and Democrats on the Judiciary Committee to increase the fee to $1000 when the bill goes to conference with the House.

The focus on technology training for teachers addresses a critical need, one that I've fought for in my home state of Michigan. That is why I'm happy to note that we've included language in this bill, which I proposed, with the support of Senator CONRAD, specifying that the NSF should make teacher training in the integration of technology into the math and science curriculum a priority in funding projects from resources provided under this legislation. My office will be working with the National Science Foundation as they develop programs to be funded under this legislation so that investments in such professional development will lead the list of funding initiatives.

This provision is essential if we are going to realize the full potential of our investment in new technology in the classroom. So few of our school districts have been able to offer state-of-the-art training, or any training at all for that matter, to their teaching staff. Last year, a report by Education Week's National Survey of Teachers' Use of Digital Content revealed some startling findings relative to the lack of teacher training in integrating technology into the curriculum. In a national poll of over 1,400 teachers, 36 percent of teachers responded that they received absolutely no training in integrating technology in the curriculum; another 36 percent said they had only received 1 to 5 hours of such training; 14 percent received 6 to 10 hours of such training; and only 7 percent received between 11–20 hours.

This bill is an important step towards addressing this problem, a step that I hope is followed by many others. We are fortunate in my state and across this country to find in the ranks of teachers men and women who are deeply committed to helping America's children learn. I believe we have to match their commitment to our children with our own commitment to helping them acquire the skills they seek to be effective educators in the digital age.

I also supported this bill because it guarantees that H–1B visas will be made available to those working at educational institutions, non-profit organizations, and non-profit or governmental research organizations. Currently, these institutions, who recruit scholars and researchers with the highest possible credentials, are forced to compete with for profit companies for the limited number of visas available, and have had difficulties obtaining H–1B visas for their prospective employees.

Some of those visa holders are people like Thomas Hofweber, a first-year assistant professor in the Philosophy Department at the University of Michigan, who has conducted research in the areas of metaphysics and epistemology and is believed to be among the most talented young metaphysicians in the world. Another H–1B visa holder at Michigan State University's Department of Agricultural Economics is a researcher and teacher in Agribusiness Management and brings an outstanding background in the economics of horticultural enterprises and the management of their labor forces.

It is of great benefit for Michigan students to be able to study with these scholars. I am pleased that universities and research institutions will be able to obtain more needed visas under this bill.

VISA WAIVER PERMANENT PROGRAM ACT

The PRESIDING OFFICER. Under the previous order, H.R. 3767, as amended, is passed.

EXECUTIVE SESSION

NOMINATIONS OF MICHAEL J. REAGAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS; SUSAN RITCHIE BOLTON, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA; MARY H. MURGUIA, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration en bloc of Executive Calendar Nos. 652, 654, and 655, which the clerk will report.

The assistant legislative clerk read the nominations of Michael J. Reagan, of Illinois, to be U.S. District Judge for the Southern District of Illinois;

Susan Ritchie Bolton, of Arizona, to be U.S. District Judge for the District of Arizona;

Mary H. Murguia, of Arizona, to be U.S. District Judge for the District of Arizona.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are here today in the crunch of end-of-session business to debate and take time on four noncontroversial judicial nominees. This debate today was demanded by Senate Democrats who, ironically, have stood in the way of these nominations made by President Clinton, their own President. These are Clinton nominees the Democrats are holding up, Clinton nominees whom Democrats are insisting we take precious time to debate.

For the past few years, Senate Democrats have threatened shutdowns, claimed the existence of a so-called judicial vacancy crisis, and complained of race and sex bias in order to push through President Clinton's judicial nominees. These allegations are false.

First, there is and has been no judicial vacancy crisis. consider, for example, the Clinton administration's statements on this issue. At the end of the 1994 Senate session, the Clinton administration in a press release entitled ''Record Number of Federal Judges Confirmed'' took credit for having achieved a low vacancy rate. At that time, there were 63 vacancies and a 7.4 percent vacancy rate. The Clinton administration's press release declared: ''This is equivalent to 'full employment' in the . . . federal judiciary.'' Today, there are 67 vacancies—after the votes today there will be only 63 vacancies, the same as in the 1994. Instead of declaring the judiciary fully employed as they did in 1994. Democrats claim that there is a vacancy crisis.

In fact, the Senate has confirmed President Clinton's nominees at almost the same rate as it confirmed those of Presidents Reagan and Bush. President Reagan appointed 382 Article III judges. Thus far, the Senate has confirmed 373 of President Clinton's nominees and, after the votes today, will have confirmed four more. During President Reagan's two terms, the Senate confirmed an average of 191 judges. During President Bush's one term, the Senate confirmed 193 judges. After these four judges are confirmed today, the Senate will have confirmed an average of 189 judges during each of President Clinton's two terms.

Second, there has not been a confirmation slowdown this year. Comparing like to like, this year should be compared to prior election years during times of divided government. In 1988, the Democrat-controlled Senate confirmed 41 Reagan judicial nominees. After these four nominees are confirmed today, the Republican Senate this year will have confirmed 39 of President Clinton's nominees—a nearly identical number.

In May, at a Judiciary Committee hearing, Senator BIDEN, the former chairman of the Judiciary Committee, said: ''I have told everyone, and I want to tell the press, if the Republican Party lets through more than 30 judges