

By Mr. SPECTER (for himself and Mr. BIDEN):

S. 1808. A bill to reauthorize and improve the drug court grant program; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. HARKIN, Mr. FRIST, Ms. COLLINS, Mr. WELLSTONE, Mr. REED, Mr. DODD, and Mrs. MURRAY):

S. 1809. A bill to improve service systems for individuals with developmental disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself, Mr. JEFFORDS, Mr. CONRAD, Mr. KERREY, Mr. DORGAN, Mr. BINGAMAN, and Mr. SARBANES):

S. 1810. A bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures; to the Committee on Veterans' Affairs.

By Mr. LEVIN:

S. 1811. A bill for the relief of Sophia Shiklivsky and her husband Vasili Chidivski; to the Committee on the Judiciary.

By Mr. WARNER:

S. 1812. A bill to establish a commission on a nuclear testing treaty, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. FRIST, Mr. JEFFORDS, Ms. MIKULSKI, Mrs. MURRAY, Mr. DURBIN, and Mr. COCHRAN):

S. 1813. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of Oregon (for himself, Mr. GRAHAM, Mr. CRAIG, Mr. CLELAND, Mr. MCCONNELL, Mr. COVERDELL, Mr. MACK, Mr. COCHRAN, Mr. HELMS, Mr. GRAMS, Mr. CRAPO, Mr. BUNNING, and Mr. VOINOVICH):

S. 1814. A bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of non-immigrant agricultural workers, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. SMITH of Oregon):

S. 1815. A bill to provide for the adjustment of status of certain aliens who previously performed agricultural work in the United States to that of aliens who are lawfully admitted to the United States to perform that work; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. Res. 207. A resolution expressing the sense of the Senate regarding fair access to Japanese telecommunications facilities and services; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mr. MOYNIHAN):

S. Con. Res. 62. A concurrent resolution recognizing and honoring the heroic efforts of the Air National Guard's 109th Airlift Wing and its rescue of Dr. Jerri Nielsen from the South Pole; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1798. A bill to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, reduce patent litigation, and for other purposes; to the Committee on the Judiciary.

THE AMERICAN INVENTORS PROTECTION ACT OF 1999

Mr. HATCH. Mr. President, I am pleased to rise today, along with the Ranking Member on the Judiciary Committee, Senator LEAHY, to introduce the American Inventors Protection Act of 1999. Simply put, this legislation reflects several years of discussions and consensus-building efforts in the Senate and the House, and represents the most important and most comprehensive reforms to our nation's patent system in nearly half a century. As we prepare to enter a new millennium built on high-tech growth, the Internet, and electronic commerce, in which American competitiveness will depend on the strength of the patent system and the protections it affords, this legislation could not be more timely.

The last time the Patent Act underwent a significant update was in 1952. Since then, our Nation has experienced an unprecedented explosion of technology growth and a tremendous expansion of the global market for the fruits of American ingenuity. Yet our patent laws have remained largely unchanged in the face of the new demands engendered by these developments. This legislation—which many of my colleagues will recognize as a compromise version of the Omnibus Patent Act passed by the Judiciary Committee with near unanimity more than 2 years ago—will effect targeted changes to the patent code to equip the patent system to meet the challenges of new technology and new markets as we approach the new millennium, while at the same time promoting American competitiveness and ensuring adequate protection for American innovators, both at home and abroad.

As many of my colleagues know, this legislation is the product of several years of discussion and extensive efforts to reach agreement on a responsible package of patent reforms. The Senate made significant progress toward consensus during the last Congress when several key compromises were reached in the Judiciary Committee to strengthen the bill's protections for small businesses and independent inventors and to preserve America's competitive edge in the face of increasing global competition. I was pleased this year to see those efforts continued in the House, where the supporters and former opponents of the bill agreed to sit down and work through their differences to produce a constructive patent reform bill. The result is H.r. 1907, which has 59 cospon-

sors in the House—including the most ardent opponents of prior reform measures—and was passed in the House by a 376-43 vote.

In many ways, the House-passed "American Inventors Protection Act" builds upon the compromises reached in the Senate during the last Congress. For example, the widespread agreement on 18-month publication of patent applicants is centered around the Senate compromise that allowed inventors to avoid disclosure of their applications by not filing their application abroad, where 18-month publication is now the rule. Similarly, estoppel provisions similar to those agreed to in the Senate form a key component on the broad-based agreement on patent reexamination reform. I am pleased to see these compromises preserved and to see that the House has built upon them to reach the sort of broad consensus on patent reform that I have long advocated.

The bill Senator LEAHY and I are introducing today in the Senate preserves these important compromises and adds to them a number of important provisions. For example, our bill includes a title not in the House bill to reduce patent fees for only the second time in history (the first time fees were reduced was last year in a bill Senator LEAHY and I ushered through the Senate), to ensure that trademark fees are spent only for trademark-related operations, and to require a study of alternative fee structures to encourage maximum participation by the American inventor community. Our bill also adds important provisions to enhance protections for our national security by preventing disclosure of sensitive and strategic patent-related information and by helping to identify national security positions at the Patent and Trademark Office (PTO) and obtain appropriate security clearances for PTO employees. The bill also prohibits the Commissioner of Patents and Trademarks from entering into an agreement to exchange U.S. patent data with certain foreign countries without explicit authorization from the Secretary of Commerce. Also in our bill is a requirement that GAO conduct a study on patents issued for methods of doing or conducting business, which have been the subject of a 75 percent increase in applications at the PTO/

Like the House bill, our legislation will achieve a number of important substantive patent reforms, consistent with the principles of protecting American inventors, our national competitiveness, and the integrity of our patent system.

First, the bill provides inventors with enhanced protections against invention promotion scams by creating a private right of action for inventors harmed by deceptive and fraudulent practices and by requiring invention promoters to disclose certain information in writing prior to entering into a contract for invention promotion services. An inventor who is harmed by any

material false or fraudulent statement or representation, or any omission of material fact, by an invention promoter, or by the invention promoter's failure to make the required disclosures, may recover actual damages or, at the plaintiff's election, statutory damages in an amount up to \$5,000, as the court considers just, plus reasonable costs and attorneys' fees. A court may award increased damages, up to treble damages, where it finds such conduct to have been intentional and done with the intent to deceive the inventor. And, in an effort to provide better access to information for inventors, the Patent and Trademark Office is required to make publicly available all complaints received involving invention promoters, along with any response of the invention promoter.

Second, as noted above, the bill will reduce patent fees, protect trademark fees from being diverted to non-trademark uses, and require the PTO to study alternative fee structures to encourage maximum participation by American inventors.

Third, the bill provides a "first inventor defense" to an action for patent infringement for someone who has reduced an invention to practice at least one year before the effective filing date of the patent and commercially used the subject matter before the effective filing date of such patent. The bill responds to recent changes in PTO practice and the Federal Circuit's 1998 decision in *State Street Bank & Trust Co. v. Signature Financial Group*, 149 F.3d 1360 (Fed Cir. 1998), in which it formally did away with the so-called "business methods" exception to statutory patentable subject matter. As a result, patent filings for business methods are up by 75 percent this year, and many who have been using business methods for many years pursuant to trade secret protection—believing such methods were not patentable—are now faced with potential patent infringement suits from others who, while they may have come later to the game, were first to reach the patent office after the bar to patentability for business methods was lifted.

Fourth, the bill will guarantee a minimum 17-year patent term for diligent applicants, addressing concerns that have been expressed since the United States went to a 20-year from filing term of protection with the adoption of the Uruguay Round Agreements Act in 1994.

Fifth, the bill will place American inventors on a level playing field with their foreign competitors by providing for domestic publication in English of those patent applications that are now subject to foreign publication by foreign patent offices, while still retaining the option inventors now enjoy of preserving the secrecy of their application by not filing abroad. It also protects American inventors from broader disclosure of their invention through domestic publication than occurs in foreign publications by allowing the

patent applicant to submit a redacted copy of their application for publication. This provision will effectively facilitate access to information that will enable inventors to target their resources more effectively while also providing, for the first time, effective interim protection for inventors during patent pendency.

Sixth, the bill is designed to reduce litigation in district courts and make reexamination a viable, less-costly alternative to patent litigation by giving third-party requesters the option of inter-partes reexamination procedures (in addition to the current ex parte reexamination procedures). Under this optional procedure, the third party is afforded an expanded, although still limited, role in the reexamination process through an opportunity to respond, in writing, to an action by a patent examiner when, but only when, the patent owner does so. These expanded rights for third parties are carefully balanced with incentives to prevent abusive reexamination requests, including broad estoppel provisions and severe restrictions on appeals.

Finally, the bill will make a number of miscellaneous, yet important patent reforms.

In short, the provisions of this bill now enjoy widespread bipartisan and bicameral support. The total package of changes that have been made to this legislation over the past several years are both responsive and comprehensive. The time to act on this package of reforms is now. Intellectual property, and patents in particular, are among our nation's greatest assets in this technology-dominated age. Our patent system must be equipped to handle the challenges of the new millennium and to protect our nation's creators into the next century. The strength of our economy depends upon it. If we do not, we will lose our edge in the ongoing race for technological and economic leadership in the world economy.

In the most simple of terms, we must have a patent system that is state of the art. The bill Senator LEAHY and I are introducing today will help to provide just that. I hope that my colleagues will join with me in giving their overwhelming support for this measure.

Mr. LEAHY. Mr. President, I am very pleased to join with Senator HATCH in introducing the "American Inventors Protection Act of 1999," which I hope can be enacted into law this year.

This patent bill is important to America's future. I have heard from inventors, from businesses large and small, from hi-tech to low-tech firms that this bill will give American inventors and businesses an improved competitive edge now enjoyed by many European countries.

We should be on a level playing field with them.

This bill reduces patent fees for only the second time in history. The first time that was done was also in a

Hatch-Leahy bill passed by the Senate in the 105th Congress.

All the concepts in this bill—such as patent term guarantees, domestic publication of patent applications filed abroad, first inventor defense—have been thoroughly examined. Indeed, they have been included in several bills that the Congress has carefully studied.

Chairman HATCH and I have worked closely on this bill. I believe that we can get a good patent bill to the President before we go out of session this year. I look forward to working with the House on these issues and appreciate the hard work and careful crafting that went into their bill—H.R. 1907.

I wish to point out that the Senate Judiciary Committee last year also developed a strong bill—S. 507—which contained many of the same concepts and approaches found in H.R. 1907 and S. 1798.

It is long past time for the Senate to consider and pass this patent reform legislation. Our patent bill will be good for Vermont, good for Utah and every state in the Nation, good for American innovators of all sizes, and good for America.

We will be working with the Administration, the full Senate and with the House to move this bill along quickly. I hope we can keep this bipartisan coalition together because otherwise this bill will die, as past efforts have.

The patent bill will reform the U.S. patent system in important ways.

It will reduce legal fees that are paid by inventors and companies; eliminate duplication of research efforts and accelerate research into new areas; increase the value of patents to inventors and companies; and facilitate U.S. inventors and companies' research, development, and commercialization of inventions.

In Vermont, we have a number of independent inventors and small companies. It is, therefore, especially important to me that this bill will be one that helps them as well as the larger companies in Vermont like IBM.

Over the past several years, Congress has held eight Congressional hearings with more than 80 witnesses testifying about the various proposals incorporated in the bill. Republican and Democratic Administrations alike, reaching back to the Johnson Administration, have supported these similar reforms.

I also thank Secretary Daley and the administration for their unflagging support of effective patent reform. I also know that they worked closely with the House on H.R. 1907. I will submit a more detailed statement on S. 1798 before we proceed to Senate consideration.

By Mrs. FEINSTEIN:

S. 1799. A bill for the relief of Sergio Lozano; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

• Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation that provides permanent resident status to Sergio Lozano who, with his younger sister and brother, were granted immigrant visas to come to the United States with their mother in 1997. Unfortunately, they lost the opportunity to be come immigrants when they tragically lost their mother in that same year.

Sergio Lozano lived with his siblings and their mother, Ana Ruth Lozano, until her death in February of this year due to complications from typhoid fever. Since their mother's death, the three siblings have been living with their closest relative, their U.S. citizen grandmother who lives in Los Angeles and has since adopted the two younger children.

Without his mother, Sergio does not have the legal right to remain in the United States. When he first arrived in the U.S. at 17, he was unable to obtain lawful permanent residence because immigration law prohibits permanent legal residency to minor children without their parents. However, as a child of 17, he was also outside the age limit for adoption by his grandmother. As a result, Sergio, through no fault of his own, has been left in limbo in the United States.

Without legal status, this young man can be deported by the INS despite the fact that he has no immediate family in El Salvador except their estranged father who was alleged to have been abusive to the mother and the children.

Without the legislation, Sergio will most likely be separated from his brother and sister and sent back to El Salvador. Here in the U.S., he can remain with his brother and sister, further his education and continue to thrive in the loving environment provided by his U.S. citizen grandmother and uncles.

I have previously sought administrative relief for all three Lozano children by asking the INS district office in Los Angeles and Commissioner Meissner if any humanitarian exemptions could be made in their case. INS told my staff that there was nothing further they could do administratively and a private relief bill may be then only way to protect the children from deportation. Since then, the two younger Lozano children have been adopted by their grandmother and have received approval of their lawful permanent resident petitions. Like his siblings, Sergio has too suffered a sense of loss and bewilderment after losing a parent. However, unlike his sister and brother, he stands to be deprived of the security of his American family and deported back to a land he no longer knows, if only as a consequence of being born two years too soon.

Last year, the Senate passed by unanimous consent the private bill I introduced on behalf of Sergio Lozano and his siblings. However, the 105th Congress came to a close before the House was able to act.

This year, I hope you will support the bill on behalf of Sergio Lozano so that we can help him begin to rebuild his life with his loving family in the United States. •

By Mr. GRAHAM:

S. 1800. A bill to amend the Food Stamp Act of 1977 to improve onsite inspections of State food stamp programs, to provide grants to develop community partnerships and innovative outreach strategies for food stamp and related programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD STAMP OUTREACH AND RESEARCH FOR KIDS ACT OF 1999 (THE FORK ACT)

• Mr. GRAHAM. Mr. President, today, I am pleased to introduce The Food Stamp Outreach and Research for Kids Act of 1999.

Along with my House colleagues Representatives WILLIAM COYNE and SANDER LEVIN, I created this common sense piece of legislation with the goal of guarding children and their families against hunger.

In 1998, over 14 million children lived in households that could not afford to buy food.

That was an increase of almost 4 million children from 1997.

At the same time, the number of poor children not getting Food Stamps reached its highest level in a decade.

My bill, the Food Stamp Outreach for Kids Act of 1999 (the FORK Act), would help us to give children who are currently going hungry the Food Stamps that they need.

Some time ago, food banks in Florida started telling me that the number of people coming to them for assistance was increasing, and that if demand continued at the current rate, they might run out of food.

This crisis was not specific to Florida, Congressman COYNE and Congressman LEVIN were hearing the same concerns from food banks in Pennsylvania and Michigan.

When we asked them whom the new people coming to the food banks were, we were told that they were mostly low-income working families.

When the food banks screened these families using eligibility guidelines, it looked as if the majority of the new people coming to the food banks for assistance should have been receiving food stamps but were not.

The General Accounting Office (GAO) researched this issue, and in their July, 1999 report found that while a number of people who have left the Food Stamp program because of the improved economy, economic growth alone does not explain the drop in Food Stamp participation.

The GAO found that demand for emergency and supplemental food was increasing and that some state agencies were not correctly following federal laws regarding Food Stamp benefits.

Perhaps most disturbing of all, the GAO found that almost half of the peo-

ple who have lost Food Stamps since 1996 are children.

The FORK Act is designed to address GAO's findings and recommendations to make certain that children and families in this country are not going hungry.

The FORK Act would provide grant funding to food banks, schools, health clinics, local governments and other entities that interact with working families. The grants would allow those organizations to develop and expand innovative approaches to Food Stamp outreach, which would help the Food and Nutrition Service enroll many of the eligible families that currently go hungry.

The FORK Act would require the Food and Nutrition Service (FNS) to conduct onsite inspections of state Food Stamp programs to identify barriers to enrollment and work with states to develop corrective action plans.

The FORK Act would authorize FNS to conduct research, which will help it to improve access, formulate nutrition policy and measure program impacts and integrity.

The FORK Act would require the Departments of Agriculture and Health and Human Services to work with state Temporary Assistance for Children and Families (TANF) programs to train caseworkers and make sure that prospective and former TANF recipients are properly informed about Food Stamp eligibility.

Finally the FORK Act would authorize private-public partnerships to expand nutrition education programs.

Mr. President, I do not believe that there is a member in this Congress who ever intended for children to go hungry because their parents left welfare to go to work.

Now that we know it is happening, we must act quickly to make certain that the Food Stamp program works for children and families in need.

I hope that my Senate colleagues will join me in supporting this important legislation.

Mr. President, I ask that a list of groups supporting the bill be printed in the RECORD.

The material follows:

ORGANIZATIONS SUPPORTING THE FOOD STAMP OUTREACH AND RESEARCH ACT FOR KIDS 1999 (THE FORK ACT)

NATIONAL ORGANIZATIONS

ACORN
AFSCME
America's Second Harvest
American Federation of Teachers
American Friends Service Committee
Americans for Democratic Action
Brain Injury Association
Bread For The World
Catholic Charities USA
Center for Community Change
Children's Defense Fund
Coalition on Human Needs
Community Nutrition Institute
Food Research and Action Center
Foodchain
Friends Committee on National Legislation
Jewish Council for Public Affairs

Lutheran Office for Governmental Affairs, ELCA
 Lutheran Services in America
 MAZON: A Jewish Response to Hunger
 McAuley Institute
 Mennonite Center Committee U.S. Washington Office
 Migrant Legal Action Program
 National Asian Pacific American Legal Consortium
 National Association of Child Advocates
 National Association of Social Workers
 National Center on Poverty Law
 National Commodity Supplemental Food Program Association
 National Council of Churches
 National Council of La Raza
 National Immigration Law Center
 National Law Center on Homelessness & Poverty
 National Urban League
 National Women's Law Center
 NETWORK, A National Catholic Social Justice Lobby
 Religious Action Center of Reform Judaism
 RESULTS
 The General Board of Church and Society of the United Methodist Church
 Union of Needletrades, Industrial & Textile Employees (UNITE)
 Unitarian Universalist Service Committee
 United Automobile, Aerospace, and Agricultural Implement Workers of America
 United Church of Christ, Office for Church in Society
 United Food and Commercial Workers
 United States Conference of Mayors
 Welfare Law Center
 Wider Opportunities for Women
 World Hunger Year

ALABAMA
 Alabama Coalition Against Hunger

ARIZONA
 Children's Action Alliance
 Lutheran Advocacy Ministry in Arizona
 World Hunger Ecumenical Arizona Task Force (WHEAT)

ARKANSAS
 Arkansas Hunger Coalition

CALIFORNIA
 Alameda County Community Food Bank
 California Food Policy Advocates
 California Statewide Lao Hmong Coalition
 Chico Hmong Advisory Council
 Desert Cities Hunger Action
 Food First/The Institute for Food and Development Policy
 Food Share, Inc./Ventura County Food Bank
 Los Angeles Coalition to End Hunger & Homelessness
 Lutheran Office of Public Policy—California
 Southland Farmers' Market Association
 The San Diego Hunger Coalition

COLORADO
 Lutheran Office of Governmental Ministry—Colorado
 Weld Food Bank

CONNECTICUT
 CY Anti-Hunger Coalition/CT Association for Human Services
 End Hunger Connecticut!
 Foodshare of Greater Hartford

DELAWARE
 Food Bank of Delaware

DISTRICT OF COLUMBIA
 Capital Area Community Food Bank

FLORIDA
 Daily Bread Food Bank
 Florida Association for Community Action
 Florida Atlantic University Department of Social Work

Florida Impact
 Harry Chapin Food Bank

GEORGIA
 Atlanta Community Food Bank
 Georgia Citizens Coalition on Hunger

HAWAII
 Task Force on Children's Nutrition Rights (of World Alliance on Nutrition and Human Rights)

IDAHO
 Idaho Community Action Network
 The Idaho Food Bank

ILLINOIS
 Chicago Anti-Hunger Federation
 Illinois Hunger Coalition

INDIANA
 Indiana Food & Nutrition Network
 Lafayette Urban Ministries

IOWA
 Food Bank of Iowa

KANSAS
 Campaign to End Childhood Hunger (Wichita, KS)

KENTUCKY
 Kentucky Task Force on Hunger

LOUISIANA
 Bread for the World—New Orleans

MAINE
 Hospitality House Inc.
 Maine Coalition for Food Security

MARYLAND
 Community Assistance Network

MASSACHUSETTS
 Boston Medical Center Department of Pediatrics
 Food Bank of Western Massachusetts
 Massachusetts Law Reform
 National Priorities Project
 Project Bread
 Survivors, Inc.

MICHIGAN
 Capitol Area Community Services
 Center for Civil Justice
 Hunger Action Coalition of Michigan

MINNESOTA
 Adults & Childrens Alliance
 Lutheran Coalition for Public Policy in Minnesota
 Minnesota FoodShare
 Second Harvest St. Paul Food Bank

MISSISSIPPI
 Mississippi Human Services Coalition

MISSOURI
 Harvesters—The Community Food Network
 Missouri Association for Social Welfare
 Reform Organization of Welfare (ROWEL)

MONTANA
 Montana Hunger Coalition

NEBRASKA
 Nebraska Appleseed Center for Law in the Public Interest

NEVADA
 Progressive Leadership Alliance of Nevada

NEW HAMPSHIRE
 New Hampshire Food Bank

NEW JERSEY
 Community Food Bank of New Jersey
 Food Bank of South Jersey
 Statewide Emergency Food and Anti-Hunger Network (SEFAN)

NEW MEXICO
 New Mexico Advocates for Children and Families

NEW YORK
 Community Food Resource Center

Federation of Protestant Welfare Agencies Inc.
 Food Bank of Western New York
 Health and Welfare Council of Long Island
 Make the Road by Walking
 NYC Coalition Against Hunger
 New York Immigration Coalition
 Task Force on Welfare Reform, NYC Chapter of National Association of Social Workers
 The Nutrition Consortium of NYS
 The Westchester Progressive Forum

NORTH CAROLINA
 Food Bank of North Carolina
 Manna Food Bank, Inc.
 North Carolina Hunger Network

OHIO
 Ohio Hunger Task Force

OKLAHOMA
 Tulsa Community Food Bank

OREGON
 Oregon Center for Public Policy
 Oregon Food Bank
 Oregon Hunger Relief Task Force

PENNSYLVANIA
 Greater Philadelphia Coalition Against Hunger
 Greater Pittsburgh Community Food Bank
 Just Harvest
 PA Hunger Action Center
 Women's Association for Women's Alternatives

RHODE ISLAND
 George Wiley Center and Campaign to Eliminate Childhood Poverty

SOUTH CAROLINA
 SC Appleseed Legal Justice Center

SOUTH DAKOTA
 Children's Agenda for South Dakota

TENNESSEE
 MANNA
 Tennessee Hunger Coalition

TEXAS
 Center for Public Policy Priorities
 Greater Dallas Community of Churches
 North Texas Food Bank
 Texas Alliance for Human Needs

UTAH
 Crossroads Urban Center
 Coalition of Religious Communities
 Utahns Against Hunger

VERMONT
 Vermont Campaign to End Childhood Hunger

VIRGINIA
 Grassroots Innovative Policy Program
 Virginia Poverty Law Center

WASHINGTON
 Children's Alliance Food Policy Center
 Washington State Anti-Hunger and Nutrition Coalition
 Welfare Rights Organizing Coalition

WEST VIRGINIA
 West Virginia Coalition on Food and Nutrition

WISCONSIN
 Hunger Task Force of Milwaukee
 Lutheran Coalition for Public Policy in Wisconsin
 Women and Poverty Public Education Initiative.●

By Mr. MOYNIHAN:
 S. 1801. A bill to provide for the identification, collection, and review for declassification of records and materials that are of extraordinary public interest to the people of the United States, and for other purposes; to the Committee on Governmental Affairs.

PUBLIC INTEREST DECLASSIFICATION ACT OF 1999

• Mr. MOYNIHAN. Mr. President, today I rise to introduce the Public Information Disclosure Act, a bill that seeks to add to our citizens' knowledge of how and why our country made many of its key national security decisions since the end of World War II. This bill creates a mechanism for comprehensively reviewing and declassifying, whenever possible, records of extraordinary public interest that demonstrate and record this country's most significant and important national security policies, actions, and decisions.

As James Madison once wrote, "A people who mean to be their own governors must arm themselves with the power which knowledge gives." Acquiring this knowledge has become increasingly difficult since World War II's end, when we witnessed the rise of a vast national security apparatus that encompasses thousands of employees and over 1.5 billion classified documents that are 25 years or older. Secrecy, in the end, is a form of regulation. And I concede that regulation of state secrets is often necessary to protect national security. But how much needs to be regulated after having aged 25 years or more?

The warehousing and withholding of these documents and materials not only impoverish our country's historical record but retard our collective understanding of how and why the United States acted as it did. This means that we have less chance to learn from what has gone before; both mistakes and triumphs fall through the cracks of our collective history, making it much harder to resolve key questions about our past and to chart our future actions.

On the other hand, greater openness makes it more possible for the government to explain itself and to defend its actions, a not so unimportant thing when one recalls Richard Hofstadter's warning in his classic 1964 essay *The Paranoid Style in American Politics*: "The distinguishing thing about the paranoid style is not that its exponents see conspiracies here and there in history, but they regard a 'vast' or 'gigantic' conspiracy, set in motion by demonic forces of almost transcendent power as the motive force in historical events." A poll taken in 1993 found that three-quarters of those surveyed believed that President Kennedy was assassinated by a conspiracy involving the CIA, renegade elements of our military, and organized crime. The Grassy Knoll continues to cut a wide path across our national consciousness. The classified materials withheld from the Warren Commission, several of our actions in Vietnam, and Watergate have only added to the American people's distrust of the Federal government.

Occasionally, though, the government has drawn back its cloak of secrecy and made substantial contributions to our national understanding. In 1995, the CIA and the NSA agreed to de-

classify the Venona intercepts, our highly secretive effort that ranged over four decades to decode the Soviet Union's diplomatic traffic. Much of this traffic centered on identifying Soviet spies, one of the cardinal pre-occupations of that hateful era we call "McCarthyism." These releases made at least one thing crystal clear: Their timely release decades ago would have dimmed the klieg lights on many who were innocent and shown them more brightly on those who truly were guilty. It would have been an important contribution during a time when the innocent and the guilty were ensnared in the same net.

Today, Congress plays a pivotal role in declassification through so-called "special searches." Generally, these involve a member of Congress or the White House asking the intelligence community to search its records on specific subjects. These have ranged from Pinochet to murdered American church women to President Kennedy's assassination. However, these good intentions often produce neither good results nor good history. Sadly, most of these searches have been done poorly, costing millions of dollars and consuming untold hours of labor. Several have been performed repeatedly. Special searches on murdered American church women, for example, have been done nine separate times. Yet there are still several important questions that have yet to be answered. The CIA alone has been asked to do 33 "special searches" since 1998.

Part of the problem is that Congress lacks a centralized, rational way of addressing these requests. This bill establishes a nine-member board composed of outside experts who can filter and steer these searches, all the while seeking maximum efficiency and disclosure.

The other part of the problem lies in how the intelligence community has conducted these searches. It is imperative that searches are carried out in a comprehensive manner. This is not only cheaper in the long run but produces a much more accurate record of our history. One cannot do Pinochet, for example, and not do Chile under his rule at the same time. To do otherwise skews history too much and creates too many blind spots, all leading to more questions and more searches. This does a disservice not only to those asking for these searches but to the American people who have to pay for ad hoc, poorly done declassification. If we do it right the first time, then we can forgo much inefficiency.

Many of these special searches ask vital questions about this nation's role in many disturbing events. We must see, therefore, that they are done correctly and responsibly. This legislation, if passed, would improve Congress' role in declassification, making it an instrumental arm in the de-cloaking and re-democratization of our national history. Indeed, anything less would cheat our citizens, undermine

their trust in our institutions, and erode our democratic values. •

By Mr. ROBB (for himself, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mrs. MURRAY, Mr. REID, Mr. SARBANES and Mr. LIEBERMAN.

S. 1803. A bill to amend the Internal Revenue Code of 1986 to extend permanently and expand the research tax credit; to the Committee on Finance.

PERMANENT EXTENSION OF THE R&E TAX CREDIT

Mr. ROBB. Mr. President, I send to the desk legislation that will permanently extend the research credit and increase the alternative incremental credit 1% per step. It will also expand the credit to companies operating in Puerto Rico. Mr. President, research and experimentation are the foundation of a vibrant economy. While there is some initial cost involved, studies have shown that a permanent extension of the R&E tax credit pays for itself over time due to increased federal revenues generated by a rise in productivity and economic growth. Without a permanent extension of the R&E credit, businesses are less likely to make long term investments in research that is necessary for scientific and technological advancements. Instead, decisions must be made on an annual basis which, over time, have the effect of slowing progress. In order to guarantee that our country remains the leader in cutting edge technology we need to permanently extend the R&E credit. The advantages of increased research and experimentation are simply too overwhelming to ignore.

I intended on offering this bill as an amendment in the Finance Committee to the Tax Relief Extension Act of 1999, (S. 1792), but I was persuaded by members on both sides of the aisle that amendments in Committee threatened the whole deal. I decided, instead, to address this issue on the Senate floor. I still strongly support the tax extenders bill that was reported out of Committee, but I believe, as I have for some time, that we need to address this one deficiency. Without certainty, our nation's investments in research will suffer. Permanent extension of the R&E tax credit is the only way to provide that certainty. Despite recent setbacks, I will continue to work with all of my colleagues to extend this credit permanently.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1803

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

SECTION 1. PERMANENT EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) PERMANENT EXTENSION.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for

increasing research activities) is amended by striking subsection (h).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(b) INCREASE IN PERCENTAGES UNDER ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 is amended—

(A) by striking “1.65 percent” and inserting “2.65 percent”;

(B) by striking “2.2 percent” and inserting “3.2 percent”, and

(C) by striking “2.75 percent” and inserting “3.75 percent”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after June 30, 1999.

(c) EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.—

(1) IN GENERAL.—Section 41(d)(4)(F) of the Internal Revenue Code of 1986 (relating to foreign research) is amended by inserting “, the Commonwealth of Puerto Rico, or any possession of the United States” after “United States”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

By Mr. MCCAIN:

S. 1804. A bill to direct the Secretary of Commerce, in consultation with the Director of the Office of Science Technology and the Director of the National Science Foundation, to establish a program for increasing the United States's scientific, technology, and mathematical resources, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE 21ST CENTURY TECHNOLOGY RESOURCES AND COMMERCIAL LEADERSHIP ACT

• Mr. MCCAIN. Mr. President I am please to introduce a bill intended to preserve the United States' world leadership position in technology into the coming century. This legislation is intended to assure that our scientific, mathematics, engineering and technology resources are surpassed by no one. It is intended to ensure that our most precious national resources, our people, receive the best education and training through our best national product, innovation. We must allow our most creative forces to interact to achieve improved math and science education in our schools. We must assure more highly trained college graduates in science, math, engineering and technology. And we must encourage the retooling of our country's experienced minds to address the problems and the solutions of tomorrow.

Specifically, this legislation uses a portion of each H-1B visa fee to provide grants for innovative programs which will improve the math, science, engineering and technology skills of Americans so that they can fill the estimated average of 137,800 new positions expected to be created in these fields each year from now through 2006. During the interim, while the American pipeline of talent is filling, the bill lifts the caps on H-1B visas to allow our

American companies to continue to grow and prosper.

This legislation is necessary and beneficial to our nation. Let me explain in some detail why.

First, although this country can be proud of having some of the most highly regarded colleges and universities in the world, our elementary and secondary education system is not sufficiently emphasizing science and math in the curriculum. Our students are falling behind in these areas. The results of the 1998 Third International Math and Science Study (TIMSS) are instructive. In math, our 4th graders ranked 12th out of 26 countries. Not a stellar performance. But even more discouraging, by 12th grade, the U.S. math rank was 19th out of 21 countries. As a result, not enough American college students are majoring in the sciences, including computer science, mathematics and engineering to fill the escalating need for highly trained professionals.

According to information compiled by the American Electronics Association, at the same time that the number of jobs in these fields has increased by 20%, the number of college graduates with degrees in engineering, engineering technology, computer science, mathematics, business information systems, and physics has declined by 5%.

To fill the jobs available, American companies are finding it increasingly necessary to hire foreign professionals. When they recruit on university campuses in the United States, 32% of the Masters degree and 45% of the doctoral degree candidates are foreign, not American, students. Even though they have been educated here, these foreign students cannot remain here to work without a visa.

Even with these graduates available, there are more jobs to be filled than qualified candidates. When our companies cannot hire qualified people to work for them, they cannot function—they cannot compete. Most of these companies have concluded long ago that they need to retain the qualified people that they do hire. They understand that one way to retain them is to provide training to continually update and upgrade their skills. There are many examples of these kinds of programs.

In addition, there are older American workers with advanced technical skills that are outdated, or whose experience is in industries which are not in a growth mode. Companies are finding ways to assist some of these professional to retool for the current and future needs of business. An example of retraining experienced workers is a program at San Diego State University. That institution's Defense Conversion Center has focused on retraining displaced defense industry professional, including military personnel and aerospace engineers.

Let me read from their project proposal description dated 9/21/99.

The expansion of the H-1B visa program is a limited and temporary fix to a critical national problem. Unless we find creative ways to meet our workforce needs internally, our ability to produce cutting-edge products will erode. Indeed, some experts predict that our position as the world's leader in innovation will slip from first place to sixth early in the next century. The risk goes beyond losing our competitive edge in the global marketplace; without a strong technology base, our national defense system will be jeopardized.

The proposal goes on to describe the university's program:

In the early 1990's, the defense industry in San Diego virtually disintegrated, resulting in the loss of over 42,000 jobs. Established with a grant from the Department of Defense, the SDSU Defense Conversion Center developed several certificate programs designed to fast-track displaced defense industry workers back into the marketplace. To date, over 1100 individuals have enrolled in the Center, and 80% of those who participated in the program found or retained employment in such high-tech fields as radio-frequency design, software engineering, concurrent design and manufacturing, and multi-media design.

Many companies are also finding that it is not enough to focus on only their short term hiring needs. There are numerous examples of companies partnering with their local schools to provide innovative changes in curriculum and skill sets.

For example, Hewlett-Packard has joined forces with Colorado State University to assist minority students beginning their studies at CSU. The assistance includes 10-week internships at H-P, during which CSU provides instructors to H-P to teach calculus. The internships provide a bridge from the academic to the real world, demonstrating the application of math and science skills. They also provide the freshmen with valuable experience that can lead to permanent jobs at H-P.

Eastman Chemical Company in Tennessee offers another example. Working with its local school system, the company focused on two objectives: to help prepare and motivate all students to develop competency in math and science, and to create a school system of such excellence that college graduates would be drawn there as a great place to raise children. The result was several programs, including an “Educator on Loan” program where on a rotating basis, teachers could work at the company's manufacturing plant to under the skills required.

These private/public partnerships are an excellent start. But these efforts are not sufficient to solve the problems we have with maintaining our country's ability to compete and lead the world in the 21st century. We must encourage more innovation, more achievement to fill the pipeline so that our children will be able to prosper in the technological revolution underway.

This legislation encourages innovation. It provides financial assistance for ideas which will work. The proposed legislation is broad enough to cover any idea which can be demonstrated to produce results. Some of the programs

I think should be considered would be to provide scholarships to students who possess the requisite talent and are willing to become certified as math and science teachers, and who will agree to teach for a number of years. Scholarships for students who will major in math, science, engineering or technology fields makes sense. But we should not limit our selves to these stock type approaches. There will be many other new and creative ideas and we should welcome them and reward them, as long as they produce the outcome we want. We want to improve and increase the American talent pool.

In the meantime, I think it is important not to force our companies to develop off-shore bases in order to hire the foreign professional they need. The history of numeric caps on H-1B visas is one of best guess, rather than of calculated need. It is difficult to anticipate the total need, but simply inserting a number because it is politically agreeable isn't the right answer. During the last session we adopted legislation produced through the fine efforts of Senator ABRAHAM and others who worked tirelessly in addressing a broad array of problems and issues.

The result is that our law now requires those who are dependent on H-1B worker to attest, to give their oath, that they have tried to hire an American to fill the position unsuccessfully before applying for a foreign worker visa. These requirements are stringent. They protect American workers against companies which might otherwise ignore qualified applicants in order to bring in a foreign worker. The law protects against layoffs followed by foreign hiring.

With this law in place and with diligent enforcement of its requirements, there is no reason to also pick an arbitrary number as a cap for H-1B visas. We can let the marketplace prevail. We can focus on improving our own resources and our own children's education so that in the future we will have more highly skilled professionals to fill these positions. When our supply meets the demand we will have achieved the goals of improving our education curriculum and our ability to remain leaders in the 21st century.●

By Mr. KENNEDY (for himself,
Mr. SPECTER, Mr. LEAHY, and
Mr. JEFFORDS):

S. 1805. A bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE HUNGER RELIEF ACT OF 1999

Mr. KENNEDY. Mr. President, today Senators SPECTER, LEAHY, JEFFORDS, and I are introducing the Hunger Relief

Act of 1999. Our goals in this legislation are to promote self-sufficiency and the transition from welfare to work, and to eradicate childhood hunger by increasing the availability of food stamps to low-income working families. Republicans and Democrats share these goals, and it deserves broad bipartisan support.

Improving Food Stamp accessibility is a central part of helping low-income working families feed their children and achieve self-sufficiency. A strong Food Stamp Program, along with a higher minimum wage and an adequate Earned Income Tax Credit, gives low-income families the stability they need to build a brighter future. With the unemployment rate at a 30-year low and record, economic growth, this is a time of broad economic prosperity for most Americans. But that is not true for the poorest Americans. In 1998 the poverty rate declined from 13.3% to 12.7%, but this still surpasses rates in the 11% range recorded throughout the 1970's. The safety net provided by food stamps has weakened since the 1970's, and hunger among working families in America has grown.

In July 1999, the Department of Agriculture reported that 6.6 million adults and 3.4 million children live in households that suffered from hunger in 1998, and that 36 million people comprising 10% of the nation's households lack secure access to enough food for an active healthy life.

In the same month, the Congressional General Accounting Office reported that of the 14 million U.S. children who live in poverty, the proportion who receive food stamps dropped from 94% in 1995 to 84% in 1997. During 1997 alone, the number of children living in poverty decreased by 350,000—but the number receiving food stamps decreased by 1.3 million. GAO's report concludes, "children's participation in the Food Stamp Program has dropped more sharply than the number of children living in poverty, indicating a growing gap between need and assistance."

In January 1999, the Urban Institute released the results of a study of former welfare recipients and reported that 33% have to skip or reduce meals due to lack of food. This result is corroborated by independent studies in Wisconsin and South Carolina, and by NETWORK's National Welfare Reform Project.

In 1998, surveys of emergency food providers conducted by the U.S. Conference of Mayors and America's Second Harvest independently documented that the need for emergency food services increased 15 to 20% over the previous year, and that almost 40% of emergency food clients live in households in which an adult is employed.

The Community Childhood Hunger Identification Project conducted surveys of over 5,000 low-income families between 1992 and 1994—the most comprehensive study of childhood hunger ever undertaken in the U.S.—and found

that approximately 4 million children under age 12 were hungry, and 9.6 million were at risk of hunger.

Far too many working parents still struggle to feed their families. If our national values cannot persuade us to fight hunger now, while the economy is strong, when will we ever do so? If we need economic reasons to fight hunger in America, we need only consider the effects of hunger on children.

Hunger and undernutrition are serious problems for people of all ages, but their effects are particularly damaging to children. Over 14 million children live in households that suffer hunger. Hungry and undernourished children are more likely to become anemic, and to suffer from allergies, asthma, diarrhea, and infections. They are also more likely to have behavioral problems and difficulty in learning. When children arrive at school hungry, they cannot learn. If we do not address this problem, our considerable investments in education and early learning activities will not have the full positive impact that they should. Hunger and under-nutrition injure our greatest national resource—our children.

In the past three decades, food stamps have grown into the nation's most comprehensive and trusted way to end hunger. The news that participation in the Food Stamp Program has declined 27% over the past three and a half years would be welcome—if poverty had declined by a comparable amount. But the poverty rate declined by only 7% over this time. Six million more poor people are without food stamps today than in 1995. GAO reported that in 1997 alone, while the number of children living in poverty decreased by just 350,000, the number of children receiving food stamps decreased by 1.3 million. We need to be concerned that the nutritional needs of the other 950,000 children are not being met.

Just as the decline in the welfare rolls does not by itself show that people are no longer poor, the decline in Food Stamp rolls in no way means that children and families are no longer hungry. Increasingly, low-income working families are relying on emergency food services. Across the country, demand for emergency food services has increased by as much as 50% in some places. Many food banks find themselves unable to meet the increased requests for help.

Only two days ago, the Chicago Sun-Times published an article entitled "Hunger—a growing concern in suburbs," describing increasing demand for emergency food in some of Chicago's most affluent neighborhoods.

A November 1998 study by Project Bread and Tufts University found that 49% of emergency food providers in Massachusetts reported increased need among families with children over the previous year. Of those requesting assistance, 33% of food bank clients were children, and 27% of Massachusetts adults requesting emergency food assistance were employed. Although our

strong economy and historically low unemployment rate have helped many families get back on their feet, there is no question that many families are working hard and still cannot make ends meet.

By simplifying Food Stamp eligibility rules and improving access to the program, we can reduce hunger and malnutrition, and help working families live healthier, more fulfilling lives. No one in this country should go hungry. This is a problem we can solve. We must not become indifferent to the message that hunger indeed has a cure.

The Hunger Relief Act repeals many of the 1996 welfare reform law's restrictions on access to food stamps for legal immigrants. For 30 years prior to the welfare reform law, Food Stamps were available to legal immigrants. The 1996 welfare reform law made them no longer eligible. That law also created substantial uncertainty among eligible groups as to whether they qualify.

Last year, Congress restored food stamp eligibility to some legal immigrants—children, seniors, and disabled persons—who were in the United States before August 1996. This was an important step, but it helped fewer than a third of those who were adversely affected by the 1996 law. Hunger among legal immigrants predictably increased after 1996, although many legal immigrants held low-income jobs and paid taxes. Children continue to be denied benefits because they arrived in the U.S. after 1996 or because exclusion of their parents directly results in decreased access to food stamps. Our laws recognize that legal immigrants need access to employment, education, and health care programs. Yet all of these efforts are compromised when legal immigrants are denied access to adequate nutrition. The Hunger Relief Act ensures that all those who need food stamps can obtain them.

In addition, the Hunger Relief Act helps low-income families by relaxing federal limits on the value of a vehicle that a family can own and still be eligible for food stamps. The current federal limit is \$4,650, which has risen only \$150 since 1977.

Because low-income parents commonly need a vehicle to get to work and to safely transport their children, many states have adopted vehicle allowance standards for their state assistance programs that are more generous than the federal standard. The conflicting and complex rules that govern state programs and the Food Stamp Program complicate access to food stamps for working families, as confirmed by GAO's July 1999 report.

By giving states the option of using their state vehicle standards instead of the federal standard, the Hunger Relief Act gives states the flexibility to ensure that their nutritional needs are met. It also promotes work and child safety.

The case of a single parent of three young children in Northeastern Massachusetts illustrates the need for this

provision. The mother's income recently dropped to \$928 per month, but she is denied food stamps because the value of her car exceeds \$4650. Massachusetts would be unlikely to reject her application under state law, but the federal law requires her pleas for help to be rejected. Our Hunger Relief Act will change that.

The Hunger Relief Act also enables families to qualify for food stamps when they have to spend more than 50% of their income on housing costs. Low-income families must often pay high rent for substandard housing in many cities today. According to a recent report by the Department of Housing and Urban Development, demand for public housing is rising, while the supply of affordable apartments and houses is declining. Between 1996 and 1998, the number of affordable apartments fell by more than 1 million. Nearly 1 million low-income families are now waiting for public housing units across the country. They may wait as long as 8 years in New York City to be placed.

HUD compares finding affordable housing to an ominous game of musical chairs in which only the lucky find seats. In Boston, the average rent for a two bedroom apartment rose by 58% between 1990 and 1998 to \$1,350 after adjusting for inflation. The Women's Educational and Technical Union has documented that single parents with one infant pay an average rent of \$839 in Boston, \$709 in Worcester, and \$578 in Pittsfield. All of these figures far exceed half of a minimum wage worker's income.

Present law permits some shelter costs to be deducted when determining Food Stamp eligibility, but the deduction is capped too low. In 1996, 950,000 people received reduced food stamp benefits due to the shelter cap. Over 880,000 of those affected were families with children. The Hunger Relief Act raises the cap from \$275 to \$340, and then indexes it to inflation, increasing access to food stamps for approximately 1.25 million people.

For example, a family from Centerville, Massachusetts consisting of a working mother and three children, survives on \$1,433 in income each month. Yet their shelter costs exceed \$1,200. This family cannot possibly meet these children's nutritional needs on \$233 each month, even if the family spends money on nothing besides shelter and food. The Hunger Relief Act is intended to keep families like this from having to choose between heating and eating.

Finally, the Hunger Relief Act increases federal support for emergency food programs. Sharp increases in requests for help from food pantries and soup kitchens have occurred over the past year, despite steep declines in food stamp participation. The U.S. Conference of Mayors, and America's Second Harvest has independently documented a 15 to 20% increase in need over 1998. A recent survey of 30 cities

by the National Governors Association found that a growing number of low-income working parents rely on food banks to feed their children. 79% of Massachusetts food pantries funded through Projected Bread reported serving more working poor in 1998, and 72% reported helping more families with children. To ensure that emergency food needs are met, the Hunger Relief Act increases federal funding for The Emergency Food Assistance Program by 10%.

The Congressional Budget Office estimates that the total cost of the Hunger Relief Act will be \$2.5 billion over the first 5 years. This amount will increase our support for the Food Stamp Program by just over 2% each year, a relatively small price to repair the most serious problems in the nation's core nutrition program.

Americans overwhelmingly recognize that hunger is also closely linked to problems in health, education, and the workplace. Adequate nutrition should be available to all. Over three hundred national, regional, and local organizations support the Hunger Relief Act. Even before welfare reform was enacted, a January 1996 poll found that 55% of Americans believe hunger is worsening in our country, and 74% felt that more should be done to combat hunger in America. I request unanimous consent that a letter signed by over 300 organizations in support of the Hunger Relief Act may be printed in the CONGRESSIONAL RECORD following my statement.

Millions of low-income working families, like the Jenkins family of Royalston, Massachusetts will be helped by this bill. Although Terry Jenkins' husband works in two jobs, after their mortgage payments, car payments, utilities and clothing expenses for four children are paid, they often cannot afford enough food for their family. As a result, Terry worries that her children cannot concentrate during their classes.

Her concern is legitimate. Students who are hungry or at-risk of hunger are twice as likely to have academic, social and psychological problems as children from similar low-income families who are not hungry. By improving the Food Stamp Program, the Hunger Relief Act will reduce the suffering for millions of families like the Jenkins.

Now, while the economy is strong, we must actively fight hunger and ensure that the most basic needs of children and families are met. I welcome the support of Senators SPECTER, LEAHY and JEFFORDS in this bipartisan effort and I look forward to early action in the Senate to pass this needed legislation.

Mr. LEAHY. Mr. President, as we approach the beginning of the next century, we have much to be proud of as a nation. The stock market has reached an historic 10,000 mark. We are in the midst of one of the greatest economic expansions in our nation's history. More Americans own their own homes

than at any time, and we have the lowest unemployment and welfare case-loads in a generation.

Yet, there are millions of Americans who go hungry every day. Just this past July, the Department of Agriculture published a report entitled "Household Food Security in the United States 1995-1998" which reported that last year, 36 million persons—of which approximately 40% were children—lived in households that experienced hunger.

While it is true that food stamp and welfare program caseloads have dropped over the past few years, hunger has not. As families try to make the transition from welfare to work, too many are falling out and being left behind. And too often, it is our youth who is feeling the brunt of this, as one out of every five people lining up at soup kitchens is a child.

Second Harvest, the nation's largest hunger relief charity, distributed more than one billion pounds of food to an estimated 26 million low-income Americans last year through their network of regional food banks. These food banks provide food and grocery products to nearly fifty thousand local charitable feeding programs—food shelves, pantries, soup kitchens and emergency shelters.

Yet as the demand has risen at local hunger relief agencies, too many pantries and soup kitchens have been forced to turn needy people away because the request for their services exceeds available food.

Last year, the U.S. Conference of Mayors released its Annual Survey of Hunger and Homelessness, which reported that the demand for hunger relief services grew 14 percent last year. Additionally, 21 percent of requests for emergency food were estimated to have gone unmet. This is the highest rate of unmet need by emergency food providers since the recession of the early 1990s. And this is not just a problem of the inner cities. According to the Census Bureau, hunger and poverty are growing faster in the suburbs than anywhere else in America. In my own state of Vermont, one in ten people is "food insecure," according to government statistics. That is, of course, just a clinical way to say they are hungry or at risk of hunger.

Under the leadership of Deborah Flateman, the Vermont Food Bank distributes food to approximately 240 private social service agencies throughout the state to help hungry and needy Vermonters. The local food shelves and emergency kitchens which receive food from the Vermont Food Bank clearly are on the front-line against hunger. And what they are seeing is very disturbing—one in four seeking hunger relief is a child under the age of 17. Elderly people make up more than a third of all emergency food recipients. We cannot continue to allow so many of our youngest and oldest citizens face the prospect of hunger on a daily basis. Another extremely troubling statistic

about hunger in Vermont is that in 45 percent of the households that receive charitable food assistance, one or more adults are working. Nationwide, working poor households represent more than one-third of all emergency food recipients. These are people in Vermont and across the U.S. who are working, paying taxes and contributing to the economic growth of our nation, but are reaping few of the rewards.

Our government has taken numerous steps to alleviate hunger in America, but clearly more still needs to be done.

The Emergency Food Assistance Program has been essential in the fight against hunger by providing USDA commodities to the nation's food banks and local emergency feeding charities. As the demands continue to grow, however, TEFAP resources are running on empty. The Hunger Relief Act would increase funding for TEFAP, thus helping community charities cope with increased local demand for hunger relief.

Perhaps more than any other program, the Food Stamp Program has been critical to the prevention and alleviation of hunger and poverty, and is essential to helping families on welfare transition to work. Nationally, one in ten people—half of which are children—participates in the Food Stamp Program.

In this time of economic booms, one in five U.S. children—approximately 15 million children—lives in a household receiving food stamps.

And far too many families with full-time or part-time minimum wage jobs need food stamps just to approach the poverty line.

For many families, the choice between paying the rent and buying food is becoming more and more common. While the Food Stamp Program does adjust benefits for families with high shelter costs, this adjustment has been artificially capped. In 1993, Congress passed a phased-out elimination of the cap on the food stamp shelter deduction. With the passage of the Welfare Reform bill, however, Congress repealed the phase-out and the cap remained in place.

The cap on the shelter deduction has had a significant impact on working families, who tend to have higher shelter costs than families receiving public housing assistance. The Hunger Relief Act raises the shelter cap from \$275 to \$340, and then indexes it to inflation, increasing access to Food Stamps for approximately 1.25 million people.

Many working poor families, particularly in rural areas, own a modestly valued car, necessary to get to work, but of a value greater than the antiquated food stamp vehicle limit. In the last 22 years, the limit on car values has increased a total of \$150, and in many states the Food Stamp vehicle allowance is much lower than the TANF vehicle allowance. The Hunger Relief Act would give states more freedom, allowing states the option of using the same limits for vehicles under both TANF and Food Stamps.

The Hunger Relief Act would also complete the restoration of food stamp benefits to thousands of immigrants who were pushed out of the program by the Welfare Reform Act.

Last Congress I worked hard to include \$818 million in the Agricultural Research, Extension, and Education Reauthorization Act to restore food stamp benefits for thousands of legal immigrants. This legislation restored food stamps to legal immigrants who are disabled or elderly, or who later become disabled, and who resided in the United States prior to August 22, 1996. That law also increased food stamp eligibility time limits—from five years to seven years—for refugees and asylees who came to this country to avoid persecution. Among refugees who aided U.S. military efforts in Southeast Asia were also covered, as were children residing in the United States prior to August 22, 1996.

Though the Agriculture Research Act restored food stamp eligibility to children of legal immigrants, many of these children are not receiving food stamps and are experiencing alarming instances of hunger. In its recent report entitled "Who is Leaving the Food Stamp Program? An Analysis of Caseload Changes from 1994 to 1997," the United States Department of Agriculture reported that participation among children living with parents who are legal immigrants fell significantly faster than children living with native-born parents. It appears that restrictions on adult legal immigrants deterred the participation of their children. That is a disturbing development that must be rectified, and the Hunger Relief Act would go along way toward making the situation right by restoring food stamp eligibility to all legal immigrants.

Of the many problems that we face as a nation, hunger is one that is entirely solvable. Hunger is not a Democrat or Republican issue. Hunger is a problem that all Americans should agree must be ended in our nation. I am proud to join with Senators KENNEDY, SPECTER, and JEFFORDS in introducing the Hunger Relief Act, and I look forward to working with members of the Senate to see the passage of this legislation.

By Mr. BINGAMAN (for himself,
Mr. COVERDELL, Mr. DOMENICI,
Mr. HOLLINGS, and Mr.
CLELAND):

S. 1806. A bill to authorize the payment of a gratuity to certain members of the Armed Forces who served at Bataan and Corregidor during World War II, or the surviving spouses of such members, and for other purposes; to the Committee on Veterans Affairs.

BATAAN AND CORREGIDOR VETERANS
LEGISLATION

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, of which Senator HOLLINGS and Senator CLELAND are also sponsors, recognizing the heroic contributions of American soldiers who served in Bataan and Corregidor during World War

II. This legislation will provide a one time honorarium to those veterans who survived the notorious Death March and were made to work as slave labor in support of the Japanese war effort. Compensation awarded these heroes for their imprisonment has never approached the value of their sacrifices on behalf of our nation's liberty. As these legendary heroes approach the final chapters of their lives, it is fitting that the nation pay them special homage for their heroic deeds heretofore unrewarded. That's why I am introducing this legislation today—to salute these Americans in recognition of the great sacrifices they made for this nation.

From December 1941 to April 1942, American military forces stationed in the Philippines fought valiantly against overwhelming Japanese military forces on the Bataan peninsula near Manila. Under severe combined attack of the Japanese forces, General Douglas MacArthur ordered U.S. troops to withdraw to the Bataan peninsula to form a strong defensive perimeter to protect the eventual evacuation of troops from the island. The U.S. forces fought for 3 months, considerably longer than the unfavorable troop balance would have suggested was possible. As a result of extending Japanese military resources during that crucial initial phase of the war in the Pacific, U.S. forces in Bataan and Corregidor prevented Japan from accomplishing critical strategic objectives that would have enabled them to capture Australia. Had the Japanese been able to accomplish their plans, their victory in the Philippines could have doomed Allied efforts in the Pacific from the very outset.

On April 9, 1942, Major General Edward King, Commander of U.S. forces on the Bataan peninsula, ordered the troops to surrender rather than face certain slaughter on the battlefield. What followed was the tragic, infamous "Death March" of American prisoners from the Bataan peninsula to Camp O'Donnell of Manila. Some experts estimate that more than 10,000 Americans died on the 85-mile march to the prison camp. Many died of starvation or lack of water; some were executed on the spot by their Japanese captors.

In June 1942, following the surrender of American troops of the Corregidor garrison, prisoners held at the O'Donnell Prisoner of War (POW) camp were joined with those captured at Corregidor and transferred to the Cabanatuan POW camp. In the fall of 1944, the Japanese transferred more than 1,600 prisoners from the Cabanatuan POW camp to "hell ships" destined for Japan, where prisoners were used as slave laborers working in mines, shipyards, and factories. In some cases, because the "hell ships" weren't marked, they were attacked and sunk by U.S. military aircraft.

Mr. President, the heroic performance of our soldiers at Bataan and during incarceration in POW camps earned

them well-deserved citations following the war. The 200th and 515th Coastal Artillery units from New Mexico that served to defend the retreating troops at Bataan received three Presidential Unit Citations and the Philippine Presidential Unit Citation for their heroism. New Mexico is particularly proud of these men whose heroism I seek to salute through this legislation today. Of the 25,000 American servicemen stationed in the Philippines at the outbreak of World War II, less than 1,000 are living today. These heroes deserve special recognition and gratitude from the American people beyond the symbolic recognition and remuneration they have heretofore received.

In December, 1998, the Canadian Government approved a legislative measure to compensate their military veterans who had been captured by the Japanese during the fall of Hong Kong, and who subsequently provided slave labor in Japanese POW camps. The measure awarded approximately 700 qualified veterans and surviving spouses \$15,600 each "as an extraordinary payment to extraordinary individuals who suffered extraordinary treatment in captivity." The payment to Canadian veterans will total \$11.7 million from Canadian federal funds, not from the Japanese Government. The Japanese Government considers their liability for treatment of POWs to have been settled by the treaty signed in 1952, compensating each prisoner of war for their time in captivity, but not for any slave labor that was performed. Last fall, Japan's high court rejected a compensation suit seeking redress filed by a coalition of former Allied prisoners on the basis of the 1952 treaty protecting Japan from further liability in post-war settlements.

Mr. President in agreeing to provide their veterans with compensation for slave labor performed while in POW camps, the Canadian Government recognized that lengthy legal proceedings appealing the decision of the Japanese high court would likely be too drawn out to be beneficial to their aging veterans. As a result, the Canadian Government concluded that it was appropriate and honorable to recognize the heroic contributions of veterans who were made to perform slave labor simply out of recognition of the debt of gratitude owed to the veterans by the Canadian people.

Our American veterans who served in Bataan and Corregidor and performed slave labor in Japanese mines, shipyards, and factories are in a similar predicament as their Canadian colleagues. These men have never been fully compensated for their heroism and sacrifices made while serving as slaves to their Japanese captors. The Japanese government has concluded that it is no longer liable for compensating such claims. Appealing the decision of the Japanese high court to further authority would take more time than many of our veterans have. Con-

sequently, Mr. President, I believe that the American Government, just as the Canadian Government has done, should choose to recognize the contributions of the war heroes of Bataan and Corregidor.

The legislation I am introducing today calls on the Congress to authorize payment of \$20,000 to each veteran of Bataan or Corregidor who performed slave labor during World War II. The honorarium would also be extended to surviving spouses. This small token of appreciation would mean a great deal to these heroes and their families.

I urge my colleagues to support the bill. I hope we can enact it in the near future.

Mr. HOLLINGS. Mr. President, let me commend our distinguished colleague from New Mexico. I had the privilege of visiting Corregidor about 30 years ago with Senator Montoya. We talked about the New Mexico National Guard. Most were lost who went through that dreadful experience. For those that survived—I lost a good friend, Jack Leonard, and other graduates who served in the New Mexico National Guard—this is a moment of history that should be noted in a more clear and reverent fashion.

I ask, please, to be added as a cosponsor to the Senator's bill.

Mr. BINGAMAN. I thank the Senator from South Carolina very much. This legislation will move more quickly with him as a cosponsor. I also want to indicate that Senator DOMENICI is a cosponsor of this legislation, as well. As I say, I hope we can move ahead with it.

Mr. DOMENICI. Mr. President, I rise today to join my colleague Senator BINGAMAN to introduce legislation that will compensate our veterans who fought at Bataan and Corregidor and were later held prisoner.

I do not think words can fully describe the bravery of these veterans and the horrific conditions they endured, but I think a quote from Lt. Gen. Jonathan M. Wainwright provides an insight into these men:

They were the first to fire and last to lay down their arms, and only reluctantly doing so after being given a direct order.

The 200th and 515th Coast Artillery better known as the New Mexico Brigade played a prominent and heroic role in the fierce fighting that took place in the Philippines. For four months the men of the 200th and the 515th held off the Japanese only to be finally overwhelmed by disease and starvation.

Today every student in his or her history class learns about the tragic result of the Battle for Bataan. The survivors of the battle were subjected to the horrors and atrocities of the 65 mile "Death March." As if this were not enough, following the infamous march these men were held for over 40 months in Prisoner of War Camps.

Sadly, of the eighteen hundred men in the Regiment, less than nine hundred returned home and a third of

those passed away within a year of returning. I simply cannot imagine what it must have been like for these men.

I would now like to briefly discuss the Bill we are introducing. This legislation offers long overdue compensation to a select group of men who served in the Philippines at Bataan and Corregidor during World War II. The bill authorizes the Secretary of Veterans Affairs to pay \$20,000 to any veteran, or his surviving spouse, who served at Bataan or Corregidor, was captured and held as a prisoner of war, and was forced to perform slave labor as a prisoner in Japan during World War II.

There is one final point that I want to make as a matter of simple fairness. I believe that in the upcoming months the federal tax implications should be examined. It may be necessary to provide that the \$20,000 payment should be excluded from federal income taxes.

Without an exclusion, the interaction between a lump sum payment, the social security income tax earnings limitation could subject some of the survivors of the Bataan death march to one-time exorbitant tax rates in excess of 50 percent. We don't want the federal government to give the compensation with one hand, only to have it taken away by the IRS.

Thank you and I look forward to working with my colleagues on this issue.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 1807. A bill to provide for increased access to airports in the United Kingdom by United States air carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OPEN SKIES BETWEEN THE U.S. AND THE U.K.
LEGISLATION

Mr. SANTORUM. Mr. President, today, I am introducing legislation in response to the lack of progress in negotiations between the United States and the United Kingdom to open up competition through an open-skies treaty for air travel between our countries. International aviation travel is central to the continued growth of commerce and tourism, and every effort must be made to increase these opportunities.

This bill mandates that the United States and the United Kingdom come to an agreement that would grant all applications U.S. carriers currently have filed with the U.S. Department of Transportation for route access to the United Kingdom. The bill also mandates more access to London's Heathrow International Airport for U.S. carriers that do not currently have access to this airport. Congressman BUD SHUSTER, Chairman of the House Committee on Transportation and Infrastructure, has already introduced an identical bill, H.R. 3072, with the Ranking Minority Member, Congressman JAMES OBERSTAR, in the House of Representatives.

Under the current 22 year old bilateral agreement, known as Bermuda II, only two U.S. airlines, American and United, and two from Great Britain, British Airways and Virgin Atlantic, can fly between Heathrow and the United States. Under the current agreement, the British hold dominant rights to air travel between our countries in one of the most restrictive existing bilateral agreements for air travel. For example, British Airways is allowed to fly more routes to the U.S. than all U.S. carriers can fly to the United Kingdom combined. This present policy is unfair and is not in the best interests of American or British consumers.

This situation is illustrated by the recent announcement by British Airways that it would be ending its non-stop flights between Pittsburgh and London as of October 31, 1999. This means that a city which has had non-stop for over a decade will no longer have it. Under the current restrictive agreement, only the British can fly to and from Pittsburgh; American carriers willing to pick up this route are unable to do so.

The United States has open-skies agreements with over 36 countries which have been completed or are being phased in. Open-skies agreements allow a free market in air service in which airlines can fly where they want. It is inappropriate for the United States to lack a similar agreement with an historic ally and major trading partner such as the United Kingdom.

If an agreement is not reached within six months of the bill's passage, the Secretary of Transportation is required to revoke all current slots and slot exemptions held by British air carriers at Chicago O'Hare and New York Kennedy airports. In addition, if the United States and the United Kingdom do not reach an open-skies agreement by the end of 2000, the bill mandates renunciation of the current bilateral agreement. My goal is to provide a strong incentive for our two countries to negotiate a fair, long overdue agreement by increasing competition and choices for consumers and all interested carriers in both countries.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1807

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

SECTION 1. ACCESS TO UNITED KINGDOM AIRPORTS.

(a) IN GENERAL.—If the Governments of the United Kingdom and the United States have not signed an agreement, by the date that is 180 days after the date of enactment of this Act, that—

(1) provides for approval of all applications for air routes from the United States to the United Kingdom that have been submitted to the Secretary of Transportation by United States air carriers and are pending on October 14, 1999; and

(2) provides slots at Heathrow International Airport to United States air carriers that do not have any slots at such airport on such date of enactment, without affecting any slots held by other United States air carriers at such airport on such date of enactment, the Secretary of Transportation shall immediately revoke all slots and exemptions to the slot rule held by British air carriers at O'Hare International Airport and John F. Kennedy International Airport and, after the date of such revocation, shall not grant any slot or exemption to the slot rule to a British air carrier at either of such airports until such an agreement is signed.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) BRITISH AIR CARRIER.—The term "British air carrier" means a citizen of Great Britain undertaking by any means, directly or indirectly, to provide foreign air transportation (as defined in section 40102(a) of title 49, United States Code).

(2) SLOT RULE.—The term "slot rule" means the requirements contained in subparts K and S of part 93 of title 14, Code of Federal Regulations.

(3) UNITED STATES AIR CARRIER.—The term "United States air carrier" has the meaning given to the term "air carrier" by section 40102(a) of title 49, United States Code.

SEC. 2. OPEN SKIES AGREEMENT.

If the Governments of the United Kingdom and the United States have not signed an open skies agreement, as defined in Department of Transportation Order 92-8-13, by December 31, 2000, the Secretary of State shall immediately file a notice to terminate the Agreement Between the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Air Services, in accordance with the provisions of the Agreement.

By Mr. SPECTER (for himself and Mr. BIDEN):

S. 1808. A bill to reauthorize and improve the drug court grant program; to the Committee on the Judiciary.

DRUG COURT REAUTHORIZATION AND
IMPROVEMENT ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition to introduce a bill to provide federal assistance to States and local governments for drug courts to provide treatment rather than expensive imprisonment for drug addicted nonviolent offenders.

This legislation would reauthorize and improve upon a novel program by which States and localities may obtain Federal funds to assist in the implementation of a "drug court" within the State and local criminal courts. Drug courts are designed to select from the general criminal population nonviolent offenders who test positive for drugs, and put them through a program of court supervised drug treatment and rehabilitation. In this way, we can both aid first-time drug offenders by preventing them from becoming career criminals and provide localities the funds to enable them to control the serious backlogs in their criminal court caused by the drug crime wave. In the long-term, this solution to the drug plague promises to be less expensive than incarcerating these nonviolent offenders.

In 1991, I introduced similar legislation (S. 648), which was proposed by a

1990 study commissioned by the Philadelphia Bar Association entitled, "Clearing the Road to Justice." This study found that state and local courts are overwhelmed by a large number of drug related crimes committed by first time offenders. The study concluded that a separate drug court division could both speed processing of drug related cases and provide mandatory drug screening programs to target first-time nonviolent drug offenders, and at the same time free up the rest of the court system to focus on violent criminals.

Congress enacted legislation to authorize a federal drug court grant program as part of the Violent Crime Control and Law Enforcement Act of 1994. However, in an action without any debate and that I believe reflected poor judgment, Congress repealed such authority in the Omnibus Consolidation Recession and Appropriations Act of 1996 (PL 104-134). Although Congress rescinded the authority for this program, it has had been good sense to continue to appropriate some funds to the program by increasing funding from \$11.5 million in 1995 to \$40 million in 1999.

As a result of this federal funding, there has been a considerable increase in the number of drug courts in the United States. Since 1994, the total number of operating drug court program has grown from 42 to approximately 300. However, there is still not enough funding to adequately support the program despite the increased interest. Last year the Department of Justice received 216 grant applications, but was able to award only 88 grants. Justice reports that there were at least 38 additional programs that would have received grants had there been funding available.

During my travels in Pennsylvania, I have confirmed that there is a great deal of interest in implementing this program. Currently, there are six counties (Allegheny, Chester, Lycoming, Philadelphia, York, Erie) that are in various stages of planning and implementing drug court programs. I had the opportunity to speak to a number of prosecutors, judges and participants of these programs. They are very positive about their initial progress and very optimistic about the results that they will achieve in the future.

As a member of the Judiciary and Appropriations Committees, I have been an advocate of increasing funds for this program. I am committed to a balanced federal budget and realize that we must be careful in how we make federal expenditures. With this in mind, I have chosen this program carefully as one in which we should invest federal funds. I believe that Congress must step up to the plate and commit to this program by authorizing it and appropriating sufficient funds to meet the growing demand for drug court alternatives. It is necessary that the criminal justice system and Congress face up to the fact that realistic rehabilitation must be a part of the

process of drug treatment and crime reduction.

I believe that the drug courts are extremely effective in breaking the cycle of substance abuse and crime and will save large amounts of money that otherwise would have been spent on incarceration. With this program, first-time drug offenders may be prevented from becoming career criminals, and localities will be provided with funds to minimize the serious backlogs in criminal courts caused largely by drug crimes. The most recent Drug Court Survey Report, published by the Office of Justice Programs' Drug Court Clearinghouse and Technical Assistance Project at American University found that the drug court programs reported low recidivism rates between 2% and 20%. The survey also found significantly reduced drug use even among those who did not graduate from the programs, with as many as 93% of participants testing negative for drugs. Further, this alternative promises to be less expensive than incarcerating nonviolent offenders. Drug courts offer significant cost savings as compared to incarceration. According to the Drug Court Survey Report, the average cost for the treatment component of a drug court program ranges between \$900 and \$1,200 per participant, and savings in jail bed days have been estimated to be at least \$5,000 per defendant. Additional reported savings include reductions in police overtime, witness costs and grand jury expenses.

While these statistics are very promising, they are not necessarily representative of all of the drug court programs. In 1997, GAO issued a report entitled "Drug Courts: Overview of Growth, Characteristics and Results," which found that nearly half of the drug court programs do not maintain follow-up data regarding recidivism or relapse to drug abuse. Accordingly, GAO recommended that the Attorney General require drug court programs to collect and maintain follow-up data on recidivism and drug use relapse. This legislation includes a requirement for such follow-up so Congress can better determine the program's efficacy.

This legislation would authorize up to \$200 million per year for this innovative program, the original level from the 1994 law. Additionally, in order to create greater flexibility for states and local governments to fund the drug court programs, this legislation would allow federal funds that are received from sources other than the Drug Courts Program Office to be counted as a part of the 25% grantee matching contribution requirement. The current Justice policy requires the grantee to contribute 25% of the total program costs—none of which can come from a federal source.

Additionally, the 1994 law required the Department of Justice to consult with HHS concerning administration of the drug court program, and although the drug court provision was rescinded, Justice has continued to consult with

HHS in an informal manner regarding treatment programs. As Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I recognize the important role that HHS can play in improving the treatment aspect of the drug court program. Accordingly, this bill would reinstate the requirement that Justice consult with HHS regarding administration of the drug court program and would authorize \$75 million to be appropriated to HHS to be used for drug treatment services associated with drug court programs.

I urge my colleagues to support this important program which provides an effective alternative to imprisonment for drug addicted nonviolent offenders.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. HARKIN, Mr. FRIST, Ms. COLLINS, Mr. WELLSTONE, Mr. REED, Mr. DODD and Mrs. MURRAY):

S. 1809. A bill to improve service systems for individuals with developmental disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 1999

• Mr. JEFFORDS. Mr. President, it is a pleasure to introduce today, for myself, and my colleagues from the Health, Education, Labor, and Pensions Committee, Senators KENNEDY, HARKIN, FRIST, COLLINS, WELLSTONE, REED, DODD, and MURRAY, The Developmental Disabilities Assistance and Bill of Rights Act of 1999. This bill is the reauthorization of a piece of legislation with a rich legacy, and a long history of bipartisan Congressional support. Originally authorized in 1963 and last reauthorized in 1996, it has always focused on the needs of our most vulnerable citizens, an estimated four million individuals with severe disabilities, including individuals with mental retardation and other lifelong, pervasive disabilities.

Initial versions of this legislation focused primarily on the interdisciplinary training of professionals to work with individuals with developmental disabilities. The University Affiliated Facilities (UAFs) were the first federally funded programs charged with expanding the cadre of professionals to address the needs of individuals with developmental disabilities. The name of these programs was changed to University Affiliated Programs (UAPs) in a subsequent reauthorization and their mission was expanded to include community services and information dissemination pertaining to individuals with developmental disabilities. Finally, in 1996, after 33 years of planned expansion by Congress, each State established and received core funding for at least one UAP.

In the 1970 reauthorization of the DD Act, Congress recognized the need for, and value of strengthening State efforts to coordinate and integrate services for individuals with developmental

disabilities. As a result, Congress established and authorized funding for State Developmental Disabilities Councils (DD Councils) in each state. The purpose of the Councils was, and continues to be, to advise governors and State agencies on how to use available and potential resources to meet the needs of individuals with developmental disabilities. Every State has a DD Council. The Councils undertake advocacy, capacity building, and systemic change activities directed at improving access to community services and supports for individuals with disabilities and their families.

In 1975, Congress created and authorized funding for Protection and Advocacy Systems (P&As) in each state to ensure the safety and well being of individuals with developmental disabilities. The mission of these systems has evolved over the years, initially addressing the protection of individuals with developmental disabilities who lived in institutions, to the present responsibilities related to the protection of individuals with developmental disabilities from abuse, neglect, and exploitation, and from the violation of their legal and human rights, both in institutions and in the community.

The 1975 reauthorization of the DD Act also established funding for Projects of National Significance. Through this new authority Congress authorized funding for projects that would support national initiatives related to specific areas of need. Over the years, projects related to areas such as people with developmental disabilities and the criminal justice system, home ownership, employment, assistive technology, and self-advocacy for individuals with developmental disabilities have been initiated through these projects.

The 1999 reauthorization of the DD Act builds on the past successes of these programs, reflects today's changing society, and seeks to provide a foundation to provide the services and supports that individuals with developmental disabilities, their families, and communities will need as we enter the next century. Let me take a few moments to highlight the major provisions of this bill.

The Developmental Disabilities Assistance and Bill of Rights Act of 1999 continues a tradition of support for a DD Network in each State that is able to provide advocacy, capacity building, and systemic change activities in quality assurance, education and early intervention, child care, employment, health, housing, transportation, recreation and other services for individuals with developmental disabilities and their families. This approach reflects current trends in society and in the field of developmental disabilities in that it emphasizes the empowerment of individuals with developmental disabilities and their families and joins it with state flexibility and increased accountability.

The bill continues and further develops the important work of the DD Act

programs in each State. It seeks to ensure that more individuals with developmental disabilities are able to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of our nation. It also assists DD Act programs to improve the quality of supports and services for individuals with developmental disabilities and their families regardless of where they choose to live.

Unfortunately, in keeping with other realities of our time, the bill also recognizes that individuals with developmental disabilities are at greater risk of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights, than the general population. Based upon this recognition, the bill supports the extra effort and attention that is needed, in both individual and systemic situations, to ensure that individuals with developmental disabilities are put at no greater risk of harm than others in the general population.

The bill recognizes that individuals with developmental disabilities often have multiple, evolving, life long needs that require interaction with agencies and organizations that offer specialized assistance as well as interaction with generic services in their communities. The nature of the needs of these individuals and the capacity of States and communities to respond to them have changed. In the past 5 years, new strategies for reaching, engaging, and assisting individuals with developmental disabilities have gained visibility and credibility. These new strategies are reinforced by and reflected in this bill.

In the past, the Councils, Centers, and P&A Systems have been authorized to provide advocacy, capacity building, and systemic change activities to make access to and navigation through various service systems easier for individuals with developmental disabilities. Over time there has been pressure for these three programs to provide assistance beyond the limit of their resources and beyond their authorized missions. The bill clearly and concisely specifies the roles and responsibilities of Councils, Centers, and P&A Systems so that there is a common understanding of what the programs are intended to contribute toward a State's efforts to respond to the needs of individuals with developmental disabilities and their families.

The bill gives States' Councils, Centers, and P&A Systems more flexibility. Each program in a State, working with stakeholders, is to develop goals for how to assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, integration, and inclusion in all facets of community life. Goals may be set in any of the fol-

lowing areas of emphasis: quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, or other community services.

Consistent with Congressional emphasis on strengthening accountability for all federal programs, this legislation requires each program to determine, before undertaking a goal, how it will be measured. Measurement of a goal must reflect the impact of the goal on individuals with developmental disabilities. The Secretary of the Department of Health and Human Services (HHS) is to develop indicators of progress to evaluate how the three programs in each State have engaged in activities to promote and achieve the purpose and policy of the Act in terms of choices available to individuals with developmental disabilities and their families, their satisfaction with services, their ability to participate in community life, and their safety. In addition, the Secretary is to monitor how the three programs funded in each State coordinate their efforts, and how that coordination affects the quality of supports and services for individuals with developmental disabilities and their families in that State.

During the past several years, a clearer picture has emerged of what individuals with developmental disabilities are able to accomplish when they have access to the same choices and opportunities available to others and with the appropriate support. There has also been increasing recognition of and support for self-advocacy organizations established by and for individuals with developmental disabilities. This bill reflects and promotes such efforts by authorizing State Councils in each State to support self-advocacy organizations for individuals with developmental disabilities.

The legislation renames the University Affiliated Programs as University Centers for Excellence for Developmental Disabilities Education, Research, and Service, expands their responsibilities to include the conduct of research, and links them together to create a National Network.

By administering the three programs specifically authorized under the DD Act and by funding projects of national significance to accomplish similar or complementary efforts, the Administration on Developmental Disabilities (ADD) in HHS plays a critical role in supporting and fostering new ways to assist individuals with developmental disabilities and in promoting system integration to expand and improve community services for individuals with disabilities. This bill provides ADD with the ability to foster similar efforts across the Executive Branch. The bill authorizes ADD to pursue and join with other Executive Branch entities in activities that will improve choices, opportunities, and services for individuals with developmental disabilities.

The bill recognizes that forty-nine States have begun to develop family

support programs for families with children with disabilities. This supports States by providing grants (one, 3-year grant per State, on a competitive basis) to assist States to provide services to families who choose to keep their children with disabilities at home and not be forced to place their children in institutions due to the lack of support. The bill gives States maximum flexibility to use targeted funds to strengthen or expand existing State family support programs.

Finally, in response to a national need to increase the number and improve the training of direct support workers who assist individuals with developmental disabilities where they live, work, go to school, and play, the bill includes provisions proposed by Senators FRIST and WELLSTONE. One provides funding for the development and dissemination of a technology-based training curriculum to provide state of the art staff development for individuals in direct service roles with people with developmental disabilities and their families. The other is a scholarship program to encourage continuing education for individuals entering the field of direct service.

Throughout the country, the DD Act programs have a long history of achievement. In Vermont, the DD Act programs make ongoing contributions to major initiatives affecting individuals with developmental disabilities and their families. They play significant roles in many of Vermont's accomplishments, including: the inclusion of children with severe disabilities into local schools and classrooms; early intervention and family leadership initiatives that are national models; and innovative programs in the areas of employment, and community living options for individuals with developmental disabilities. Based upon the letters our office has received from across the country, it is clear that these small programs make substantial, positive differences in their states.

The bill we present today reflects the foundation of what Congress has supported over the past 36 years, combined with our best efforts to support individuals with the most severe disabilities, their families, and their communities into the next century. It represents the best of what we in Congress have the opportunity to do . . . to ensure that those who are among our most vulnerable citizens, are protected, supported, and encouraged to achieve their potential. My colleagues and I are proud to present it to you today and hope to see it enacted as soon as possible. ●

Mr. KENNEDY. Mr. President, today I join with my colleagues, Senator FRIST, Senator JEFFORDS, Senator MIKULSKI, Senator MURRAY, Senator DURBIN, and Senator COCHRAN to introduce the "Clinical Research Enhancement Act of 1999".

Our goal is to enhance support for clinical research, which is central to

biomedical research. Major advances in basic biological research are opening doors to new insights into all aspects of medicine. As a result, extraordinary opportunities exist for cutting-edge clinical research to bring breakthroughs in the laboratory to the bedside of the patient. Clinical research is essential for the advancement of scientific knowledge and the development of cures and treatments for disease. In addition, the results of clinical research are incorporated by industry and used to develop new drugs, vaccines, and health care products. These advances in turn strengthen the economy and create jobs.

Unfortunately, the number of physicians choosing careers in clinical research is in serious decline. Between 1994 and 1998, the number of physicians applying for first-time NIH grants decreased by 21%. Studies by the Institute of Medicine, the National Research Council, the National Academy of Sciences, and the National Institutes of Health have all highlighted the significant problems faced by clinical researchers, including lack of grant support, lack of training opportunities, and the heavy debt burden from medical school.

The legislation we are introducing today seeks to enhance clinical research by addressing these issues. Our bill will provide research support and training opportunities for clinical researchers at all stages of their careers, as well as the necessary infrastructure to conduct clinical research.

The bill establishes several research grant awards. The Mentored Patient-Oriented Research Career Development Awards will support clinical investigators in the early phases of their independent careers by providing salary and other support for a period of supervised study. The Mid-Career Investigator Awards in Patient-Oriented Research will provide support for mid-career clinicians, to give them time for clinical research and to act as mentors for beginning investigators.

To encourage the training of clinical investigators at various stages in their careers, the bill establishes several programs. The NIH will support intramural and extramural training programs for medical and dental students. For students who want to pursue an advanced degree in clinical research, the bill provides support for both students and institutions to create training programs. For post-graduate education, NIH will support continuing education in such research.

Our legislation also creates a clinical research tuition loan repayment program to encourage recruitment of new investigators. Student debt is a major barrier to clinical research. Young physicians graduate from medical school with an average debt of \$86,000. Because of the limited financial opportunities in clinical research to repay their large debts, many young physicians are under great pressure to choose more lucrative fields of medical practice. NIH

has acknowledged this problem, and has established an intramural loan repayment program to encourage the recruitment of clinical researchers to NIH. Our legislation expands the current program, so that researchers throughout the country will be eligible.

A solid infrastructure is essential to any research program. In clinical research, that infrastructure is provided, in part, by the general clinical research centers at academic health centers throughout the country. Our bill provides statutory authority for those clinical research centers.

In the past, support for these centers was once provided largely by academic health centers. However, academic health centers today are confronted with heavy competition from non-teaching institutions and are increasingly emphasizing patient care over research to minimize costs. In the face of these changes, clinical researchers have become much more dependent on NIH for infrastructure support.

I look forward to working with my colleagues to move this important legislation through Congress. Our bill is supported by over 70 biomedical associations and organizations. I commend the American Federation for Medical Research for its support of this legislation.

● Mr. FRIST. Mr. President, I rise to offer my support as a cosponsor of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1999, a bill to extend and improve our Nation's developmental disabilities programs which allow individuals with developmental disabilities, such as mental retardation and severe physical disabilities, to live more independent and productive lives.

As the Chairman of the Senate Subcommittee on Disability Policy during the 104th Congress, I introduced the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1996 which successfully extended this vital law. Through this experience, I became aware of the importance of the programs under this Act and how they work to improve the lives of individuals with developmental disabilities.

Before the DD Act was first signed in 1963, Americans who happened to be born with developmental disabilities often lived and died in institutions where many were subjected to unspeakable conditions, far worse than conditions found in any American prison. Over the last several decades, thanks in part to the programs included in the DD Act, we have learned how to help families to bring up their children with developmental disabilities in their family homes; we have learned how to teach children with developmental disabilities; we have learned how to make room for these citizens to live and work in the heart of our communities; and we have learned how to ensure safe living environments and dependable care for those

individuals with developmental disabilities who remain in residential facilities.

The bill introduced today will ensure that these activities will continue. This bill will update and increase the accountability and flexibility of these programs under the law. These programs include the university affiliated programs which educate students in developmental disabilities related fields and which conduct research and training on how to meet the needs of the disabled. The law also authorizes funding for State Developmental Disabilities Councils which advise governors and State agencies on how to use available and potential resources to meet the needs of individuals with developmental disabilities. To help protect the rights of the developmentally disabled, the law provides grants for Protection and Advocacy Systems to provide information and referral services and to investigate reported incidents of abuse and neglect of individuals with developmental disabilities.

I am pleased that Senator JEFFORDS has agreed to include a provision in this bill which I drafted to address the training of direct service personnel for individuals with developmental disabilities. The training of direct service personnel is a national challenge in both magnitude and complexity. The size of this workforce is over 400,000 persons with an estimated annual turnover rate of 50 percent. In addition, nearly half of these workers are part time, working nontraditional hours. To address this dilemma, I have drafted a provision to develop a training program to create, evaluate, and disseminate a multimedia curriculum for staff development of individuals who are direct support workers or who seek to become direct support workers. This program will help develop a training regime that will be both cost and time effective for providers of services for the developmentally disabled.

Mr. President, I am pleased to offer my support to the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1999, which will improve and strengthen an important law which provides support for individuals with developmental disabilities and their families and which will assist individuals with developmental disabilities to live independently and work in the community, out of institutions, with as little bureaucracy and government intrusion as possible. ●

● Mr. HARKIN. Mr. President. The Developmental Disabilities Act has been a cornerstone of federal registration for people with disabilities. I am pleased to be here today with Senator JEFFORDS, Senator KENNEDY, and other colleagues from the Health, Education, Labor, and Pensions Committee to introduce legislation that will reauthorize this important law.

The entities funded under the Act—The Developmental Disabilities Councils, University Affiliated Programs, and the Protection and Advocacy agen-

cies—have enabled us to move away from a service system dominated by large public institutions, and to establish services where families and individuals want them—in their own homes, communities, and neighborhoods. In fact, the Supreme Court cited the Developmental Disabilities Act in the recent Olmstead decision as one of several pieces of federal legislation that secure opportunities for people with disabilities to enjoy the benefits of community living.

This year's reauthorization is important for a number of reasons. First, we must continue our progress toward providing better community services for all people with disabilities. The Development Disabilities Act is instrumental in that work.

Second, we must ensure that people with developmental disabilities are free from abuse and neglect in all aspects of the service delivery system. This bill will help protect people with disabilities from abuse and neglect no matter where they live—inside an institution or in the community.

And, finally, we must do more to strengthen and support families as they provide care and support to family members with a disability. Family Support programs are one of the fastest growing services on the State level. State policy-makers are realizing that family caregivers are the true heroes of our long-term care system and they need help if they are going to keep their children at home. In this year's reauthorization of the Developmental Disabilities Act, we have included a Family Support program to help states strengthen and coordinate their support systems for family caregivers.

I commend the disability groups for all of their work to make this reauthorization possible. I thank my colleagues and their staff for their hard work to reauthorize this law into the next millennium. I applaud their commitment to people with developmental disabilities. ●

By Mrs. MURRAY (for herself, Mr. JEFFORDS, Mr. CONRAD, Mr. KERREY, Mr. DORGAN, Mr. BINGAMAN, and Mr. SARBANES):

S. 1810. A bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures; to the Committee on Veterans' Affairs.

DUTY TO ASSIST VETERANS LEGISLATION

● Mrs. MURRAY. Mr. President, I am introducing a bill today to make sure we treat America's veterans with the compassion they deserve. They have sacrificed so much of their personal lives for our country. And with this bill, I want to show them we appreciate their service, and we will be there when they need help.

When veterans need medical care, they file a claim for benefits with the Veterans Administration. It requires researching information over many years and from many different government organizations.

Traditionally, the Veterans Administration has helped veterans research and file their claims. That's the way it should be.

But a series of recent court decisions have changed that—and made it harder for veterans to file their claims. I want to set the record straight. The VA has a duty to assist veterans in filing their claims.

So today, I am introducing legislation to amend Title 38 of the United States Code to clarify and improve veterans claims and procedures.

My legislation clarifies that the Department of Veterans Affairs has a duty to assist veterans in preparing all of the facts pertinent to a claim for benefits. The VA has historically aided veterans in gathering information from the federal bureaucracy so they can file a claim.

Let's not forget—the claims process was set up to aid our veterans. It's important to all veterans, especially those with severe mental and physical disabilities.

Homeless veterans need help. Elderly veterans need help. And family members—who sacrifice to care for veterans—need help from the federal government.

Anyone who has ever dealt with a veterans claim for benefits knows this is a very difficult process. It can be frustrating for veterans who—even in the best of circumstances—may be forced to wait several years for a claim to be approved and granted. Veterans already pay a heavy cost for delayed benefits. They often face financial, family, and health problems, as they try to resolve their claims.

Yet, as we speak, the claims process at the VA is becoming even more difficult for America's veterans and their families.

Through a series of court decisions, the VA's historic duty to assist veterans has been set aside. The courts responsible for veterans claims have determined that it is now the individual veteran's responsibility to file a well-rounded claim before they can get assistance from the VA. The effect has been to place the burden on the individual veteran to gather information—service records, medical records, and other documentation—from the federal government in order to file a claim.

Mr. President, the courts have decided our veterans in need of assistance must go it alone. Homeless veterans suffering from Post Traumatic Stress Disorder must now prepare their claims without assistance from the government they sacrificed for. Veterans who are sick, mentally or physically disabled, indigent, or poorly educated now face new barriers to assistance they may be legally entitled to receive. Veterans without the financial resources, time or familiarity with the claims process system must navigate through the bureaucracy without federal assistance. That's not the way we should treat America's veterans.

Clearly, the courts have misinterpreted Congressional intent. The Veterans Judicial Review Act was signed into law during the 100th Congress with the following language,

It is the obligation of the Veterans Administration to assist a claimant in developing facts pertinent to his claim and to render a decision which grants him every benefit that can be supported in law while protecting the interests of the Government.

Somehow the courts interpreted that language differently. My objective in introducing legislation today is not to quarrel with the courts. I simply want to reassert congressional intent and reestablish the VA's duty to assist veterans. My legislation simply confirms the Congress believes it is important and appropriate for the federal government to assist veterans in preparing claims for benefits.

Mr. President, this legislation is widely supported among those who work on veterans benefits claims every day. Numerous veterans advocacy groups, including the Disabled American Veterans, strongly support my legislation. This bill has original cosponsors from both sides of the aisle. It is a bipartisan response to a real problem confronting America's veterans.

Let's do the right thing for America's veterans and particularly for those veterans who need the government's assistance the most.

I urge prompt Senate consideration and passage of this legislation.●

By Mr. KENNEDY (for himself, Mr. FRIST, Mr. JEFFORDS, Ms. MIKULSKI, Mrs. MURRAY, Mr. DURBIN, and Mr. COCHRAN):

S. 1813. A bill to expand the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE CLINICAL RESEARCH ENHANCEMENT ACT OF 1999

Mr. KENNEDY. Mr. President, today I join with my colleagues, Senator FRIST, Senator JEFFORDS, Senator MIKULSKI, Senator MURRAY, Senator DURBIN, and Senator COCHRAN to introduce the "Clinical Research Enhancement Act of 1999".

Our goal is to enhance support for clinical research, which is central to biomedical research. Major advances in basic biological research are opening doors to new insights into all aspects of medicine. As a result, extraordinary opportunities exist for cutting-edge clinical research to bring breakthroughs in the laboratory to the bedside of the patient. Clinical research is essential for the advancement of scientific knowledge and the development of cures and treatments for disease. In addition, the results of clinical research are incorporated by industry and used to develop new drugs, vaccines, and health care products. These advances in turn strengthen the economy and create jobs.

Unfortunately, the number of physicians choosing careers in clinical re-

search is in serious decline. Between 1994 and 1998, the number of physicians applying for first-time NIH grants decreased by 21 percent. Studies by the Institute of Medicine, the National Research Council, the National Academy of Sciences, and the National Institutes of Health have all highlighted the significant problems faced by clinical researchers, including lack of grant support, lack of training opportunities, and the heavy debt burden from medical school.

The legislation we are introducing today seeks to enhance clinical research by addressing these issues. Our bill will provide research support and training opportunities for clinical researchers at all stages of their careers, as well as the necessary infrastructure to conduct clinical research.

The bill establishes several research grant awards. The Mentored Patient-Oriented Research Career Development Awards will support clinical investigators in the early phases of their independent careers by providing salary and other support for a period of supervised study. The Mid-Career Investigator Awards in Patient-Oriented Research will provide support for mid-career clinicians, to give them time for clinical research and to act as mentors for beginning investigators.

To encourage the training of clinical investigators at various stages in their careers, the bill establishes several programs. The NIH will support intramural and extramural training programs for medical and dental students. For students who want to pursue an advanced degree in clinical research, the bill provides support for both students and institutions to create training programs. For post-graduate education, NIH will support continuing education in such research.

Our legislation also creates a clinical research tuition loan repayment program to encourage recruitment of new investigators. Student debt is a major barrier to clinical research. Young physicians graduate from medical school with an average debt of \$86,000. Because of the limited financial opportunities in clinical research to repay their large debts, many young physicians are under great pressure to choose more lucrative fields of medical practice. NIH has acknowledged this problem, and has established an intramural loan repayment program to encourage the recruitment of clinical researchers to NIH. Our legislation expands the current program, so that researchers throughout the country will be eligible.

A solid infrastructure is essential to any research program. In clinical research, that infrastructure is provided, in part, by the general clinical research centers at academic health centers throughout the country. Our bill provides statutory authority for those clinical research centers.

In the past, support for these centers was once provided largely by academic health centers. However, academic

health centers today are confronted with heavy competition from non-teaching institutions and are increasingly emphasizing patient care over research to minimize costs. In the face of these changes, clinical researchers have become much more dependent on NIH for infrastructure support.

I look forward to working with my colleagues to move this important legislation through Congress. Our bill is supported by over 70 biomedical associations and organizations. I commend the American Federation for Medical Research for its support of this legislation. Mr. President, I ask unanimous consent that a copy of the bill, the American Federation for Medical Research's letter of support, and a list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1813

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

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Clinical Research Enhancement Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

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

(1) Clinical research is critical to the advancement of scientific knowledge and to the development of cures and improved treatment for disease.

(2) Tremendous advances in biology are opening doors to new insights into human physiology, pathophysiology and disease, creating extraordinary opportunities for clinical research.

(3) Clinical research includes translational research which is an integral part of the research process leading to general human applications. It is the bridge between the laboratory and new methods of diagnosis, treatment, and prevention and is thus essential to progress against cancer and other diseases.

(4) The United States will spend more than \$1,200,000,000,000 on health care in 1999, but the Federal budget for health research at the National Institutes of Health was \$15,600,000,000 only 1 percent of that total.

(5) Studies at the Institute of Medicine, the National Research Council, and the National Academy of Sciences have all addressed the current problems in clinical research.

(6) The Director of the National Institutes of Health has recognized the current problems in clinical research and appointed a special panel, which recommended expanded support for existing National Institutes of Health clinical research programs and the creation of new initiatives to recruit and retain clinical investigators.

(7) The current level of training and support for health professionals in clinical research is fragmented, undervalued, and underfunded.

(8) Young investigators are not only apprentices for future positions but a crucial source of energy, enthusiasm, and ideas in the day-to-day research that constitutes the scientific enterprise. Serious questions about the future of life-science research are raised by the following:

(A) The number of young investigators applying for grants dropped by 54 percent between 1985 and 1993.

(B) The number of physicians applying for first-time National Institutes of Health research project grants fell from 1226 in 1994 to 963 in 1998, a 21 percent reduction.

(C) Newly independent life-scientists are expected to raise funds to support their new research programs and a substantial proportion of their own salaries.

(9) The following have been cited as reasons for the decline in the number of active clinical researchers, and those choosing this career path:

(A) A medical school graduate incurs an average debt of \$85,619, as reported in the Medical School Graduation Questionnaire by the Association of American Medical Colleges (AAMC).

(B) The prolonged period of clinical training required increases the accumulated debt burden.

(C) The decreasing number of mentors and role models.

(D) The perceived instability of funding from the National Institutes of Health and other Federal agencies.

(E) The almost complete absence of clinical research training in the curriculum of training grant awardees.

(F) Academic Medical Centers are experiencing difficulties in maintaining a proper environment for research in a highly competitive health care marketplace, which are compounded by the decreased willingness of third party payers to cover health care costs for patients engaged in research studies and research procedures.

(10) In 1960, general clinical research centers were established under the Office of the Director of the National Institutes of Health with an initial appropriation of \$3,000,000.

(11) Appropriations for general clinical research centers in fiscal year 1999 equaled \$200,500,000.

Since the late 1960s, spending for general clinical research centers has declined from approximately 3 percent to 1 percent of the National Institutes of Health budget.

(12) In fiscal year 1999, there were 77 general clinical research centers in operation, supplying patients in the areas in which such centers operate with access to the most modern clinical research and clinical research facilities and technologies.

(b) PURPOSE.—It is the purpose of this Act to provide additional support for and to expand clinical research programs.

SEC. 3. INCREASING THE INVOLVEMENT OF THE NATIONAL INSTITUTES OF HEALTH IN CLINICAL RESEARCH.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

“SEC. 409C. CLINICAL RESEARCH.

“(a) IN GENERAL.—The Director of National Institutes of Health shall undertake activities to support and expand the involvement of the National Institutes of Health in clinical research.

“(b) REQUIREMENTS.—In carrying out subsection (a), the Director of National Institutes of Health shall—

“(1) consider the recommendations of the Division of Research Grants Clinical Research Study Group and other recommendations for enhancing clinical research; and

“(2) establish intramural and extramural clinical research fellowship programs directed specifically at medical and dental students and a continuing education clinical research training program at the National Institutes of Health.

“(c) SUPPORT FOR THE DIVERSE NEEDS OF CLINICAL RESEARCH.—The Director of National Institutes of Health, in cooperation with the Directors of the Institutes, Centers, and Divisions of the National Institutes of Health, shall support and expand the resources available for the diverse needs of the clinical research community, including inpatient, outpatient, and critical care clinical research.

“(d) PEER REVIEW.—The Director of National Institutes of Health shall establish peer review mechanisms to evaluate applications for the awards and fellowships provided for in subsection (b)(2) and section 409D. Such review mechanisms shall include individuals who are exceptionally qualified to appraise the merits of potential clinical research training and research grant proposals.”

SEC. 4. GENERAL CLINICAL RESEARCH CENTERS.

(a) GRANTS.—Subpart 1 of part B of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

“SEC. 481C. GENERAL CLINICAL RESEARCH CENTERS.

“(a) GRANTS.—The Director of the National Center for Research Resources shall award grants for the establishment of general clinical research centers to provide the infrastructure for clinical research including clinical research training and career enhancement. Such centers shall support clinical studies and career development in all settings of the hospital or academic medical center involved.

“(b) ACTIVITIES.—In carrying out subsection (a), the Director of National Institutes of Health shall expand the activities of the general clinical research centers through the increased use of telecommunications and telemedicine initiatives.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year.”

(b) ENHANCEMENT AWARDS.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.), as amended by section 3, is further amended by adding at the end the following:

“SEC. 409D. ENHANCEMENT AWARDS.

“(a) MENTORED PATIENT-ORIENTED RESEARCH CAREER DEVELOPMENT AWARDS.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Director of the National Institutes of Health shall make grants (to be referred to as ‘Mentored Patient-Oriented Research Career Development Awards’) to support individual careers in clinical research at general clinical research centers or at other institutions that have the infrastructure and resources deemed appropriate for conducting patient-oriented clinical research.

“(B) USE.—Grants under subparagraph (A) shall be used to support clinical investigators in the early phases of their independent careers by providing salary and such other support for a period of supervised study.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each fiscal year.

“(b) MID-CAREER INVESTIGATOR AWARDS IN PATIENT-ORIENTED RESEARCH.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Director of the National Institutes of Health shall make grants (to be referred to as ‘Mid-Career Investigator Awards in Patient-Oriented Research’) to support individual clinical research projects at general clinical research centers or at other institutions that have the infrastructure and resources deemed appropriate for conducting patient-oriented clinical research.

“(B) USE.—Grants under subparagraph (A) shall be used to provide support for mid-career level clinicians to allow such clinicians

to devote time to clinical research and to act as mentors for beginning clinical investigators.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director requires.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each fiscal year.

“(c) GRADUATE TRAINING IN CLINICAL INVESTIGATION AWARD.—

“(1) IN GENERAL.—The Director of the National Institutes of Health shall make grants (to be referred to as ‘Graduate Training in Clinical Investigation Awards’) to support individuals pursuing master’s or doctoral degrees in clinical investigation.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

“(3) LIMITATIONS.—Grants under this subsection shall be for terms of 2 years or more and shall provide stipend, tuition, and institutional support for individual advanced degree programs in clinical investigation.

“(4) DEFINITION.—As used in this subsection, the term ‘advanced degree programs in clinical investigation’ means programs that award a master’s or Ph.D. degree in clinical investigation after 2 or more years of training in areas such as the following:

“(A) Analytical methods, biostatistics, and study design.

“(B) Principles of clinical pharmacology and pharmacokinetics.

“(C) Clinical epidemiology.

“(D) Computer data management and medical informatics.

“(E) Ethical and regulatory issues.

“(F) Biomedical writing.

“(5) AUTHORIZATION OF APPROPRIATIONS.—

For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each fiscal year.

“(d) CLINICAL RESEARCH CURRICULUM AWARDS.—

“(1) IN GENERAL.—The Director of the National Institutes of Health shall make grants (to be referred to as ‘Clinical Research Curriculum Awards’) to institutions for the development and support of programs of core curricula for training clinical investigators, including medical students. Such core curricula may include training in areas such as the following:

“(A) Analytical methods, biostatistics, and study design.

“(B) Principles of clinical pharmacology and pharmacokinetics.

“(C) Clinical epidemiology.

“(D) Computer data management and medical informatics.

“(E) Ethical and regulatory issues.

“(F) Biomedical writing.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual institution or a consortium of institutions at such time as the Director may require. An institution may submit only 1 such application.

“(3) LIMITATIONS.—Grants under this subsection shall be for terms of up to 5 years and may be renewable.

“(4) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each fiscal year.”

SEC. 5. LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS.

Part G of title IV of the Public Health Service Act is amended by inserting after section 487E (42 U.S.C. 288-5) the following:

“SEC. 487F. LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS.

“(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, shall establish a program to enter into contracts with qualified health professionals under which such health professionals agree to conduct clinical research, in consideration of the Federal Government agreeing to repay, for each year of service conducting such research, not more than \$35,000 of the principal and interest of the educational loans of such health professionals.

“(b) APPLICATION OF PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall, except as inconsistent with subsection (a) of this section, apply to the program established under subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

“(c) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year.

“(2) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were made available.”.

SEC. 6. DEFINITION.

Section 409 of the Public Health Service Act (42 U.S.C. 284d) is amended—

(1) by striking “For purposes” and inserting “(a) HEALTH SERVICE RESEARCH.—For purposes”; and

(2) by adding at the end the following:

“(b) CLINICAL RESEARCH.—As used in this title, the term ‘clinical research’ means patient oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations involving material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology or disease, or epidemiologic or behavioral studies, outcomes research or health services research, or developing new technologies, therapeutic interventions, or clinical trials.”.

SEC. 7. OVERSIGHT BY GENERAL ACCOUNTING OFFICE.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a reporting describing the extent to which the National Institutes of Health has complied with the amendments made by this Act.

AMERICAN FEDERATION
FOR MEDICAL RESEARCH,
Washington, DC, October 27, 1999

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I write to thank you for your continued support of the need to enhance clinical research programs at the National Institutes of Health by reintroducing the Clinical Research Enhancement Act. The American Federation for Medical Research, a national organization of over 5,000 physician-scientists who are involved in basic, translational, clinical and health services research, is committed to the improvement of human health through the translation of basic scientific discoveries to treatments and cures for disease.

For many years, academic medical centers have been able to provide institutional sup-

port to young physician-scientists who are interested in pursuing careers in biomedical research. However, as the health care marketplace has become increasingly competitive, academic centers have all but eliminated internal subsidies for clinical research or the training of clinical investigators. In fact, the Association of American Medical Colleges has estimated that these institutions have lost approximately \$800 million in annual “purchasing power” for research and research training within their institutions.

Unfortunately, young investigators and medical students have suffered as a result of the loss of these funds from the system. The AMA has reported that the number of medical school graduates indicating an interest in a research career has fallen steadily in the 1990's. In addition, the number of first time physician applicants to the National Institutes of Health for research support has fallen by at least 20 percent between 1994 and 1997. It is important that these downward trends are stopped. These lost physician scientists represent the next generation who will move basic science discoveries to patients. We thank you for introducing the Clinical Research Enhancement Act, an extremely modest investment in a much-needed program to reinvigorate our nation's clinical research capabilities.

There is a strong consensus among the 70 scientific and consumer organizations that have endorsed this legislation that Congress must stop the deterioration of the U.S. clinical research capacity. In addition, we must assure that the American people and the American economy benefit from the translation of basic science breakthroughs to improved clinical care and new medical products. The American Federation for Medical Research is pleased to have the opportunity to express its strong support for this important piece of legislation.

Sincerely,

WILLIAM LOWE, M.D.,
President.

SUPPORTERS OF THE SENATE CLINICAL
RESEARCH ENHANCEMENT ACT

Academy of Radiology Research, Alliance for Aging Research, Alzheimer's Association, Ambulatory Pediatric Association, American Academy of Child and Adolescent Psychiatry, American Academy of Neurology, American Academy of Pediatrics, American Academy of Physical Medicine and Rehabilitation, American Academy of Optometry, American Academy of Orthopedic Surgeons, American Academy of Otolaryngology-Head and Neck Surgery, American Academy of Pediatrics, American Association for Cancer Research, American Association for Dental Research, American Association for the Study of Liver Disease, American Association of Dental Schools, American College of Cardiology, American College of Neuropsychopharmacology, American College of Physicians—American Society of Internal Medicine, American College of Preventive Medicine.

American Federation for Medical Research, American Heart Association, American Kidney Fund, American Pediatric Society, American Podiatric Medical Association, American Professors of Dermatology, American Society for Clinical Pharmacology and Therapeutics, American Society for Clinical Nutrition, American Society for Investigative Pathology, American Society for Reproductive Medicine, American Society for Addiction Medicine, American Society for Hematology, American Urological Association, Arthritis Foundation, Association for Research in Vision and Ophthalmology, Association of Academic Health Centers, Association of American Cancer Institutes, As-

sociation of Departments of Family Medicine, Association of Medical Schools Pediatric Department Chairs, Association of Pathology Chairs.

Association of University Professors of Ophthalmology, Citizens for Public Action, Coalition for American Trauma Care, Coalition of Patient Advocates for Skin Disease Research, College on Problems of Drug Dependence, Cooley's Anemia Foundation, Cystic Fibrosis Foundation, East Carolina University School of Medicine, Epilepsy Foundation, Federation of Behavioral, Psychological & Cognitive Sciences, Friends of the National Institute of Dental Research, General Clinical Research Centers Program Directors Association, Jeffrey Modell Foundation, Medical Dermatology Society, National Alopecia Areata Foundation.

National Caucus of Basic Biomedical Science Chairs, National Health Council, National Hemophilia Foundation, National Organization for Rare Disorders, National Osteoporosis Foundation, New York University School of Medicine, Research! America, Research Society on Alcoholism, RESOLVE, The National Infertility Association, St. Jude Children's Research Hospital, Scleroderma Foundation—Central New Jersey Chapter, Sjogren's Syndrome Foundation, Society for Investigative Dermatology, Society for Maternal—Fetal Medicine, Society for Pediatric Research, Society for Women's Health Research, University of Washington—Department of Ophthalmology.

By Mr. SMITH of Oregon (for himself, Mr. GRAHAM, Mr. CRAIG, Mr. CLELAND, Mr. MCCONNELL, Mr. COVERDELL, Mr. MACK, Mr. COCHRAN, Mr. HELMS, Mr. GRAMS, Mr. CRAPO, Mr. BUNNING, and Mr. VOINOVICH):

S. 1814. A bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of non-immigrant agricultural workers, and for other purposes; to the Committee on the Judiciary.

AGRICULTURAL JOB OPPORTUNITY BENEFITS
AND SECURITY ACT OF 1999 (AGJOBS)

Mr. SMITH of Oregon. Mr. President, I rise today with Senators GRAHAM, CRAIG, CLELAND, MCCONNELL, COVERDELL, MACK, COCHRAN, HELMS, GRAMS, CRAPO, BUNNING, and VOINOVICH to introduce the Agricultural Job Opportunity Benefits and Security Act of 1999.

Our bill will reform the agricultural labor market, establish and maintain immigration control, provide a legal workforce for our farmers, and restore the dignity to the lives of thousands of farmworkers who have helped make the U.S. economy the powerhouse that it is today. Indeed, these people, the farmers and farm workers, are much of the reason you and I are able to go home to a table full of food.

In all of my legislative career—7 years now—I have never found an issue that as quickly moves off the merits and on to name-calling than the issue of immigration. I was amazed and astounded at the things that were said to me and my colleague from Oregon,

Senator WYDEN, as we pursued this issue with the very best of motives last year. Those things are said still. But I challenge anyone who wants to see a better life, I challenge them to defend the current system we have in this country for agricultural workers and farmers. We take for granted when we go to the grocery store all the abundance that there greets us, but we seldom take the time to think of those who helped produce it and bring it to the market.

There is a shameful story to be told in this country when it comes to agricultural workers. What I am offering with all of my colleagues—my bipartisan colleagues—is a good-faith effort to make a bad situation much better and to get this country off an illegal system and on to a legal system so farmers no longer need be felons and farm workers no longer need to live in our shadows as fugitives.

A few years ago, the GAO issued a report. They said there is no worker shortage in agriculture. They said there is no worker shortage because we have all these illegal aliens here. As a consequence of depending on an illegal system, these people who come—many from south of the border—are subject to the most inhumane treatment by coyotes in human form. These are people who prey upon their fears. These are organizations—even some who profess to be advocates—that hold them up for money, subject them to physical abuse and even rape, and do so in the name of providing labor. They are in business as long as we keep this shameful system illegal.

How many people are we talking about? By some estimates, there are 1.6 million illegal workers in agriculture in this country. These are the people who are so often victimized. They will always be victimized as long as we keep them illegal.

Senator GRAHAM, Senator CRAIG and I have tried to devise a way to help workers and farmers in three distinctive ways in the bills we have introduced today. First, we provide an opportunity for an adjustment of status so when this bill becomes the law, any worker who can demonstrate he or she has been in this country working in agriculture for some period of time in the previous year can apply for an adjusted status which will give them immediate legal rights and put them on the course over the next 5 to 7 years to work in agriculture and earn permanent legal status, a green card. Their change of status from illegal to legal actually occurs immediately.

It was my experience as a person in business that those who got amnesty immediately got a voice. As soon as they had a legal right to be here, their conditions began to improve. The people who will argue against this bill somehow benefit—even profit—by keeping these people illegal and by being their voice. I don't think that serves their interests based on what I saw in the private sector in the middle 1980s.

What we are proposing is not amnesty. Some have said this is indentured servitude. The indentured servitude is the status quo. The indentured servitude are those who simply say keep them illegal, keep them down, make sure they don't have the benefits that other workers in America do, and we will somehow suggest we are on their side. The way out of indentured servitude is to give them a legal path to follow. That is what Senator GRAHAM, Senator CRAIG and I are doing.

The second part of our bill is to actually reform the H-2A program. To demonstrate that, I have an application I filled out to become a Senator. It is two pages. I filled it out fairly quickly and persuaded 51-plus percent of the people in Oregon to elect me to the Senate.

If I am a farmer and I need help, this is the manual that explains how to fill out the application for one worker: It is hundreds of pages long. The manual is unnumbered and covers a multitude of agencies in the Federal Government, all of which have to sign off on every single foreign migrant worker. I am simply saying this program, H-2A, as we have it now, is a manifest failure. It is a manifest failure because very few people utilize it. All of the benefits promised by the current H-2A program go unfulfilled because everyone evades the law because the law doesn't work.

What Senator GRAHAM, Senator CRAIG and I are proposing to do is to create a national registry that does not even kick in until all domestic workers have right of first refusal. What it does is connect workplaces and employers with employees who want to work on farms. It will provide an opportunity even for organized labor to go to one place, find out who wants to be there, who wants the job, and even assist them in organizing if they choose to do so.

I am not here to oppose organized labor. I am trying to help them, to say there is a legal way to do this that will better serve the interests of real people, and not the imaginary, hoped-for things that some are claiming are possible, which are not possible.

Third, Senator GRAHAM, Senator CRAIG and I are providing enhanced worker protections. Specifically, in this program, workers will get no less than the minimum wage, the prevailing wage, or the adverse effect wage rate which is 5 percent above the prevailing rate. This is our attempt to say that these people are due the basics of what American citizens have. In addition to that, they will have transportation benefits, housing benefits, and they will now be covered under the Migrant Seasonal Agricultural Protection Act in ways they were not before.

All of this is done because we are here to help. We reach out to all who are in this disadvantaged situation who want to be legal, who want a future, who want to pursue the American dream, and who want to do farm work.

Some have suggested we are trying to flood this country with more illegal

problems. I say on the floor of the Senate, I don't want one additional worker, but I want those who are here to have a legal way to be here. This isn't as if they are coming; they are already here. It is a shameful situation when we can do nothing for them under law.

As this bill goes forward, lots of name-calling will go on, lots of mischaracterizations will be made. However, I ask my colleagues, I ask anyone interested in this issue, to read the bill this time and then tell the truth about it. Do not make it up because we have a problem. It is a human problem. It affects farm workers and farmers and we owe them something better than they have under U.S. law today.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1814

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1999".

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—ADJUSTMENT TO LEGAL STATUS

Sec. 101. Agricultural workers.

TITLE II—AGRICULTURAL WORKER REGISTRIES

Sec. 201. Agricultural worker registries.

TITLE III—H-2A REFORM

Sec. 301. Employer applications and assurances.

Sec. 302. Search of registry.

Sec. 303. Issuance of visas and admission of aliens.

Sec. 304. Employment requirements.

Sec. 305. Program for the admission of temporary H-2A workers.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Enhanced worker protections and labor standards enforcement.

Sec. 402. Bilateral commissions.

Sec. 403. Regulations.

Sec. 404. Determination and use of user fees.

Sec. 405. Funding for startup costs.

Sec. 406. Report to Congress.

Sec. 407. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADVERSE EFFECT WAGE RATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5 percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture, provided no adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(B) EXCEPTION.—If the prevailing rate of pay for an activity is a piece rate, task rate or group rate, and the average hourly earnings of an employer's workers employed in that activity, taken as a group, are less than the prior year's average hourly earnings of field and livestock workers in the State (or region that includes the State), as determined by the Secretary of Agriculture, the term "adverse effect wage rate" means the prevailing piece rate, task rate or group rate for the activity plus such an amount as is necessary to increase the average hourly earnings of the employer's workers employed in the activity, taken as a group, by 5 percent, or to the prior's years average hourly earnings for field and livestock workers for the State (or region that includes the State) determined by the Secretary of Agriculture, whichever is less.

(2) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agriculture under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or as agricultural labor under section 3121(g) of the Internal Revenue Code of 1986. For purposes of this paragraph, agricultural employment in the United States includes, but is not limited to, employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

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

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

(5) H-2A EMPLOYER.—The term "H-2A employer" means an employer who seeks to hire one or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(6) H-2A WORKER.—The term "H-2A worker" means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(7) JOB OPPORTUNITY.—The term "job opportunity" means a specific period of employment provided by an employer to a worker in one or more agricultural activities.

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

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

(10) REGISTRY.—The term "registry" means an agricultural worker registry established under section 201(a).

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or section 218 of the Immigration and Nationality Act, as in effect on the effective date of this Act, or a nonimmigrant agricultural worker whose status was adjusted under section 101(a).

(13) WORK DAY.—The term "work day" means any day in which the individual is employed one or more hours in agriculture.

TITLE I—ADJUSTMENT TO LEGAL STATUS

SEC. 101. AGRICULTURAL WORKERS.

(a) NONIMMIGRANT STATUS.—

(1) IN GENERAL.—The Attorney General shall adjust the status of an alien agricultural worker who qualifies under this subsection to that of an alien lawfully admitted for nonimmigrant status under section 101(a)(15) of the Immigration and Nationality Act if the Attorney General determines that the following requirements are satisfied with respect to the alien:

(A) PERFORMANCE OF AGRICULTURAL EMPLOYMENT IN THE UNITED STATES.—The alien must establish that the alien has performed agricultural employment in the United States for at least 880 hours or 150 work days, whichever is lesser, during the 12-month period prior to October 27, 1999.

(B) APPLICATION PERIOD.—The alien must apply for such adjustment not later than 12 months after the effective date of this Act.

(C) ADMISSIBILITY.—

(i) IN GENERAL.—The alien must establish that the alien is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act, except as otherwise provided under subsection (d).

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

(2) PERIOD OF VALIDITY OF NONIMMIGRANT STATUS.—

(A) IN GENERAL.—The status granted in paragraph (1) shall be valid for a period of not to exceed 7 consecutive calendar years, except that the alien may not be present in the United States for more than an aggregate of 300 days in any calendar year.

(B) EXCEPTION.—The 300-day-per-year limitation in subparagraph (A) shall not apply to any period of validity of the status of any alien who—

(i) has established a permanent residence in the United States and has a minor child who was born in the United States prior to the date of enactment of this Act who resides in the alien's household; and

(ii) performs agricultural employment for not less than 240 days in a calendar year.

(3) AUTHORIZED TRAVEL.—During the period an alien is in lawful nonimmigrant status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad).

(4) AUTHORIZED EMPLOYMENT.—During the period an alien is in lawful nonimmigrant status granted under this subsection, the alien shall be granted authorization to engage in the performance only of agricultural employment in the United States and shall be provided an "employment authorized" endorsement or other appropriate work permit, only for the performance of such employment. A nonimmigrant alien under this subsection may perform agricultural employment anywhere in the United States.

(5) TERMINATION OF NONIMMIGRANT STATUS.—Except as otherwise provided in paragraph (2), the Attorney General shall terminate the status, and bring proceedings under section 240 of the Immigration and Nationality Act to remove, any nonimmigrant alien under this subsection who failed during 3 prior calendar years to perform 1,040 hours or 180 work days, whichever is lesser, of agricultural services in any single calendar year.

(6) RECORD OF EMPLOYMENT.—Each employer of a nonimmigrant agricultural work-

er whose status is adjusted under this subsection shall—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Immigration and Naturalization Service.

(b) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Attorney General shall adjust the status of any alien provided lawful nonimmigrant status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Attorney General determines that the following requirements are satisfied:

(A) QUALIFYING YEARS.—The alien has performed a minimum period of agricultural employment in the United States in each of 5 calendar years during the period of validity of the alien's adjustment to nonimmigrant status pursuant to subsection (a). Qualifying years under this subparagraph may include nonconsecutive years.

(B) MINIMUM PERIODS OF AGRICULTURAL EMPLOYMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the minimum period of agricultural employment in any calendar year is 1,040 hours or 180 work days, whichever is lesser.

(ii) EXCEPTION.—An alien described in subsection (a)(2)(B) who remains in the United States for more than 300 days in a calendar year may only be credited with satisfaction of the minimum period of agricultural employment requirement for that year if the alien performed agricultural employment in the United States for at least 240 work days that year.

(C) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 6 months after completing the fifth year of qualifying employment in the United States.

(2) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Attorney General may deny adjustment to nonimmigrant status and provide for termination of the nonimmigrant status granted such alien under subsection (a) if—

(A) the Attorney General finds by a preponderance of the evidence that the adjustment to nonimmigrant status was the result of fraud or willful misrepresentation as set out in section 212(a)(6)(C)(i), or

(B) the alien commits an act that (i) makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act, except as provided under subsection (c)(2), or (ii) is convicted of a felony or 3 or more misdemeanors committed in the United States.

(3) TREATMENT OF ALIENS DEMONSTRATING PRIMA FACIE CASE FOR ADJUSTMENT.—Any alien who demonstrates a prima facie case of eligibility for adjustment under this subsection in accordance with regulations promulgated by the Attorney General, shall be considered a temporary resident alien and, pending adjudication of an application for permanent resident status under this subsection—

(A) may remain in the United States and shall be granted authorization to engage in any employment in the United States; and

(B) shall become eligible for any assistance or benefit to which a person granted lawful permanent resident status would be eligible on the date of enactment of this Act.

(4) GROUNDS FOR REMOVAL.—Any nonimmigrant alien under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in paragraph (1)(C) is deportable and may be removed.

(5) NUMERICAL LIMITATION.—In any fiscal year not more than 20 percent of the number

of aliens obtaining nonimmigrant status under subsection (a) may be granted adjustment of status under this subsection. In granting such adjustment, aliens having the greater number of work hours shall be accorded priority. Any temporary resident alien under paragraph (3) who does not receive adjustment of status under this subsection in a fiscal year by reason of the limitation in this paragraph may continue to work in any employment, and shall be credited with any additional hours of agricultural employment performed for purposes of being accorded priority for adjustment of status.

(C) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that—

(i) applications for adjustment of status under subsection (a) may be filed—

(I) with the Attorney General; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General; and

(ii) applications for adjustment of status under subsection (b) shall be filed directly with the Attorney General.

(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a) at an appropriate consular office outside the United States. The Attorney General shall prescribe regulations setting forth procedures for notification of immigration officials by the alien before departing the United States.

(C) TRAVEL DOCUMENTATION.—The Attorney General shall provide each alien whose status is adjusted under this section with a counterfeit-resistant document of authorization to enter or reenter the United States.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under subsection (a), the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers; and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245 of the Immigration and Nationality Act, Public Law 89-732, or Public Law 95-145.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations. The Attorney General shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours (as required under subsection (a)(1)(A)).

(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by qualified designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, or the information provided to the applicant by a person designated under paragraph (2)(B), for any purpose other than to make a determination on the application, including a determination under subsection (b)(3), or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

(B) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than \$10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Whoever—

(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(ii) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act.

(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's admissibility under subsection (a)(1)(D), the following provisions of section 212(a) of the

Immigration and Nationality Act shall not apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5) and (7)(A) of section 212(a) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraph (2) (A) and (B) (relating to criminals).

(II) Paragraph (4) (relating to aliens likely to become public charges).

(III) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana.

(IV) Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof.

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(4) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(e) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be removed, and

(B) shall be granted authorization to engage in agricultural employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed, and

(B) shall be granted authorization to engage in agricultural employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(3) PROHIBITION.—No application fees collected by the Service pursuant to this subsection may be used by the Service to offset the costs of the agricultural worker adjustment program under this title until the Service implements the program consistent with the statutory mandate as follows:

(A) During the application period described in subsection (a)(1)(A) the Service may grant nonimmigrant admission to the United States, work authorization, and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at

a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(B) During the application period described in subsection (a)(1)(A) any alien who has filed an application for adjustment of status within the United States as provided in subsection (b)(1)(A) is subject to paragraph (2) of this subsection.

(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for agriculture worker status is credible.

(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of removal under section 106.

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(g) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

TITLE II—AGRICULTURAL WORKER REGISTRIES

SEC. 201. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of workers described in paragraph (2) who seek agricultural employment and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities and have the right of first refusal for the agricultural jobs available through the registry; and

(B) to provide timely referral of such workers to agricultural job opportunities in the United States.

(2) COVERED WORKERS.—The workers covered by paragraph (1) are—

(A) eligible United States workers; and

(B) eligible nonimmigrant agricultural workers whose status was adjusted under section 101(a).

(3) GEOGRAPHIC COVERAGE.—

(A) SINGLE STATE.—Each registry established under paragraph (1) shall include the job opportunities in a single State, except that, in the case of New England States, two or more such States may be represented by a single registry in lieu of multiple registries.

(B) REQUESTS FOR INCLUSION.—Each State having any group of agricultural producers seeking to utilize the registry shall be represented by a registry, except that, in the case of a New England State, the State shall be represented by the registry covering the group of States of which the State is a part.

(4) COMPUTER DATABASE.—The Secretary of Labor may establish the registries as part of the computer databases known as “America’s Job Bank” and “America’s Talent Bank”.

(5) RELATION TO PROCESS FOR IMPORTING H-2A WORKERS.—Notwithstanding section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), no petition to import an alien as an H-2A worker (as defined in section 218(i)(2) of that Act) may be approved by the Attorney General unless the H-2A employer—

(A) has applied to the Secretary to conduct a search of the registry of the State in which the job opportunities for which H-2A workers are sought are located; and

(B) has received a report described in section 303(a)(1).

(b) REGISTRATION.—

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

(A) the name and address of the individual;

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

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

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

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

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

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

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

(3) UNITED STATES WORKERS.—United States workers shall have preference in referral by the registry, and may be referred to any job opportunity nationwide for which they are qualified and make a commitment to be available at the time and place needed.

(4) ADJUSTED NONIMMIGRANTS.—Adjusted nonimmigrant aliens who apply to be included in a registry may only be referred to job opportunities for which they are qualified within the State covered by the registry or within States contiguous to that State.

(5) SANCTIONS FOR NONCOMPLIANCE.—Adjusted nonimmigrant aliens who elect to be listed on the registry and who fail to report to a registry job opportunity for which they had made an affirmative commitment and been referred will be removed from the registry for a period of 6 months for the first

such failure and for a period of 1 year for each succeeding failure.

(6) USE OF REGISTRY.—Any United States agricultural employer may use the registry.

(7) DISCRETIONARY USE FOR NEW HIRES.—An agricultural employer may require prospective employees to register with a registry as a means of assuring that its workers are eligible to be employed in the United States.

(8) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred.

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

(10) VOLUNTARY REMOVAL.—A registered worker may request that the worker’s name be removed from a registry.

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

(12) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (9), (10), or (11) may apply to the Secretary for reinstatement to such registry at any time.

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

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking agricultural job opportunities to register. The Secretary of Labor shall ensure that the information about the registry is made available to eligible workers through all appropriate means, including appropriate State agencies, groups representing farm workers, and nongovernmental organizations, and shall ensure that the registry is accessible to growers and farm workers.

TITLE III—H-2A REFORM

SEC. 301. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 28 days prior to the date on which an H-2A employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall, before petitioning for the admission of such a worker, apply to the Secretary for the referral of a United States worker or nonimmigrant agricultural worker whose status was adjusted under section 101(a) through a search of the appropriate registry, in accordance with section 302. Such application shall—

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

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

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

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

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

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

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

(H) be accompanied by the payment of a registry user fee determined under section 404(b)(1)(A) for each job opportunity indicated under subparagraph (C).

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

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

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

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer makes a material amendment to an application on a date which is later than 28 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section 302(b) by the number of days by which the filing of the amended application is later than 28 days before the date on which the employer desires to employ workers.

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

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

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

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

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

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

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section 304 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment, and in no case less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair

Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), or the applicable State minimum wage.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will not refuse to employ qualified individuals referred under section 302, and will terminate qualified individuals employed pursuant to this Act only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

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

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

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

(7) ASSURANCE OF ADVERTISING OF JOB OPPORTUNITIES.—The employer shall assure that not later than 14 days after submitting an application to a registry for workers under subsection (a) the employer will advertise the availability of the job opportunities for which the employer is seeking workers from the registry in a publication in the local labor market that is likely to be patronized by potential farmworkers, if any, and refer interested workers to register with the registry.

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

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

(10) ASSURANCE OF PAYMENT OF ALIEN EMPLOYMENT USER FEE.—The employer shall assure that if the employer receives a notice of insufficient workers under section 302(c), such employer shall promptly pay the alien employment user fee determined under section 404(b)(1)(B) for each job opportunity to

be filled by an eligible alien as required under such section.

(d) WITHDRAWAL OF APPLICATIONS.—

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

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

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

(e) REVIEW OF APPLICATION.—

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

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section 305(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

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

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

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

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if—

(A) the employer has been determined to be ineligible to employ workers under section 401(b); or

(B) the employer during the previous two-year period employed H-2A workers or registered workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the assurances made with respect to the employment of United States workers or nonimmigrant workers.

No employer may have applications under this section rejected for more than 3 years for any violation described in this paragraph.

SEC. 302. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section 301(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered United States workers and adjusted aliens with the qualifications requested by the employer.

The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will make the affirmative commitment to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

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

(c) **ACCEPTANCE OF REFERRALS.**—H-2A employers shall accept all qualified United States worker referrals who make a commitment to report to work at the time and place needed and to complete the full period of employment offered, and those adjusted non-immigrants on the registry of the State in which the intended employment is located, and the immediately contiguous States. An employer shall not be required to accept more referrals than the number of job opportunities for which the employer applied to the registry.

(d) **NOTICE OF INSUFFICIENT WORKERS.**—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section 301(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and shall promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

(e) **USER FEE FOR CERTIFICATION TO EMPLOY ALIEN WORKERS.**—With respect to each job opportunity for which a notice of insufficient workers is made, the Secretary shall require the payment of an alien employment user fee determined under section 404(b)(1)(B).

SEC. 303. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) **IN GENERAL.**—

(1) **NUMBER OF ADMISSIONS.**—Subject to paragraph (3), the Secretary of State shall promptly issue visas to, and the Attorney General shall admit, as nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section 302(c);

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

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

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

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

(b) **DIRECT APPLICATION UPON FAILURE TO ACT.**—

(1) **APPLICATION TO THE SECRETARY OF STATE.**—If the employer has not received a referral of sufficient workers pursuant to section 302(b) or a report of insufficient workers pursuant to section 302(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section 301(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) **EXPEDITED CONSIDERATION BY SECRETARY OF STATE.**—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph, if the employer has met the requirements of sections 301 and 302. The employer shall be subject to the alien employment user fee determined under section 404(b)(1)(B) with respect to each job opportunity for which the Secretary of State authorizes the issuance of a visa pursuant to paragraph (2).

(c) **REDETERMINATION OF NEED.**—

(1) **REQUESTS FOR REDETERMINATION.**—

(A) **IN GENERAL.**—An employer may file a request for a redetermination by the Secretary of the employer's need for workers if—

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

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

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

(B) **ADDITIONAL AUTHORIZATION OF ADMISSIONS.**—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection, if the employer has met the requirements of sections 301 and 302 and the conditions described in subparagraph (A).

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

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

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

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

(3) with respect to whom the Secretary cannot refer able, willing, and qualified

workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

The employer shall be subject to the alien employment user fee determined under section 404(b)(1)(B) with respect to each job opportunity for which a notice of insufficient workers is made pursuant to this subsection.

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

SEC. 304. EMPLOYMENT REQUIREMENTS.

(a) **REQUIRED WAGES.**—

(1) **IN GENERAL.**—An employer applying under section 301(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), or the applicable State minimum wage.

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

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

(4) **ALTERNATIVE METHODS OF PAYMENT PERMITTED.**—

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

(B) **COMPLIANCE WHEN PAYING AN INCENTIVE RATE.**—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, in the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage, except that no worker shall be paid less than the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

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

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

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—

(A) REQUIREMENT.—An employer applying under section 301(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

(B) LIABILITY.—An employer not complying with subparagraph (A) shall be liable to a registered worker for the costs of housing equivalent to the type of housing required to be provided under that subparagraph and shall not be liable for any employment-related obligation solely by reason of such noncompliance.

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

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

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

(5) CHARGES FOR HOUSING.—

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

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

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

(6) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), the employer may provide a reasonable housing allowance during the 3-year period beginning on the date of enactment of this Act. After the expiration of that period such allowance may be provided only if the requirement of subparagraph (B) is satisfied or, in the case of a certification under subparagraph (B) that is expired, the requirement of subparagraph (C) is satisfied. Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment.

An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) CERTIFICATION.—The requirement of this subparagraph is satisfied if the Governor of the State certifies to the Secretary that there is adequate housing available in an area of intended employment for migrant farm workers, aliens provided status pursuant to this Act, or nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

(C) EFFECT OF CERTIFICATION.—Notwithstanding the expiration of a certification under subparagraph (B) with respect to an area of intended employment, a housing allowance described in subparagraph (A) may be offered for up to one year after the date of expiration.

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

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 302(a), or an alien employed pursuant to this Act, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section 302(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 302(a), or an alien employed pursuant to this Act, who completes the period of employment for the job opportunity involved, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the worker's place of residence, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

(3) LIMITATION.—

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

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

(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through a voucher as provided in subsection (b)(6).

(C) PLACE OF RECRUITMENT.—For the purpose of the reimbursement required under paragraph (1) or (2) to aliens admitted pursuant to this Act, the alien's place of residence shall be deemed to be the place where the alien was issued the visa authorizing admission to the United States or, if no visa was required, the place from which the alien departed the foreign country to travel to the United States.

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

(1) IN GENERAL.—An employer that applies for registered workers under section 301(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section 302(b) after the employer receives the report described in section 302(b).

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

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section 301(a) has elapsed; or

(B) during any period in which the employer is employing no H-2A workers in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for workers in the occupation and area of intended employment to which the worker has been referred, or in other occupations in the area of intended employment for which the worker that has been referred is qualified and that offer substantially similar terms and conditions of employment.

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

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

SEC. 305. PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"ADMISSION OF TEMPORARY H-2A WORKERS

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

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

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section 302 of the Agricultural Job Opportunity Benefits and Security Act of 1999, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

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

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the

alien's authorized period of admission under this section has expired; or

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

“(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(I) IN GENERAL.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). Such an alien shall depart the United States to be eligible for admission under this section.

“(II) TERMINATION.—Subclause (I) shall terminate on the date that is 4 years after the date of the enactment of the Agricultural Job Opportunity Benefits and Security Act of 1999.

“(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

“(C) ABANDONMENT OF EMPLOYMENT.—

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

“(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section 302 of the Agricultural Job Opportunity Benefits and Security Act of 1999 by the employer who prematurely abandons the alien's employment.

“(iii) REMOVAL BY THE ATTORNEY GENERAL.—The Attorney General shall promptly remove from the United States aliens admitted pursuant to section 101(a)(15)(H)(ii)(a) who have failed to maintain nonimmigrant status or who have otherwise violated the terms of a visa issued under this title.

“(iv) VOLUNTARY TERMINATION.—Notwithstanding the provisions of clause (i), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(D) IDENTIFICATION DOCUMENT AND IDENTIFICATION SYSTEM.—

“(i) IN GENERAL.—Each alien admitted under this section shall, upon receipt of a visa, be given an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

“(ii) REQUIREMENTS.—No identification and employment eligibility document may be issued and no identification system may be implemented which does not meet the following requirements:

“(I) The document and system shall be capable of reliably determining whether—

“(aa) the individual with the identification and employment eligibility document whose

eligibility is being verified is in fact eligible for employment,

“(bb) the individual whose eligibility is being verified is claiming the identity of another person, and

“(cc) the individual whose eligibility is being verified has been properly admitted under this section.

“(II) The document shall be in the form that is resistant to counterfeiting and to tampering.

“(III) The document and system shall—

“(aa) be compatible with other Immigration and Naturalization Service databases and other Federal government databases for the purpose of excluding aliens from benefits for which they are not eligible and to determine whether the alien is illegally present in the United States, and

“(bb) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

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

“(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section 302(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1999 has been submitted seeks to employ an alien who has acquired status under this section and who is lawfully present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section 302 of the Agricultural Job Opportunity Benefits and Security Act of 1999.

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

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

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

time only a currently valid identification and employment eligibility document shall be acceptable.

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

“(b) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that withholding a portion of the aliens' wages to be refunded upon timely departure is necessary as an inducement to assure such departure, then the Attorney General shall so report to Congress and make recommendations on appropriate courses of action.”

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

(c) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this title shall preclude the Secretary of Labor and the Attorney General from continuing to apply special procedures to the employment, admission, and extension of the alien in the range production of livestock.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ENHANCED WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) AGGRIEVED PERSON OR THIRD PARTY COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section 301 or an employer's misrepresentation of material facts in an application under that section, or violation of the provisions described in subparagraph (B). Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) EXPEDITED INVESTIGATION OF SERIOUS CHILD LABOR, WAGE, AND HOUSING VIOLATIONS.—The Secretary shall complete an investigation and issue a written determination as to whether or not a violation has been committed within 10 days of the receipt of a complaint pursuant to subparagraph (A) if there is reasonable cause to believe that any of the following serious violations have occurred:

(i) A violation of section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 212(c)).

(ii) A failure to make a wage payment, except that complaints alleging that an

amount less than the wages due has been paid shall be handled pursuant to subparagraph (A).

(iii) A failure to provide the housing allowance required under section 304(b)(6).

(iv) Providing housing pursuant to section 304(b)(1) that fails to comply with standards under section 304(b)(2) and which poses an immediate threat of serious bodily injury or death to workers.

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

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

(3) ABILITY OF ALIEN WORKERS TO CHANGE EMPLOYERS.—

(A) IN GENERAL.—Pending the completion of an investigation pursuant to paragraph (1)(A), the Secretary may permit the transfer of an aggrieved person who has filed a complaint under such paragraph to an employer that—

(i) has been approved to employ workers under this Act; and

(ii) agrees to accept the person for employment.

(B) REPLACEMENT WORKER.—An aggrieved person may not be transferred under subparagraph (A) until such time as the employer from whom the person is to be transferred receives a requested replacement worker referred by a registry pursuant to section 302 of this Act or provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(C) LIMITATION.—An employer from whom an aggrieved person has been transferred under this paragraph shall have no obligation to reimburse the person for the cost of transportation prior to the completion of the period of employment referred to in section 304(c).

(D) VOLUNTARY TRANSFER.—Notwithstanding this paragraph, an employer may voluntarily agree to transfer a worker to another employer that—

(i) has been approved to employ workers under this Act; and

(ii) agrees to accept the person for employment.

(b) REMEDIES.—

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

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this Act, the Secretary may assess a civil money penalty up to \$1,000 for each person for whom the employer failed to pay the required wage, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and

Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section 401(a) has—

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

(B) failed to meet a condition specified in section 401; or

(C) committed a serious violation of subsection (a)(1)(B),

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

(4) EXPANDED PROGRAM DISQUALIFICATION.—

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

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

(c) ROLE OF ASSOCIATIONS.—

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

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association

during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this Act.

(d) STUDY OF AGRICULTURAL LABOR STANDARDS AND ENFORCEMENT.—

(1) COMMISSION ON HOUSING MIGRANT AGRICULTURAL WORKERS.—

(A) ESTABLISHMENT.—There is established the Commission on Housing Migrant Agricultural Workers (in this paragraph referred to as the "Commission").

(B) COMPOSITION.—The Commission shall consist of 12 members, as follows:

(i) Four representatives of agricultural employers and one representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

(ii) Four representatives of agricultural workers and one representative of the Department of Labor, each appointed by the Secretary of Labor.

(iii) One State or local official knowledgeable about farmworker housing and one representative of Housing and Urban Development, each appointed by the Secretary of Housing and Urban Development.

(C) FUNCTIONS.—The Commission shall conduct a study of the problem of in-season housing for migrant agricultural workers.

(D) INTERIM REPORTS.—The Commission may at any time submit interim reports to Congress describing the findings made up to that time with respect to the study conducted under subparagraph (C).

(E) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Commission shall submit a report to Congress setting forth the findings of the study conducted under subparagraph (C).

(F) TERMINATION DATE.—The Commission shall terminate upon filing its final report.

(2) STUDY OF RELATIONSHIP BETWEEN CHILD CARE AND CHILD LABOR.—The Secretaries of Labor, Agriculture, and Health and Human Services shall jointly conduct a study of the issues relating to child care of migrant agricultural workers. Such study shall address issues related to the adequacy of educational and day care services for migrant children and the relationship, if any, of child care needs and child labor violations in agriculture. An evaluation of migrant and seasonal Head Start programs (as defined in section 637(12) of the Head Start Act) as they relate to these issues shall be included as a part of the study.

(3) STUDY OF FIELD SANITATION.—The Secretary of Labor and the Secretary of Agriculture shall jointly conduct a study regarding current field sanitation standards in agriculture and evaluate alternative approaches and innovations that may further compliance with such standards.

(4) STUDY OF COORDINATED AND TARGETED LABOR STANDARDS ENFORCEMENT.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the most persistent and serious labor standards violations in agriculture and evaluate the most effective means of coordinating enforcement efforts between Federal and State officials. The study shall place primary emphasis on the means by which Federal and State authorities, in consultation with representatives of workers and agricultural employers, may develop more effective methods of targeting resources at repeated and egregious violators of labor standards. The study also shall consider ways of facilitating expanded education among agricultural employers and workers regarding compliance with labor standards and evaluate means of broadening such education on a cooperative basis among employers and workers.

(5) REPORT.—Not later than 3 years after the date of enactment of this Act, with respect to each study required to be conducted under paragraphs (2) through (4), the Secretary or group of Secretaries required to conduct the study shall submit to Congress a report setting forth the findings of the study.

SEC. 402. BILATERAL COMMISSIONS.

The Attorney General is authorized and requested to establish a bilateral commission between the United States and each country not less than 10,000 nationals of which are nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)). Such bilateral commissions shall provide a forum to the governments involved to discuss matters of mutual concern regarding the program for the admission of aliens under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

SEC. 403. REGULATIONS.

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

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

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Agriculture and shall obtain the approval of the Attorney General on all regulations to implement the duties of the Secretary under this Act.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Attorney General, the Secretary of State, and the Secretary of Labor shall take effect on the effective date of this Act.

SEC. 404. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary of Labor shall establish and periodically adjust a schedule for the registry user fee and the alien employment user fee imposed under this Act, and a collection process for such fees from employers participating in the programs provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in an employer's application under section 301(a)(1)(C) and sufficient to provide for the reimbursement of the direct costs of providing the following services:

(A) REGISTRY USER FEE.—Services provided through the agricultural worker registries established under section 301(a), including registration, referral, and validation, but not including services that would otherwise be provided by the Secretary of Labor under related or similar programs if such registries had not been established.

(B) ALIEN EMPLOYMENT USER FEE.—Services related to an employer's authorization to employ eligible aliens pursuant to this Act, including the establishment and certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such schedule, the Secretary of Labor shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary of Labor shall publish in the Federal

Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment will be sought and a final rule issued.

(c) USE OF PROCEEDS.—

(1) IN GENERAL.—All proceeds resulting from the payment of registry user fees and alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretaries of Labor, State, and Agriculture, and the Attorney General for the costs of carrying out section 218 of the Immigration and Nationality Act and the provisions of this Act.

(2) LIMITATION ON ENFORCEMENT COSTS.—In making a determination of reimbursable costs under paragraph (1), the Secretary of Labor shall provide that reimbursement of the costs of enforcement under section 401 shall not exceed 10 percent of the direct costs of the Secretary described in subsection (b)(1) (A) and (B).

SEC. 405. FUNDING FOR STARTUP COSTS.

If additional funds are necessary to pay the startup costs of the agricultural worker registries established under section 301(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner—Peyster Act (29 U.S.C. 49 et seq.). Proceeds described in section 404(c) may be used to reimburse the use of such available amounts.

SEC. 406. REPORT TO CONGRESS.

(a) REQUIREMENT.—Not later than 4 years after the effective date under section 408, the Resources, Community and Economic Development Division, and the Health, Education and Human Services Division, of the Office of the Comptroller General of the United States shall jointly prepare and transmit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report describing the results of a review of the implementation of and compliance with this Act. The report shall address—

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

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

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

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

(5) to the extent practicable, compare the wages and other terms of employment of eligible United States workers and aliens employed under this program with the wages and other terms of employment of agricultural workers who are not authorized to work in the United States;

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

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

(8) recommendations for the continuation or termination of the program under this Act.

(b) ADVISORY BOARD.—There shall be established an advisory board to be composed of—

(1) four representatives of agricultural employers to be appointed by the Secretary of Agriculture, including individuals who have experience with the H-2A program; and

(2) four representatives of agricultural workers to be appointed by the Secretary of Labor, including individuals who have experience with the H-2A program, to provide advice to the Comptroller General in the preparation of the reports required under subsection (a).

SEC. 407. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the date that is 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that described the measures being taken and the progress made in implementing this Act.

Mr. GRAHAM. Mr. President, I wish to recognize our Presiding Officer who is also one of the stalwart advocates of this reform in agricultural farm labor, as well as the Senator from Oregon who has given such leadership on this issue.

In my opinion, those voices who you anticipate will decry the proposals we are making have to carry the burden of defending the status quo. In my opinion, that is an impossible defense. What has the status quo led to in this country? It has led to over 600,000 people who pick the fruits and vegetables upon which American families depend, upon which much of our agricultural economy is relying—600,000-plus of those persons ranging between a third and a half of all of the migrant workers in the country are illegal. They are here without any legal status. Can we call the current system a humane system when it puts 600,000 people in the shadows of our society because they are without legal status or legal protection? I think not.

It is also a system which denies benefits, ironically, to U.S. citizens and U.S. legal permanent residents who work as migrants in American agriculture, which we make available to non-U.S. citizens who come here under a temporary work visa that we call a H-2A visa. For instance, we provide transportation assistance to foreign visa workers that we do not provide to U.S. citizens. We provide housing benefits to foreign workers that we do not provide to U.S. citizens. We provide even a higher wage rate, a higher base salary to foreign visa workers than we do to U.S. citizens who work as migrant workers in American agriculture.

We also have a system which is—to say antiquated is to give it a status that is beyond justification. We are using a system that is bureaucratic, that does not apply contemporary methods of technology, communication, which, while it approves some 90 percent of the petitions that are filed to make it possible for those non-U.S.

visa workers to come into the United States, oftentimes the delay in getting that ultimate approval is so extended that by the time the approval arrives the crops have already rotted in the field.

Anyone who wishes to attack our ideas, I think, has the burden of either attempting to defend a clearly—not broken but smashed status quo, and then to come forward with their own ideas. A few days ago, Senator WYDEN and the Presiding Officer and myself offered an amendment to a Department of Labor appropriations bill in which we directed that the administration should come forward with its ideas as to how to correct the broken status quo of migrant farm labor in America. We look forward to receiving that response. We have been asking for that response for the better part of 2 to 3 years.

I hope now that we are on the verge of introducing legislation, we will see an engagement by all the parties who have professed an interest in this issue so we can get their ideas. We do not believe, as thoughtful as we hope this legislation will be seen, that it came down from the mountain on plates of stone. It is the product of our best human effort and we invite others who have their ideas to participate in this process. But I believe we can all start from the fundamental position that the status quo is inhumane, illegal, and unacceptable to the United States of America as a great nation entering the 21st century.

The legislation we are introducing—and we are actually introducing two pieces of legislation—the first is the Agricultural Job Opportunity Benefits and Security Act of 1999, which we intend to acronym into AG-JOBS, which is the comprehensive bill which includes all the elements the Presiding Officer outlined in his introductory remarks. We will then introduce a second bill which will be called the Farm Worker Adjustment Act of 1999, which will include only those provisions that relate to the adjustment of status by the some 600,000 undocumented aliens who are currently in the United States.

We invite our colleagues to consider both of these pieces of legislation. We hope they would be inclined to cosponsor both of these pieces of legislation.

What would be the consequence of passage of the legislation that we introduce this evening? What would be the consequences, first, for farm workers? Farm workers would receive better wages. Instead of having as the base the minimum wage, the base, as the Presiding Officer indicated, would be the greater of the minimum wage or the adverse wage rate plus 5 percent. In my State of Florida, the current calculation of the adverse wage rate plus 5 percent would be approximately \$7.45, as compared to the current minimum wage of \$5.15.

Second, domestic farm workers, U.S. citizens, and permanent residents, as well as those who would have the tem-

porary work permits under the adjustment of status legislation, would all be entitled to housing, either housing on-site or, if it were determined by the Governor of the State there was adequate housing in the vicinity of the agricultural work site, it could be a housing allowance, a voucher which would allow the farm worker to select their own places to live.

It would also provide for the first time for domestic workers, citizens, permanent residents, and temporary work permit holders, access to a transportation allowance. If they had to go more than 100 miles to get from one job to the next, they would be entitled to compensation for their transportation. They would also receive the benefits of some modern technology. Just as we currently have a worker registry system for much of nonagricultural employment in America, this would provide a computer registry for agricultural workers where they can indicate: I am prepared to work in the following crops. I am prepared to work in the following locations and during the following time periods of the year. They would be permanently registered, so when a farmer was looking for workers who met those criteria, he would find this employee's name and a means by which to access that potential worker.

We would increase worker protection. Farm workers would now be covered by the Migrant and Seasonal Agricultural Worker Protection Act. We would not have this shadow workforce of 600,000 people without legal protection.

There would be stricter penalties for employers who failed to follow the law. Employers could be barred from the H-2A program, including a permanent bar for violations of the rights of workers.

The legal status would be available to all of the persons. They would either be working as a citizen, a permanent resident, a holder of a temporary work permit, or an H-2A visa. But our goal would be to create a situation, both legally and economically, in which all of the persons picking the fruits and vegetables in America's fields would be legal.

How would the farmers benefit? The farmers would have access to this efficient, modern, streamlined register as a means of determining who is available to do the work that I need.

They would have assurance that all of their workers were legal. We have had situations in the last few months in which there were raids on fields—Vidalia onion fields in Georgia, fruit fields in the Pacific Northwest where persons who could not show they had documents—and many could not—were arrested, where the farmer was put into a situation that his livelihood, his crop for the year was about to be lost because he would not have the people necessary to harvest the food.

We would also provide to the farmer the assurance that there would be a streamlined means by which, if necessary, they could access non-U.S. workers to assure they had a full com-

plement of workers to carry out the task.

Mr. President, you have stated with force and eloquence the rationale for this legislation and what we hope to accomplish. I hope in the vein within which you entered this to ask our colleagues to carefully consider this legislation, particularly in the context of the unacceptable status quo. We look forward to engaging with their ideas and the ideas of others who have an interest in this issue so that this session of Congress will have as one of its achievements the closure of a chapter of inhumane abuse of hundreds of thousands of people and a denial to American agriculture of what it wants—a legal, humanely treated agricultural workforce to pick the fruits and vegetables upon which our Nation depends.

I join with you and our colleagues as we start this effort this evening and will shortly be sending to the desk the legislation on the adjustment of status of agricultural workers.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I have had the privilege of listening tonight to both you and the Senator from Florida discuss the introduction of what we call ag jobs. I must tell you that I am pleased to join with you as a shaper and an original cosponsor of this legislation because both you and Senator GRAHAM have so clearly outlined a fundamental human problem in our country that the Department of Labor refuses to look at with any creative form of resolution and for which America's agricultural base pleads for a resolution.

In the mid-1960s, I had the great privilege of serving as a national officer of the Future Farmers of America. During that year, I traveled the length and the breadth of America in behalf of American agriculture. From the beautiful green pea fields of eastern Oregon to the San Joaquin Valley of California where cotton was in abundance to the orange groves of Florida just at the time they were blooming, the one thing that was constantly present was a migrant farm labor force, working with those in production agriculture to pollinate, to weed, to thin, and, most important, to harvest the abundance of American agriculture.

During that year when I was traveling, I often gave speeches that said the American farmer produces enough for himself or herself and 55 other Americans. We, as Americans, were tremendously proud of that statistic.

Today, if I were making the same trip, I would say that the American farmer produces enough for himself or herself and 155 Americans and another 100 foreign mouths. Oh, we are so tremendously proud of America's productive capability. One of the reasons we are proud is not only are we unique in what we do, but we are tremendously efficient in how we do it.

We have always been labor intensive. It is the character of the industry, and

we have chosen that labor from where it was available. We have paid them good wages, but we must have them and we need them for the American consumer, for the abundance of the market shelf, and for the productivity of production agriculture. It is all a part of a total picture.

Starting several decades ago, we began to run into problems. We did not have a Department of Labor that would work collectively and productively with American agriculture to deal with a very significant part of the equation that I have just outlined, and that was the labor side. We have a H-2A program, and Senator GRAHAM has already outlined it. We recognize about 34,000 people are registered in that program on an annual basis and those are the "foreign guest workers." Yet we have nearly 600,000 foreign illegal aliens in the agricultural job market.

What is wrong here? What is wrong is a phenomenally complicated process and, Mr. President, you held the book up tonight—thousands of pages of procedure, controls, regulations, and phenomenal forms for oftentimes illiterate people to fill out to identify with the job market that is clearly in this country. They fall victim to a term we call "the coyote," that exploiter of human beings, the one who takes the opportunity to say: Ah, but for \$1,000, I can get you across the border and into the farm fields of eastern Oregon or southwestern Idaho; pay me the money and I will find you the job.

Weeks later, they are oftentimes rounded up by the Immigration Service and whisked back across the border, and they are treated as less than human. Oftentimes, they are crammed into vehicles like sardines in a can. We hear the story almost every year about the vehicle that overturns and splits and spills open, and oftentimes these innocent people are killed.

That is one side of the story we are trying to solve, and I say to the Department of Labor: Why can't you work with us to solve this problem? Why can't we develop a national registry of domestic workers and from that point move to a system that allows workers into our country as foreign guest workers under an H-2A program and a system that recognizes those who are already here, 600,000-plus?

That is what we offer tonight in agriculture. We think it is tremendously straightforward and it is honest. Yes, there will be opposition, to which the Senator from Oregon who is presiding at this moment, has spoken. I say to those who oppose, they oppose for all of the wrong reasons. They ought to sit down with us to see where we can work out our differences.

I have spoken to the human side of the equation, but I talk tonight about the whole picture of agriculture. There is the other side. There is the agricultural producer who should be allowed to have access to a stable, reliable, and available workforce.

The Department of Labor says today: If you need a job, advertise for it. So the onion farmer in southwestern Idaho advertises in Wisconsin, or New York, or Florida that he has a 2- or 3-week field job? I doubt it. It does not happen; it will not happen. But that is basically what the law of the day requires, and that is why there are 600,000-plus illegal aliens in our country because the current law isn't working, it is denying the farmer his or her reliable workforce, and it is literally opening the doors of our borders and saying: Come in, illegals. The jobs are here for you.

As a sovereign nation, that is something we should not tolerate; and that is our inability and our unwillingness to control a border environment. And we do that if we have a reasonable and easily accessible system so foreign guest workers can find their way into it and find the jobs they seek. That is what our bill offers to that workforce.

The Bureau of Labor Statistics has just come out with an interesting figure that says, in the next 15 years, at today's current economic growth rates, there will be a deficit of at least 20 percent in our workforce. If we take all of the humans in America, all of the willing and available workers, all of those capable of working, and find them jobs, in this economy, there will still be a deficit of 20 percent.

What does that say? That if we are to maintain our productivity and our growth rates in this country, and our economic level of opportunity, that we have to find a legal, responsible, and easily accessible way of allowing foreign guest workers into our country to work at the jobs that will be there; and then for them to be able to return to their homes, having had a positive experience in this country and having allowed our country to grow and to prosper, as it should. That is what our legislation is about, only it is for agriculture specifically.

So we hope our colleagues will look at this legislation and join with us in it. As we move into next year's session, we will, obviously, be holding the necessary and appropriate hearings on it to address what is a very real problem in my State, in Oregon, in Florida, in every other agricultural State in the Nation, and that includes nearly all of the lower 48, and certainly even the State of Hawaii.

So I hope that is the story that comes from the introduction of our legislation tonight. It is one that I think is critically important for us.

ADDITIONAL COSPONSORS

S. 391

At the request of Mr. KERREY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 758

At the request of Mr. ASHCROFT, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1029

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1029, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 1044

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1044, a bill to require coverage for colorectal cancer screenings.

S. 1288

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1288, a bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, and for other purposes.

S. 1488

At the request of Mr. GORTON, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1666

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1666, a bill to provide risk education assistance to agricultural producers, and for other purposes.

S. 1680

At the request of Mr. ASHCROFT, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1690

At the request of Mr. MACK, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 1690, a bill to require the