It contains a reasonable fee for visa petitions and visa renewals for high-tech foreign workers. The $500 visa application fee included in the compromise will generate approximately $75 million a year.

One third of these funds will be used to fund National Science Foundation scholarships in math, engineering, and computer science for low-income students. The remaining funds will be used to train U.S. workers. As a result, many students and many workers will obtain the skills necessary to compete successfully for these good jobs. It is imperative that we provide as many U.S. workers as possible with the skills and specialized training to qualify for these positions.

The high-tech industry must also do a better job of recruiting U.S. workers. We have all read the reports about unscrupulous employers who pay only lip-service to recruiting U.S. workers, because they know they can obtain cheaper foreign labor. It makes sense that employers should recruit in the U.S. first, in cities like Boston, Detroit, or Los Angeles, before bringing workers in from Beijing, New Delhi, or Moscow. Only if employers cannot find qualified U.S. workers, should they be allowed to recruit and hire foreign workers.

The following are a few examples of how U.S. employers have only payed lip service to recruiting U.S. workers.

A high-tech facility in New Mexico announced a hiring freeze and refused to accept job applications. But at the same time, they brought in 53 foreign workers under the high-tech visa program.

Alan Ezer is a 45-year-old computer programmer with 10 years of experience in the field. He has kept his skills up to date. He was willing to take a pay cut to stay in the industry. After he was laid off, he sent out 150 resumes. He got only one job interview and no job offers.

Rose Marie Roo is an experienced computer programmer. But when no one would hire her to do computer work, she and her husband opened a bed and breakfast in Florida.

Peter Van Horn, age 31, has a master's degree in computer science. He lives in California, but employers won't hire him either.

The list goes on and on. Many of the nation's high-tech firms are blatantly turning away qualified U.S. workers while appealing to Congress for more foreign workers.

As a result of this problem, Senator FEINSTEIN and I fought long and hard to ensure that strong recruitment requirements would be included in the high-tech visa legislation. This compromise contains a worthwhile provision on this issue, and I commend Senator ABRAHAM for supporting our effort.

High-tech companies will be required to demonstrate that they have taken good faith steps to recruit in the U.S., according to industry-wide standards. Companies will be required to offer jobs to any U.S. workers who applies for a position and is equally or better qualified for the job than the foreign applicant. U.S. workers should have first crack at these jobs, and with this legislation, they will have it.

We should also make every effort to retain skilled U.S. workers presently holding these high-tech positions. There have been countless media stories about predatory high-tech computer firms firing talented middled-aged employees and replacing them with foreign workers willing to work longer hours for less pay. In the most flagrant instances, the replaced U.S. workers have even been asked to train their foreign replacement.

I am pleased that this compromise contains needed protections to guard against such abusive layoffs. Until now, it was legal under our immigration laws for an employer to fire U.S. workers and replace them with cheaper foreign workers. As a condition of participating in this compromise, employers covered under the legislation must attest that they have not laid off U.S. workers and tried to replace them with foreign workers.

The compromise contains many worthwhile provisions, but it also has flaws. One of the most serious defects is that the new recruitment and layoff attestations do not cover all employers hiring skilled foreign workers. The compromise exempts the largest high-tech companies from the new attestation requirements, even though some of these firms are the most serious violators.

Nevertheless, the Department of Labor will have increased enforcement powers. Under the previous law, the Department of Labor was restricted to waiting for complaints to be filed before they could act. The Department will now have authority to investigate compliance if they receive specific credible information that a violation has occurred. Additionally, the Department of Labor will now be empowered to conduct random investigations of even exempt employers if they are found to have committed violations. Violators will face stiffer fines and other punishment.

A second flaw in the legislation is the failure to cap the number of visas made available to health care workers. The effect of the abolition of this cap is that U.S. health care workers, particularly physical and occupational therapists, will be increasingly unable to find work. A recent study by the American Physical Therapy Association indicates that by the year 2000, there will be an 11% surplus of physical therapists in the United States. By the year 2005, this surplus will increase to 20–30%. Faced with these estimates, it is impossible to conclude that there is a shortage of physical therapists in this country. I urge the Department of Labor to reconsider its classification of physical and occupational therapy as occupations for which there is a blanket shortage of labor.

Despite these flaws, the compromise is, on the whole, fair to both U.S. and foreign workers. It provides much-needed protections for foreign workers. We must make sure that foreign workers who are brought to this country are not abused by their employers. The law requires that temporary foreign workers must be paid the prevailing wage for the specialty work they perform, including salary and benefits. This compromise requires employers to treat all similarly situated workers equally.

Finally, I am pleased that the compromise contains whistleblower protections I had recommended earlier this year. Despite serious abuses, few complaints were filed by workers because they were afraid of retaliation. Foreign workers were afraid that if they complained they would lose their jobs and be forced to leave the country. American workers were afraid to complain because they feared being blackballed in the industry.

This compromise protects workers who courageously report violations. Those who report abuses to the Department of Labor may request that their identity not be disclosed. And more important, workers who file complaints or cooperate with investigations cannot be intimidated, threatened, restrained, coerced, blacklisted, or discharged by their employer.

Overall, this compromise is a reasonable solution of the current difficult problem. It deserves bipartisan support.●

TARIFF AND TECHNICAL CORRECTIONS ACT OF 1998—H.R. 4342

● Mr. ROTH. Mr. President, on September 29, the Finance Committee reported unanimously H.R. 4342, the Miscellaneous Tariff and Technical Corrections Act of 1998. It was my hope that we would pass this legislation this year. Unfortunately, for reasons unrelated to the substance of the bill, this did not happen.

The failure of this legislation is disappointing because it served a number of important practical purposes. For example, this bill would have temporarily suspended or reduced the duty on a large number of products, including a wide variety of chemicals used to make anti-HIV, anti-AIDS and anti-cancer drugs. Also included were certain organic pigments which are environmentally benign substitutes for pigments containing toxic heavy metals.

In each instance, there were either no domestic production of the product in question or the domestic producers supported the measure. By suspending or reducing the duties, we would have enabled U.S. firms that use these products to produce goods in a more cost efficient manner, thereby helping create jobs for American workers and reducing costs for consumers.

The bill also contained a number of technical corrections and other minor modifications to the trade laws that

enjoyed broad support. One such measure would have helped facilitate Customs Service clearance of athletes that participate in world athletic events, such as the upcoming Women's World Cup, the Winter Olympic Games in Salt Lake City, Utah, and the International Special Olympics. Another measure would have corrected certain outdated references in the trade laws.

For each of the provisions included in this bill, we had solicited comments from the public and from the Administration to ensure that there was no controversy or opposition. Only those measures that were non-controversial and that had no opposition were included in the bill.

The failure of this bill is also disappointing because of the amount of time and effort that the staff put into preparing this extremely technical piece of legislation. That is why I would like to give special thanks to Faryar Shirzad, Linda Menghetti, Tim Keeler, Lisa Lee, Marsha Moke, Matthew Sorenson, Bruce Anderson, Bob Merulla and Myrtle Agent from the Finance Committee staff, Polly Craighill, from the Office of Legislative Counsel, and Hester Grippando from the Congressional Budget Office, for their extensive work on this legislation.●

● Mr. BENNETT. Mr. President, I rise today to commend Senator D'AMATO, the Chairman of the Banking Committee, for his diligence in bringing this legislation dealing with credit unions to the floor in a timely manner. Although I have concerns with the commercial lending provisions in the legislation, I do support the underlying bill.

I do have one question, however for the Chairman of the Banking Committee relating to the community credit union provisions in the act. Specifically, I am concerned with the way that the National Credit Union Administration (NCUA) will design their regulations dealing with the size and scope of community credit unions. Although I had initially intended to offer an amendment limiting the size of a federally-chartered community credit union to three or four contiguous census tracts, after discussing the matter with the Chairman I decided that my amendment would be unnecessary.

Mr. D'AMATO. I commend the Senator from Utah for his interest in this issue and thank him for refraining from offering this amendment. The Senator is quite correct when he states that his amendment would be unnecessary. The Banking Committee was very careful and direct in its instructions to the NCUA in Section 103 of the legislation, where the NCUA is instructed to define a ''well-defined local community, neighborhood, or rural district.''

Additionally, in the Committee's report, language was inserted to make this point especially clear. The Committee intends for the NCUA to limit federally-chartered community credit unions to be subject to well-defined, local, geographic expansion limits.

Mr. BENNETT. I thank the Chairman for his clarification on this issue. As I said previously, I had intended to offer an amendment on this issue, but I am satisfied by the Committee's report and by the remarks of the Chairman that such an amendment would be redundant and unnecessary.●

THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT

● Mr. KENNEDY. Mr. President, it is a privilege to join Senator GRAHAM, Senator MACK, Senator ABRAHAM and our other distinguished colleagues in supporting the Haitian Refugee Immigration Fairness Act. Last year Congress enacted the Nicaraguan Adjustment and Central American Relief Act, which enabled Nicaraguan and Cuban refugees to remain permanently in the United States as immigrants.

Haitian refugees deserve no less.

These refugees have seen their relatives, friends and neighbors jailed, or murdered, or abducted in the middle of the night and never seen again. They have fled from decades of violence and brutal repression by the Ton Ton Macoutes, and later by the military regime which overthrew the first democratically elected president of Haiti.

The people of Haiti have struggled long and hard to establish a democracy in their nation. They endured repression and suffered persecution at the hands of successive governments. Haitians supporting democracy have faced torture, extra-judicial killings, imprisonment, and other forms of persecution. The State Department has documented these and other gross violations of human rights.

The Bush administration found that the vast majority of Haitian refugees were fleeing from political persecution. Thousands of these Haitians were paroled into the United States after establishing a credible fear of persecution. Many others filed bona fide applications for asylum upon arrival in the United States.

This legislation will enable Haitians to apply for adjustment of status if prior to December 31, 1995, they were paroled into the U.S., under any of the parole classifications, or filed for asylum. Additionally, as a result of an amendment proposed by Senator ABRAHAM and I, a significant number of unaccompanied children and orphans who did not have the capacity to apply for asylum for themselves will also be eligible to apply for adjustment of status.

Like other political refugees, Haitians have come to this country with a strong love of freedom and a strong commitment to democracy. They have settled in many parts of the United States. They have established deep roots in our communities, and their children born here are U.S. citizens. Wherever they have settled, they have made lasting contributions to the economic vitality and diversity of our communities and the nation.

This issue is about basic fairness. The United States has a long and noble tradition of providing safe haven to refugees. Over the years, we have enacted legislation to guarantee that Hungarians, Cubans, Yugoslavs, Vietnamese, Laotians, Cambodians, Poles, Chinese, and many other refugees will not be sent back to unstable or repressive regimes.

Last year, we adopted legislation to protect Nicaraguans and Cubans. But Haitians were unfairly excluded from that bill. The time has come for Congress to end the bigotry. We must remedy this flagrant omission and add Haitians to the list of deserving refugees.

By approving the Haitian Refugee Fairness Immigration Act, we can finally bring to an end the shameful decades of unjust treatment of Haitians. As the decisions of federal judges over the past two decades make clear, Haitans are treated with blatant discrimination under our immigration laws. Throughout the 1980's, less than 2 percent of Haitians fleeing the atrocities committed by the Duvalier regimes were granted asylum. Yet, other refugee groups had approval rates as high as 75 percent.

Haitian asylum seekers were detained by the Immigration and Naturalization Service, but asylum seekers from other countries were routinely released while their asylum applications were processed. Until recently, Haitians have been the only group intercepted on the high seas and forcibly returned to their home country, without even the opportunity to seek asylum. We welcomed boat people from Cuba, Vietnam and other parts of the world. But for years, we picked up Haitians on the high seas and sent them back to Haiti, in violation of international refugee laws.

This Congress has the opportunity to right the shameful wrongs that Haitian refugees have suffered. We have before us a bill that offers full protection of our laws to these victims of persecution in their fight for democracy. The call for democracy is being heard around the world, and America's voice has always been the loudest. How can we advocate democracy on the one hand, and then deny protection to those who heed our call and are forced to flee their homeland as a result?

The struggle for democracy is often dangerous and life threatening. Ask Nestilia Robergeau, who knows first hand the high price of supporting democracy on Haiti. She and her brother started a youth group in support of Haiti's democratically elected President, Jean Bertrand Aristide. After a military coup ousted President Aristide, her brother was murdered by the military, and she went into hiding in the woods around her village until she could escape from Haiti in a small boat. Today, she lives in Atlanta and holds two jobs. She is active in her local church, and hopes to be a nurse. Last year, she told the Subcommittee on Immigration that ever since she arrived in the United States, she has lived in fear of being sent back to Haiti.