it is immoral to take this kind of money away from poor families, which will force them into dependence on government in some circumstances, rather than allow them to have the money they earn to spend on their families.

To paraphrase President Reagan, the whole controversy comes down to this: Are you entitled to the fruits of your own labor, or does Government have some presumptive right to tax and tax and tax?

I urge my colleagues to oppose this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMERICAN COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I know we have the time allocation. Could the Chair tell me how much remains on our side?

The PRESIDING OFFICER. The Senator's side has 47 minutes remaining.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, as of May 7 the immigration quota for skilled temporary foreign workers was full. The 65,000 visas available each year under the H–1B visa category have been claimed. For the remainder of the fiscal year—almost 5 months—no more visas are available. The quota filled rapidly this year because U.S. high-tech computer companies are bringing in foreign programmers in record numbers. America's high-tech industry is undergoing extraordinary growth, and the demand is high for more workers, so they have turned to the immigration laws to bring them in from abroad. A temporary increase in the immigration quota is justified. We all want to ensure that our high-tech industries get the workers they need to remain healthy and competitive.

I have always felt that with regard to our immigration laws we ought to, first of all, recognize the importance of families and family reunification; and then, secondly, if they are going to bring in those who have special skills, which is going to expand the American economy, a case could be made for those individuals. They could make that—particularly in the years of 1980 and as we came into 1990, we are facing the unemployment that we are facing, we did recognize the importance of these special skills that will result in expanding the American economy and expanded employment. That does make sense.

The demand for more foreign workers is an embarrassing indictment of our failure to provide adequate training for American workers. These are good high-tech jobs in the modern economy. Over the next decade, it is estimated that high-tech computer companies will need 1.3 million additional employees, and American workers deserve help in obtaining the skills to compete for them.

It is not enough just to raise the immigration quota. Any bill that passes this Congress should, I believe, have two additional things. First, it must assure American workers that they will get the training opportunities they need to compete for these good jobs. It makes no sense to throw in the towel by increasing the immigration quota, even temporarily, without also investing substantially in the training of U.S. workers. We must not give away these good jobs forever. We must invest in our workers, and that means putting real money on the table for training American workers.

The bill that came out of our committee, I believe, failed. It was a good-faith effort to try to do so, but I believe it failed in making that kind of commitment. We have been working with the chairman of the committee to address that particular issue. There is no reason in the world why we should not provide these kinds of skills for American workers. That is really what this debate here this afternoon is all about. We recognize that we may very well have a need to increase this category in order to bring in some of those that have particular skills that might be important in terms of our American industry, and we can have a chance to go over the record on that particular issue. I think, quite frankly, it is a mixed issue. Nonetheless, given the evaluation of the information that is out there, I think we should take a temporary step. But beyond that, there is no reason why we should not develop the kinds of training programs and the kinds of initiatives to make sure, to the extent possible, that we are going to provide the skills to American workers so they can have the jobs, and not just have a more open-ended immigration policy in these categories for foreign-trained workers. That really is an important part of this debate.

A second very important part of this debate is how we are going to treat the American workers. We find that at least we will have a chance, probably, to go into this in some detail, and that there is at least a record out there that a number of these individuals come into this country, and they know that if they have their job terminated, they are effectively deported; they can't retain their green card. There is some evidence that these individuals have displaced American workers who were holding those jobs.

Then, subsequently, there has been an adverse impact on the wages of those workers who are virtually handcuffed, so-to-speak, and trying to complain about it, because if they complain, they are shipped back overseas. We want to make sure that, one, as a great Nation that has the capacity to train our workers, we are going to provide skills for those workers. For every worker that goes into the job market today, they are going to have seven different jobs. Under the excellence bill, which was passed just over a week ago by the leadership of Senators DEWINE, JEFFORDS, and WELLSTONE, we have tried to bring our training programs up to the demands of the turn of the century, so that Americans are going to have a continuing possibility for upgrading their skills. They are going to need that.

We as a nation should make sure that those kinds of opportunities for self-improvement are going to be available to working families in this country. That is very, very important, I believe.

The Senate went on record a week ago with a very strong bipartisan vote to do just that. We don't want to carve out an area. We don't want to say we will train Americans for some jobs but we are not going to train them for the computer jobs in this Nation. That makes no sense. That virtually turns our back on what we committed to American working families just a week ago. We shouldn't carve this area out and say, ''We are not going to provide that.'' That is why we have been working with our friend and colleague, the Senator from Michigan, to try to address that. I think we have seen some important movement on this issue. I certainly appreciate his understanding of that importance. We are trying to work out an approach on that. That is going to meet some of the concerns that he and others have.

But a second important point is that we don't want to say to American workers who are working in the computer industry now, to have their boss come up to them and say, ''You are fired because we have someone else who will replace you at the same wage.'' That is legal in America today. Any of these large companies can bring in the temporary workers having met some rather fundamental kinds of requirements and just displace Americans. I think that is wrong. I think that is absolutely and fundamentally wrong. We will have an amendment to try to address that issue.

Second, we want to make sure that there is going to be at least an effort, some effort. All we are talking about in this case is an attestation; we are saying to the employer that you attest that you have made an effort to try to hire an American worker. What we are saying is we are not setting up any type of rule or regulation. We are saying whatever the industry requires, whatever the pattern is in the particular industry. So if a particular industry is just publishing something on the Internet, e-mail, whatever, that is sufficient in terms of meeting that requirement. Whatever the industry does, we say that is fine. All the company has to do is just say OK, we have done that. That is all. That is the total

amount of paperwork. But what we are trying to do is say that we are going to give some priority to American workers. The company is just going to have to follow whatever the industry does in recruiting, is going to have to do so with regard to these workers. I think that is very important. We don't want to displace American workers, and we want to make sure than an American worker who has those kinds of skills is going to be able to get that job. Those aren't, I don't think, very radical kinds of concepts if we are talking about what we are interested in—looking after American workers' families.

What are these jobs? When you come down to it, we will probably come back to revisit this issue a little later in the debate. But, according to Department of Labor figures, from 1997 on the H–1B jobs, on the certification of what these jobs are, and what they pay, this chart is an indication of what the pay is for these particular jobs. If you look at this particular chart, Mr. President, you will see that 76 percent of these jobs are from $25,000 to $50,000 a year. These are good jobs. It is difficult for me to believe that we cannot develop training and education programs so that American workers can get those particular jobs. Those are good jobs for working families. We are not prepared to say that we are going to turn our back on Americans for these kinds of jobs.

Another 16 percent go from $50,000 to $75,000. Those are good jobs, too. What you are talking about here is that more than 5 percent of those are below $75,000.

Then you have these in the smaller group, approximately 5 percent, that are in excess of that $75,000. Those are represented by those, I think, that we call the ''Best and the Brightest'' in this category. We said they don't have to go and have an attestation or requirement in terms of seeking alternatives for those individuals who are going to universities or doing research. They don't have to go through even these very preliminary steps. What we are trying to do is to say for the basic jobs that are in these categories that fall roughly in $75,000 or less that they should not displace American workers and that American workers ought to get the first crack at it. That is basically what the amendment I will be offering later this afternoon calls for, and what we, I believe, should bring to our attention.

Mr. President, it matters to U.S. high-tech companies that want more visas. But it also matters to workers who are laid off by unscrupulous employers and replaced by foreign workers. It matters to middle-aged computer programmers who work hard to keep up their skills but are laid off in favor of younger workers who will work longer hours at cheaper pay. And it matters to working families who would love to get one of these jobs and make $30,000, $40,000, or $50,000 a year. Many of the workers who come in under the H–1B visa program are obviously talented. We should put out the welcome mat for accomplished people who have unique skills to improve our economy and create jobs, but accomplished workers represent only a fraction of the foreign workers who come to the United States under the H–1B program.

I have indicated that more than 75,000 would be about 5 percent. We might even stretch it to up to 20 percent. Most of those who are coming into this program are lower-level computer programmers. Many are physical therapists, occupational therapists, nurses, and 80 percent are paid less than $50,000, as I referred to. These are good jobs, and the working families of America should get the first crack at them.

The bill before us does little or nothing to enhance the accountability and enforcement of the H–1B visa program. Some say the current program is satisfactory. They cite the low number of violators found by the Labor Department as evidence that the terms of the program are widely observed. But the reason so few violations are discovered is that the Labor Department's hands are tied. The Department cannot intervene unless a complaint is filed. And few workers dare complain. As I mentioned before, if they complain, they are shipped overseas and they are gone. No matter how poorly they are being trained and how overworked they are being worked, if they complain about that part and get fired, they lose their green card, and it is back to their country of origin. That has to be, and it is, an important factor. The fact that we have not had the complaints is because to do so would jeopardize their immigration status. So they either accept the abuses or change employers. But they don't complain.

We know there are serious problems. This is the issue. Two years ago, the Labor Department's inspector general completed the largest study of the program. That is the basic program, the fundamental, the temporary worker program, which is the issue that we are talking about here today. They reviewed some 720 cases in 12 States. The results were appalling. In 75 percent of the cases, the inspector general could not even tell from the employer's records whether the employer paid the H–1B foreign worker the proper wage. If those are good documents on what they paid, 19 percent of the employers paid less than the wage that they had promised on their applications.

Any bill that the Congress sends to the President must remedy this problem. The Labor Department should have the same authority to enforce the rules under this program as they have to enforce workplace standards and the minimum wage, and they should have the same authority that the Immigration and Naturalization Service has to ensure that employers do not hire illegal immigrant workers. That means giving the Labor Department authority to enforce the rule where there is reasonable cause to believe that they have been broken.

We permit the enforcement. If we do not have enforcement, we have abuses. Your rights are diminished if you do not have the ability to have a remedy. That is just basic fact. We don't have to spend the time on the floor to really debate that issue. Unless we are going to have that kind of protection, you are going to have the kind of abuses that have taken place and continue to take place.

Stephen Schultz is an engineer who was laid off from his job in Modesto, CA.

He was then asked to come back to his company on a temporary basis in order to train his foreign replacement. There was nothing Mr. Schultz could do about it. He was laid off and replaced by a foreign worker. To add insult to injury, he was asked to train his foreign replacement. Can you imagine that, Mr. President. Here is the person who is laid off. The company hires someone from overseas, brings them over here, puts them in that job and then hires the worker that had been working there, I believe in this case 5 to 7 years he had been working there, to train that worker to fill that person's job. That was happening. That was happening. Now, that is absolutely and fundamentally wrong, and we do not want to permit, as we are seeing in the expansion of this program, those kinds of practices.

I commend Senator ABRAHAM for recognizing the problem, but unfortunately the antilayoff provisions in the bill, I believe, are inadequate. They apply only in a very limited circumstance. The employers who lay off U.S. workers and replace them with foreign workers can be penalized under this bill only if they break the law first. Only if they break the law first. Under this bill, you can lay off American workers and replace them with foreign workers as long as you don't underpay them or use them as strikebreakers or commit some other violation first. We should require employers to state that they have been unable to find qualified workers in this country before they apply for workers from abroad.

Now, a high-tech facility in New Mexico announced a hiring freeze and refused to accept job applications, but at the same time they brought in 53 foreign workers under the H–1B visa program. Alan Ezer, a 45-year-old computer programmer with 10 years of experience in the field, has kept his skills up to date. He was willing to take a cut in pay to stay in the industry. After he was laid off, he sent out 150 résumés. He got one job interview and no job offers. Rose Marie Roo is an experienced computer programmer. When no one would hire her to do computer work, she and her husband opened a bed and breakfast in Florida. Peter Van Horn,

age 31, with a masters degree in computer science, lives in California. Employers won't hire him either. The list goes on and on.

Many of the Nation's high-tech firms are blatantly turning away qualified U.S. workers while appealing to Congress for more foreign workers. Not all but some. And those are the ones that need the attention. It is that kind of injustice these amendments which I will be introducing focus on. So this, too, must change. Employers should be required to state that they have made an effort to recruit in this country first. Some argue that if we impose these new requirements, the program will bog down in redtape. They say employers will have to wait too long to get their workers from abroad.

Our solution, as I mentioned, is very simple. Employers must simply state on one sheet of paper they have laid someone off and that they have been unable to locate workers in this country. That is all. If you are concerned about redtape, then look at what the bill does. It transfers the program to the most overwhelmed and most backlogged agency in the Federal Government, the Immigration and Naturalization Service. It takes a year for American citizens to bring spouses or children here. That is supposedly our highest immigration priority, uniting citizens with their families, but it takes years just to process the paperwork to bring these families together. After individuals actually qualify for citizenship, it takes 2 years or even longer for them to have the forms completed.

So we have an opportunity today to pass legislation that responds to the needs of the high-growth high-tech industry and our workers. We should increase the quota temporarily. We must provide our workers with the training they need to assure them that our immigration programs do not unfairly disadvantage them as they compete for the new jobs.

Now, Mr. President, I will make some comments with regard to both of these amendments and then we can have some discussion. I will offer them with the understanding of the chairman so that we can move this process.

Before going further, Mr. President, on the recruitment amendment, I know that Senator ABRAHAM has announced the endorsement of this bill by certain groups. I have here in my hand 150 letters from American workers who are opposed to the bill. They are computer programmers and computer engineers who want a shot at these jobs. These are American workers. We believe they ought to be listened to.

I might just selectively insert some of these letters, not to unduly burden the CONGRESSIONAL RECORD, but we have more than 150 and scores more back at the office. I will introduce a select group to be able to reflect the concern that these American workers have about this particular bill.

It is interesting, Mr. President, when we were looking at what the needs were and we heard a good deal of testimony from different groups that one of the things that was pointed out by the General Accounting Office was the salaries in these particular areas have not increased effectively over time. At least some of the economists in the General Accounting Office found that sort of interesting because, generally speaking, when there is a greater demand for these kinds of skills, the salaries all go up. If you want to recruit people, with supply and demand, the salaries are going to increase, but they did not find that increase in the salaries. They sort of stayed standard in terms of other skilled occupations. That is where they had drawn some concerns about the legislation.

Now, Mr. President, I would I ask unanimous consent that the time I now use be allocated to the recruitment amendment, if there is no objection.

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

Mr. KENNEDY. I will just reserve the other time for general debate, if I could. And then I could stop and put that in. But I think this is OK with the chairman, or if the Senator wants to make some comments.

Mr. ABRAHAM. Actually, I was about to yield to Senator BROWNBACK. I think he would like to speak when the Senator is finished.

Mr. KENNEDY. Yes. I will just make some brief comments here and then I will yield.

My amendment says that before employers can bring in foreign workers under the H–1B visa program, they must attest that they have tried to hire U.S. workers first.

These are good well-paying jobs created by the high tech American economy. My amendment assures that U.S. workers will get first crack at these jobs. If employers cannot find U.S. workers who are ready, able, and willing to do the job, then—and only then—should foreign workers be available. Employers should be required to recruit in Boston, Detroit, and Los Angeles before they recruit in other countries.

We hear a great deal about the impressive contributions of foreign workers to our economy. We should welcome outstanding workers who are exceptional in their fields and have impressive track records of accomplishment. In fact, my amendment rolls out the red carpet for such workers.

It exempts universities and non-profit research institutions from this requirement. The researchers they bring in from abroad under this program help to train college students for the future. There is no significant evidence of abuses in their recruitment.

But 80 percent of the applications received under the visa program are for jobs paying $50,000 or less. Half the applications are for computer programmers, most of them at lower levels. A quarter of the applications are for health care workers, particularly physical therapists. Other applications are for teachers, accountants, dietitians, piano tuners, drafters, realtors, construction workers, and many others.

Many of these workers are in the early stages of their careers. As the Republican views in the Committee report on this bill correctly note, ''many H–1Bs are foreign students recruited off U.S. college campuses.'' U.S. workers should have first priority for these jobs.

In fact, American college students are specializing in computer studies in growing numbers. According to the Computer Research Association, the number of college students majoring in computer science increased by 91 percent from 1995 to 1997. My amendment will assure that when they graduate, they will not have to worry that they must compete with foreign workers for U.S. jobs.

Some argue that this amendment creates unnecessary additional paperwork. In fact, the amendment requires only that employers attest—on a simple, one-page H–1B application form—that they have tried to recruit U.S. workers for the job and failed. They are required only to use recruitment procedures that are common for the industry.

If the standard practice among computer companies is to post the job on the internet for five days, that's all they have to do to satisfy this requirement.

The Labor Department does not investigate the application in advance of the foreign worker coming here. In fact, the Labor Department is required to act on the application within seven days. So all the employer would do, under my amendment, is complete the one-page form. Nothing more.

Most high tech companies should have no problem meeting this simple requirement. They say they recruit in the U.S. constantly and still have hundreds of openings.

All they have to do is check the box on the form, and send it in.

The problem is that many American workers have applied for high tech jobs, only to be turned away.

Peter Van Horn is a 31-year-old from Mountain View, California. He has a master's degree in computer science. He is an expert in computer graphics. But he can't get a job in his field.

Bard-Alan Finlan is a computer engineer in his 40s. He knows the latest computer languages. He's received one interview in a year and a half, and still no job.

Kurt Granzen is an electronics worker. He was laid off from a Silicon Valley firm after it started hiring H–1B workers. He has been unable to find a job in his field for the past four years, after hundreds of interviews.

These well-trained U.S. workers deserve to know that we will not allow employers to bring in foreign workers before they have a fair opportunity to fill these jobs.

I urge my colleagues to support this important amendment.

I see other colleagues who desire to speak so I will withhold at this time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield up to 5 minutes to the Senator from Kansas at this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate the Senator from Michigan yielding time to me to speak on this very important amendment. I have been listening to the earlier debate about the ability of U.S. workers to get these jobs versus workers coming in from overseas. I think the critical point that maybe is not being clearly put forward on this is what we are talking about here is being able to keep U.S. businesses in the United States, and, thus, access to these jobs dominantly by—indeed, in many cases exclusively—by U.S. workers. We are trying to keep the businesses here. Many of these businesses could easily and rapidly move overseas, particularly ones in developing computer software and programming. That is something they could rapidly and easily move overseas. We want those jobs here so our workers have access to them.

What we are talking about in the amendment put forward by the Senator from Michigan, Senator ABRAHAM, is a present crunch that we have getting some workers into some of these jobs. This seriously needed legislation will raise the visa cap for professional workers from the present maximum of 65,000 to an additional 30,000 visas for 1998 with a 5-year sunset for additional H–1B visas. A failure to act would be a blow to many American companies, which are striving to obtain these workers at this immediate need and juncture in a very highly competitive marketplace. Without the visa increase, they will be denied the ability to secure workers central to their immediate needs.

I agree, we need to offer benefits and help more and make sure that U.S. workers have the greatest access, and they should. What we have is an immediate problem, and we don't want these businesses moving overseas. The legislation seeks to address this problem.

There is an immediate, severe, technical worker shortage in America which can only be met by this legislation. It is reported by the INS that by early May the present cap of 65,000 will have already been reached—already reached. This means that American businesses will be entirely foreclosed for over half a year from obtaining some of the highly skilled professional workers that they need under this option for immediate need—immediate work and immediate help—rather than moving these businesses overseas to be able to access those workers.

This legislation will help to maintain America's competitive edge in the global marketplace. It will encourage—not hurt—American business growth and, thus, job creation in the United States, which is presently at an extraordinarily high level. It will enable technical businesses to retain the workers required to develop their products in a highly competitive market. It will empower companies to maintain timely production schedules.

Companies from throughout the country say that they must have this additional ability to hire needed workers to be able to remain in the United States. This is especially true for high-tech industries across America which specialize in computer-related products. This industry is extremely time sensitive, requiring speedy product development and production. For example, computer software is frequently developed in 6-month cycles. Failing to deliver within these time frames because of technical worker shortages can severely compromise a company's competitive edge. One observer of the current system said:

> Critical projects will be abandoned or put on hold—at the cost of many more American jobs. This can be disastrous for our industries with short product cycles that are trying to compete against fierce global competitors.

Who supports the legislation? Businesses, universities and ethnic organizations, all back this effort, as well as workers concerned that their companies might be forced to move offshore.

Speaking of that subject, the New York Times recently wrote this:

> If U.S. companies are told to put up ''No Vacancy'' signs, they are inevitably going to move more operations overseas, and that will spur more innovation, wealth creation, and jobs over there. By contrast, this legislation helps to encourage companies to stay within American shores and keep jobs here in America, and growth taking place here in America.

At this time of economic growth, our Government must be sensitive to respond to needs as they arise in the marketplace. This legislation is a sensible response to a legitimate problem, and represents that American Government is a partner to encouraging, not discouraging, growth, job creation, retention of jobs, and prosperity in America.

Mr. President, I yield the floor and commend Senator ABRAHAM for sponsoring this important legislation, needed for American jobs to be able to stay in America. I urge my colleagues to support it. I yield the time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself such time as I might use on my other amendment called the layoff amendment.

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

Mr. KENNEDY. Mr. President, under this amendment, employers cannot lay off American workers and then import foreign workers to fill the same jobs. Believe it or not, it is perfectly legal today for an employer to lay off qualified American workers and replace them with foreign workers under the H-IB program, and unscrupulous employers have taken advantage of this loophole in the law.

In recent weeks, we have seen announcements of layoffs from many of the biggest U.S. companies, and many of these companies have asked Congress to increase immigration quotas so they can bring in more workers from abroad. We owe it to those laid-off U.S. workers to make sure their employers do not bring in foreign workers to fill their jobs.

On April 13, the Wall Street Journal reported:

> The past couple of weeks have seen a steady drum beat of layoff announcements in industry sectors that until recently have complained about personnel shortages.

The article included a long list of high-tech computer companies laying off thousands of workers. For example, on April 13, Intel Corporation announced plans to cut 3,000 jobs. Earlier in the month, Compaq Computer announced that it plans to lay off 15,000 workers as part of its merger with Digital, and the list goes on. Not all of these lost jobs are the same jobs that would be filled with foreign workers under the H–1B visa program. But we must be certain that no employer turns around and brings in a H–1B worker to fill a job from which American workers were laid off.

Stephen Schultz of Modesto, CA, an engineer, was laid off in November of last year. While he was looking for a new job, his former company called him back to train the foreign worker they had brought in to replace him. Mr. Schultz filed a complaint with the Department of Labor, complaining that he had been laid off and displaced by the foreign worker, but this offensive practice is currently legal under the current law. There is nothing the Labor Department can do about it. And that is plain, fundamentally wrong. This amendment addresses that injustice.

My amendment would give those laid-off workers a fighting chance. It says, ''You have just been laid off. You are trying to feed your family. You are struggling to find a new job. So we will not compound your suffering by letting your former employer bring in a foreign worker to replace you.''

As I mentioned earlier, I commend Senator ABRAHAM for acknowledging the problem. But, as I mentioned, the layoff protections in the pending legislation, I think, do not do the job. They offer little help to working Americans who lose their jobs in today's changing labor market. But under this bill, employers don't have to promise that they have not—and will not—lay off U.S. workers as a condition of their participation in the program. Under this bill, the only time that an employer can be penalized for replacing U.S. workers with foreign workers is if the employer also violates other requirements of the H–1B program.

That is under the Abraham proposal. It is not bad enough for an employer to

lay off U.S. workers, but then they replace them with foreign workers. The employer has to underpay them to have some other violation of the law before the Labor Department can act. We believe that we should not displace American workers with foreign workers who are doing the same job—and we have language which effectively is the same in both bills; ours has a different triggering mechanism—we believe that we should not displace Americans with foreign workers who are doing the same job. That is what my amendment will do with regard to the layoff proposals.

Under the current bill, the engineer that I mentioned who was laid off in Modesto would have a case only if the employer who laid him off violated some other requirement of the program. He could be laid off, so to speak, as I understand the Abraham proposal, and they could hire another worker for his identical job, pay him less and, as in this particular case, if this person who was laid off wanted to, he could come back and train his replacement, and that American worker would virtually have no cause of action.

Under the current bill, an employer can lay off 1,000 American workers and bring in 1,000 H–1B workers to replace them as long as the employer pays them the same wage, and it is OK. Some argue that employers are unlikely to go through the effort to lay off an American to replace with a foreign worker. They cite studies to suggest foreign workers are actually paid higher wages than their American counterparts. If that is the case, then the employer should have no problem attesting, as a condition of their participation in the visa program, that they have not and will not lay off U.S. workers.

The fact is, employers do lay off American workers and replace them with foreign workers. That happens to be the information that we have. They want foreign workers because such workers are less likely to complain if their hours are extended and their working conditions are not as good. The Labor Department inspector general found that 75 percent of employers in the program could not even document that the wage they paid the foreign worker was the proper prevailing wage, and unscrupulous U.S. employers also want foreign workers because they are less likely to protest long hours and harsh working conditions. If they do, they know they may lose their jobs and have to leave the country.

An American software developer called my office recently and asked to remain anonymous for fear of reprisal by his employer. He spoke of how the high-tech firms are abusing their foreign workers. He said, ''I had a good talk with an H–1B worker. He told me he was so anxious to work in this country that he would accept any salary. Even a pitifully low salary by our standards was high in his country. He has been here for 6 months and working 80-plus hours a week. The company knows they can pick up a well-educated foreign worker who will work many more hours for half as much salary. I have seen this, en masse, first hand.''

The unscrupulous employers who engage in these flagrant abuses put honest employers at a severe competitive disadvantage.

Mr. President, what happens is, the American worker is displaced and that impacts that American worker. But if they get some foreign workers and then work them harder and longer, they have a competitive advantage over a company that just has American workers, and that threatens those American workers. The other company that has foreign workers is competing with the company that has American workers, and they are not meeting their responsibilities.

All we are trying to do is make sure that all play the game by the same rules by which so many companies are willing to play. We want to make sure we are not creating abuses, which have been recognized in the past, and we want to make sure that, since we are expanding this program, we are going to give American workers first shot; we are not going to displace American workers, and we are going to give them the first shot at those jobs. Also, we are going to work out a training program over the period of this legislation so that at the end of the 5 years, we will have in place a training mechanism so that these jobs—the 80 percent which go to families earning less than $75,000, good jobs—will be going to Americans because they are going to have the training to do so. That is effectively what we are saying, Mr. President.

We need to address the abuses. We need to protect the workers. We should outlaw the abuses to protect the vast majority of American employers who play by the rules. We are protecting the American businessmen who are playing by the rules. They are playing by the rules because they are paying a fair salary for these computer experts and they are respecting them for their working conditions and are out there competing fair and square, while someone who is unscrupulous brings in the foreign worker in these circumstances and, in too many circumstances, displaces the American worker and has that worker working longer hours and under more difficult conditions. You have one worker who has already lost his or her job, and if you get several workers, they are going to be able to compete on an uneven playing ground with the American firm.

All we are saying is, No. 1, you can't displace an American worker with a foreign worker; No. 2, you have to at least attest that you have made a reasonable effort to hire an American worker; and, No. 3, we are going to work out the training program so that at the end of this program, in a period of years, we are going to have sufficient training so that Americans are going to be qualified to get those jobs, which are good jobs. That is what this issue is really about, Mr. President.

I did not want to leave the impression, but in my earlier comments, on which my staff has corrected me, if the foreign worker is paid less than Abraham, then the Abraham layoff does kick in, assuming a worker complains.

My point is, under Abraham, they can lay someone off as long as they meet the other rules of the program. They can still lay off the American worker. They see a layoff as a freebie, a free ride for employers who want to bring in the foreign workers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The time will run against the bill or the amendment. Will the Senator indicate his preference in regard to time?

Mr. KENNEDY. Time on the amendment. How much time remains on the amendment?

The PRESIDING OFFICER. The Senator has 11 minutes remaining on the layoff amendment.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ABRAHAM. Mr. President, I want to make a quick inquiry. Are we on an amendment at this point or are we on the bill generally?

The PRESIDING OFFICER. Technically, we are still on the bill.

AMENDMENT NO. 2412

(Purpose: To amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] for Mr. WARNER, for himself and Mr. ROBB, proposes an amendment numbered 2412.

Mr. ABRAHAM. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. ____. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

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

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.''.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

Mr. ABRAHAM. Mr. President, this amendment, which I am offering on behalf of the Senator from Virginia, Senator WARNER, would seek to grant permanent legal status, resident status to individuals who are stationed in the United States in conjunction with their responsibilities as part of NATO. I believe the amendment has been cleared on both sides. And so I hope that we can move rapidly to pass the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have no objection to it and urge the support for it, as we do the same, as I understand, with regard to United Nations personnel. This would provide a sense of equity in both of those areas. It seems to make sense.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment No. 2412.

The amendment (No. 2412) was agreed to.

Mr. ABRAHAM. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2413

(Purpose: To provide whistleblower protection to foreign H–1B workers who file successful complaints against employers for violations of the H–1B program)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2413.

Mr. KENNEDY. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 41, after line 16, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting '', or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph'' after ''a material fact in an application''; and

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

''(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

''(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

''(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.''.

Mr. KENNEDY. Mr. President, currently the Labor Department can investigate violations under the H–1B program only if a complaint has been filed by an aggrieved party. The complaint can be filed by a temporary foreign H–1B worker, and affected American workers. Few complaints are filed because workers are afraid of retaliation. And the H–1B workers are afraid if they complain, they could lose their jobs and then have to leave the country. American workers are afraid they will be blackballed in the industry if they complain.

So this amendment offers them the whistle-blower protection, and it penalizes employers if they retaliate against a whistleblower. So whether the whistleblowers are H–1B workers or affected American workers, the employer cannot retaliate against them.

In addition, under my amendment workers who filed a successful complaint against an employer can switch jobs if they wish and still remain in the United States for the duration of their visa. They just have to let the INS know their new address.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I compliment the Senator from Massachusetts on this amendment. I think it addresses a large part of the concern that he previously registered with respect to the way the program functions.

As I will indicate as we continue this debate this afternoon, it is not the intent of either this Senator or those of us who cosponsor the American Competitiveness Act to put any American worker at a disadvantage. We believe the protections that are already in place in this legislation—both in the existing laws as well as in my bill—will protect American workers.

Basically, you cannot bring a foreign worker in for lower pay and replace an American worker with that individual. If you do, you are violating the law. The Senator from Massachusetts earlier raised the concern that no one will complain because the H–1B visa holder, the foreign worker, will be afraid of consequences if they do so.

In my judgment, this whistle-blower provision will allay any such concerns. I think it ties nicely into the protections which we have built into S. 1723, the protections that come in the form of very severe penalties for anyone who willfully violates the law with respect to bringing in an H–1B employee.

So for that reason I am comfortable with and supportive of this amendment. We worked closely with Senator KENNEDY's staff on the crafting of the amendment, and I think it has been done in a way that effectively supplements what is already in place.

But let me, as long as we are on this, just briefly talk about this whole system. In his earlier statement with respect to his amendment, the Senator from Massachusetts expressed concern that no one would bring a complaint, that the complaint-driven system that currently exists is one which masquerades many violations. I do not believe it does. I think that complaints are very likely to occur under the current system simply because competitors could bring the complaints.

The salaries with which foreign workers are paid must be posted, not only posted at the job site, but at secondary sites and at the Department of Labor. If somebody believes that someone is gaining an unfair advantage by bringing in cheaper labor, they can complain as well. It does not necessarily have to be the foreign worker who brings the complaint; it can be a coworker who is mad because they see the foreign worker is coming in and driving his friends out of a job, or it can be a competitor.

It is possible, I suppose, although we do not have any documental evidence to this, that someone might be intimidated about bringing such complaints. For that reason, I think the whistleblower provision is an effective way to address this one area that might be a loose end. I think it tightens up the process in such a way that we can have the confidence in a complaint-driven system necessary to maintain that system as it is working. And it is working effectively.

As I said earlier, as I will be saying in further debate on these amendments, in the entire history of this program there have only been eight willful violations in 8 years—one per year. And only one of those involved a situation where an employee was laid off.

We have heard descriptions of several of those, I think, already in the comments of the Senator from Massachusetts. Indeed, because there are so few, we have already heard about several of those instances on more than one occasion here today. They are wrong. They were punished. I think they should have been punished even more severely. I do not think they should bring a foreign worker in the United States, pay them a lower salary than you are paying an existing worker, and lay somebody off. I think if you do that, you ought to suffer stiff consequences, and our legislation administers those stiff consequences.

To the extent someone might have failed to raise a concern or a complaint because of fear of reprisal, I think Senator KENNEDY's amendment, which I am prepared to support at this time, closes that loophole as well and I think puts in place a system that can and should work effectively.

So, for that reason, I support the amendment. And I think we can move forward to adopt it here presently.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment No. 2413 offered by the Senator from Massachusetts.

The amendment (No. 2413) was agreed to.

Mr. HAGEL. Mr. President, I rise today to express my strong support for the American Competitiveness Act, of which I am a cosponsor.

The American Competitiveness Act is important to the American economy and to our Nation's high standing in a global economy. It will also have a positive and direct impact on promoting job creation and economic growth in Nebraska.

Mr. President, as the 21st Century quickly approaches, American companies, businesses and universities increasingly find themselves in a fiercely competitive global economy. Thus far, the United States has been able to succeed and benefit overwhelmingly from this increased ''globalization.''

However, our continued economic growth is being threatened by a shortage of highly skilled and internationally experienced workers, While companies around the U.S. have invested billions of dollars in educating and training employees, demand for qualified people continues to grow faster than the supply of available workers. This is particularly true in the area of information technology.

The shortage of workers with technical or computer-related skills is a real concern to Nebraska. My colleagues may not realize that Nebraska currently has an unemployment rate of 1.6%, which is the lowest rate in the country. While this is very good news, it also presents a challenge for many of Nebraska's employers.

Employers in Nebraska have told me over and over again that the state is unable to meet their increased demand for labor, particularly high-skilled labor. In fact, the Greater Omaha Chamber of Commerce estimates there are currently 1,500 to 2,000 job openings in the field of information technology in the Omaha area alone.

While the Chamber, other business community leaders, and the Nebraska state government, have been actively recruiting workers from within the State, across the country and around the world, they have not been able to produce enough skilled workers to keep pace with job growth.

The United States Senate can take an important step toward addressing this problem by passing the American Competitiveness Act. This legislation will immediately help America's companies and universities by raising the current ceiling on the number of foreign-born professionals we allow to work in the United States under the H–1B visa program. These temporary visas are used to attract the best and brightest minds from around the world to U.S. companies and universities, which helps them to compete in global markets.

We must also address our Nation's long term employment challenges by preparing more American students for the high technology, global workforce of tomorrow. Not enough of our students are being prepared, or preparing themselves, to excel in an increasingly high-tech economy.

The American Competitiveness Act takes steps to correct this situation by creating 20,000 scholarships annually for low-income American students to study math, engineering, and computer science. It also authorizes $10 million a year to train unemployed U.S. workers for jobs in the information technology industry.

I strongly urge my colleagues to support Senator ABRAHAM'S bill, which will keep American companies in this country, create and save American jobs and contribute to the growth of the economy. I urge my colleagues to support this bill because it will help ensure that America remains a great, industrious and rich nation both culturally and economically.

Mr. President, I ask unanimous consent that a letter sent to me by the Greater Omaha Chamber of Commerce in support of this legislation be printed in the RECORD.

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

GREATER OMAHA
CHAMBER OF COMMERCE,
Omaha, NE, May 8, 1998.

Senator CHUCK HAGEL,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR HAGEL: The Greater Omaha Chamber of Commerce has been working for several years on the challenge of Nebraska's shortage of skilled workers. We believe Senate bill 1723, known as the ''American Competitiveness Act,'' will aid employers across the country in hiring the skilled workers needed to grow their businesses, especially in the information technology field. We are especially interested in the portion of the bill which increases the number of H–1B visas granted each year. At the current rate, the United States will reach the statutory quota on H–1B visas by the end of June, a full three months before the end of the fiscal year.

Currently, Omaha has approximately 1,200 H–1B visa holders employed in the metro area. There is room for considerable growth, and there are jobs to be filled. Omaha's unemployment rate is about 1.7%. It is one of the lowest in the nation and has consistently been so for the past several years. It is estimated the Omaha area currently has 1,500 to 2,000 job openings in the filed of information technology.

The business community in Omaha has stepped up to the plate and is actively recruiting workers from across the country and around the world. Over the last four years, the Chamber has organized and attended numerous job fairs, initiated Internet recruiting and job posting programs, coordinated and funded national advertising campaigns and image marketing in an attempt to grow the size of our work force.

In addition to recruiting, Omaha has placed great emphasis on ''growing our own.'' Omaha is a national leader in the School-to-Work arena and was one of the first six communities nationally to embrace and promote Work Keys, a work-based skills and job profiling assessment to better prepare our students for the work place. The University of Nebraska, with close to $50 million worth of private support, has established an innovative Institute which encompasses a new College of Information Science and Technology along with the inter-related engineering disciplines.

All of these efforts however, are not enough. The passage of Senate bill 1723 is imperative to the continued growth of the high-tech industry in Nebraska and the rest of the nation. It is reliably estimated that there are 346,000 computer related jobs vacant in the United States and that number will only increase in the coming years. Even with our best efforts nationwide, we will not produce sufficient qualified workers at a rate fast enough to keep pace with the job growth. By allowing greater numbers of skilled workers from other countries to fill available jobs in the United States, our employers will be better equipped to continue to fuel this country's and state's booming economy.

By not increasing the number of H–1B visas granted each year, the government is in effect encouraging United States businesses to enter an all-out civil war for the information technology workers we currently employ here. At a time when the United States is at an historically low rate of unemployment, it is unreasonable for the Federal Government to embrace a policy that in effect robs Peter to pay Paul.

On behalf of the Greater Omaha Chamber of Commerce, I again wish to reiterate our strong support for this legislation and urge immediate passage.

Sincerely,

C.R. ''BOB'' BELL,
President.

Mr. GRAMS. Mr. President, I rise to speak in support of S. 1723, the American Competitiveness Act introduced by Senator SPENCER ABRAHAM to increase the cap on H–1B visas to allow our companies to continue to compete.

We find ourselves in the midst of a booming American economy, now in its 87th month of the longest peacetime economic expansion experienced, and with the lowest inflation and unemployment (4.9%) in 25 years. However, we find that 350,000 information technology (IT) jobs nationwide are unfilled. As we speak, the ability to bring

foreign nationals temporarily into the country on H–1B visas to fill those jobs has been halted as of Monday, May 11. As of last Friday, the 65,000 H–1B visa cap has been reached in this temporary immigrant category. New applications will be turned away and the information technology industry, as well as our universities and colleges will be harmed.

Minnesota companies affected by this cap have aggressively supported this legislation. 3M estimates its projected research effort will lack 80 technical employees for slots paying between $60,00 to $100,000. 3M had $15 billion in 1997 worldwide sales. Through the efforts of foreign nationals working in their research and development departments, 3M has been awarded 578 patents. We should continue to encourage this progress.

Cargill, another Minnesota-based company, has 10 to 15% of their technology department unstaffed—about 99 to 110 people with a starting salary of $44,000. They have not been able to meet their needs through local labor pools and universities. They have been forced to turn to temporary foreign nationals. Furthermore, they tell me they have a 15% turn-over because of competition from other U.S. companies.

Honeywell has 7,500 Minnesota employees and does not hire a large number of H–1B nationals—only those of needed technical skills. However, these shortages affect the productivity of the whole company.

Even labor has agreed that there is a temporary need for this adjustment; that it may be warranted due to current market conditions and global demands. Education and training of the U.S. labor pool is being outstripped by racing technological advances and industry competition. The Department of Labor has projected the high tech industry will create 130,000 jobs each year for the foreseeable future.

This is at a time when the U.S. Chamber of Commerce tells us our domestic labor pool is shrinking. Baby boomers are leaving a 23 million people labor short fall, and often it is difficult to replace them with employees who have the training and expertise to meet the needs of many highly technical areas.

Reports show fewer Americans seeking higher education are choosing the high tech fields of electrical engineering, computer science and mathematics. The number of Americans graduating with engineering degrees has declined 16% since 1985. Ironically, on the other hand, Mr. President, the United States is educating a higher percentage of foreign nationals in these subjects—48% of PHDs are foreign, 22% of undergrads are foreign nationals, and 42% of Master of Sciences candidates are foreign nationals.

There is great global competition for all of these graduates. Japan, Germany, India and China are trying to lure them away with better deals and more benefits. However, the American life style and standard of living are a strong incentive in keeping them here.

Another sector affected by the H–1B cap is the university/college community. A great deal of research and development is carried on at U.S. schools of higher learning. Temporary visiting scholars and research fellows from abroad have extended our base and expanded our scope of understanding in many fields.

The University of Minnesota has written me asking for my strong support of this issue. Their ability to bring foreign scholars and high level faculty to their campus has raised their standards and strengthened their international stature. Their need has become even more critical since the cap has been reached, because they process 40% of their applications for these positions between May and September. They need help now.

However, I would like to point out, Mr. President, we do need to look for a more permanent solution to this problem. We cannot rely on foreign expertise forever. We need to educate our young people to fill these vacancies. I applaud the inclusion in S. 1723 of the training and scholarship incentives for educating our own information technology workers. 20,000 college scholarships a year will be made available to low-income students in math, engineering and computer science through the State Student Incentive Grant program. It will increase training for the unemployed and help people cross-train into these fields. After the bill expires in 5 years, I am hopeful the supply of permanent, skilled American workers will be sufficient to meet industry's needs.

This bill enhances the current H–1B visas by increasing the penalties five times and improving enforcement against willful offenders, although there have been few enforcement actions in the past.

S. 1723, also, provides no-layoff protection for American workers and prohibits underpayment of temporary foreign nationals. In an industry where starting salaries for these skilled workers are between $35,000 and $75,000, by law H–1Bs are to be paid the middle wage of the prevailing scale. This wage is posted at the work site and registered with the Labor Department.

Let me close, Mr. President by saying that Minnesota companies such as Guidant, ADC Telecommunication, Ceridian (formerly Control Data), Imation (a 3M spin-off), Medtronic and the Carlson Companies should be able to fill their IT vacancies now with temporary foreign nationals without having to shift production off-shore. We need to keep jobs at home and benefit by the expertise and innovation brought to us by these global technicians. But more importantly, we need to review, upgrade and strengthen our U.S. educational system to the point where it can best serve our need for permanent talent driving the information technology explosion.

Mr. KENNEDY. Mr. President, I note that this bill contains authorization for programs that will assist in educating and training American workers for these positions. It is essential that we include education and training provisions within this bill, but I believe it is important that we go further.

In particular, I believe that employers who are using this program to fill short term needs should also contribute to programs that will educate and train American workers to fill these positions in the future. If we are going to increase the immigration quota, then I believe we have an obligation to assure American workers that they can get the training to compete for these goods jobs.

So Mr. President, I would hope that as this bill moves forward, we can continue to work together to secure funding for these programs as an integral component of this legislation, and in ways that assure that we are not taking away resources from other training programs to meet this need.

Mr. WELLSTONE. I am very pleased we could agree on language in the managers' amendment which authorizes new demonstration programs for technology skills training for American workers, provided that funding for such training does not diminish funding for existing federal job training programs. It is important that job-training provisions of this bill are consistent with extremely significant legislation we recently passed overwhelmingly to improve the federal workforce education and training system. I thank my colleagues for working with me to achieve that end.

Still, while many employers in this country are doing a great deal to educate and train technology workers, the clamor for a large increase in non-U.S. citizens to fill high-skill jobs here seems clearly to point to a lack both in those efforts and in our public job training system. Therefore I believe we also need to be sure that those who will benefit the most from any adjustment in immigrant policy will help us to address the underlying problem. We in the Senate cannot originate a revenue measure to fund the new training we authorize here. But it would be a serious mistake to enact a final bill that does not call on employers who have pushed for it and will benefit substantially from it to help pay for the new training authorized in the bill.

Mr. ABRAHAM. I too am committed to seeing to it that there is funding for these programs. As the Ranking Member knows, I believe that as far as the shortage of highly skilled workers is concerned, we have both a short term and a long term problem, and I believe these programs are an integral part of addressing our long term problem. I also believe the business community is already doing a great deal to help educate and train workers. That being said, I pledge to work with you, the other members of this body, the business community and other affected

outside interests to seek ways to help fund these programs consistent with the principle you articulated.

Mr. SMITH of Oregon. Mr. President, as a cosponsor of S. 1723, I rise today to support the American Competitiveness Act.

Mr. President, the H–1B immigrant visa program is not the preferred avenue of hiring by our U.S. high tech companies. Hewlett-Packard, which is one of Oregon's largest high tech employers, currently employs more than 65,000 people in the United States and uses only 140 H–1B visas. Of these 140 H–1B visas, 17 of them have Ph.D. degrees and the remaining of them have at least an equivalency of a Masters degree.

Our American companies would prefer to invest in Americans and retain the current domestic workforce. These companies collectively already spend, and will continue to spend, billions of dollars each year on training and educating American workers. Notwithstanding the current workforce, they are unable to fill key personnel slots, and it is critical in order to remain competitive, that they have access, through the H–1B visas, to these foreign-born professionals.

According to the American Electronics Association, the U.S. electronics and information industry creates high-skilled, high value-added jobs. The rapid advances in computer technology have increased demand for trained specialists like computer engineers, computer systems analysis, database administrators, and computer support specialists.

Even the Bureau of Labor Statistics predicts that demand for these occupations will more than double by 2006. Oregon's largest employer in the state is Intel. And with more than 10,000 employees in Oregon, Intel's job growth has grown 167 percent since 1990, creating almost 40,000 jobs worldwide.

In this age of a global marketplace, it is imperative that American companies have access to a legal supply of skilled professionals in the United States so that they can continue to grow and expand in the United States.

Failure to increase the H–1B cap will create significant uncertainty about the U.S. government's commitment to enable American companies to compete and participate effectively in the global economy. These companies will be faced with the tough decisions to either stay in the U.S. without a sufficient number of highly skilled staff or possibly move their research and development facilities overseas.

Mr. President, the American Competitiveness Act raises the current cap for temporary foreign workers to 95,000 in fiscal year 1998 and contains a five-year sunset for the additional H–1B visas. While raising the temporary H–1B cap, the American Competitiveness Act also increases education and training in the high technology field for American citizens and establishes a data bank on the Internet that matches domestic applicants with available technology jobs.

Mr. President, I commend Senator ABRAHAM for his leadership on this issue and urge my colleagues to support the American Competitiveness Act.

Mr. WELLSTONE. Mr. President, there is little question that our country faces a skills shortage in industries with a concentration of workers who utilize high technology and information technologies. In Minnesota, we have very low unemployment in general, and Minnesota technology industry employers are having a hard time finding workers with the skills they need. The Minnesota Department of Economic Security released a study last week called ''Beyond 2000: Information Technology Workers in Minnesota,'' which indicated that over 60 percent of information-technology employers in the state believe the shortage of qualified information technology workers is ''moderately'' or ''extremely'' serious. Representatives of the Minnesota High Tech Council have been in touch with my office. They believe that the provisions of the Abraham bill which raise the cap on the number of nonimmigrant workers allowed to come temporarily to work in the United States are necessary.

I agree that we want to make sure that immigration policy is consistent with our overall desire to remain the world's leader in high technology industries. The high tech sector is crucial in Minnesota. It is an engine of growth and a pillar of current very good economic performance by the state. I take seriously the argument that if the cap, which has been reached for this year, is not lifted, then a significant amount of U.S. high-tech business and a significant amount of jobs could actually be moved oversees.

At the same time, however, there are three areas of concern that I believe must be resolved in the bill before it merits support. First is the matter of job training for workers who are U.S. citizens. Much of the debate over the bill is focused on high tech workers. Clearly we would hope that when we are talking about good jobs—jobs that require significant information technology skills and which pay well—then we are making every effort to see to it that U.S. workers have a shot at those jobs. That means training.

As ranking member of the Labor Subcommittee on Employment and Training, I'm extremely pleased that we were able to complete and pass with an overwhelming vote recently a bill to reform the country's workforce training and education system. Still, even once that reform is enacted, following a conference with the House and passage of a conference report, I believe that the fact we are talking about a serious shortage of workers with technology skills indicates that our current federal job training system, even combined with the large amount of employer-sponsored education and training that is happening, remains inadequate. The skills shortage points to a failure in our efforts to educate and train.

I had intended to offer an amendment to improve the Abraham bill in this area. I am pleased, though, that we were able to agree to changes in the bill which first of all authorize new demonstration programs for technology skills training for American workers. That provision is in a managers' amendment, which it is my understanding will be accepted. The provision ensures that funding for that new training will not diminish funding for existing federal job training programs. It therefore is consistent with the workforce education and training reform we passed with such a large vote. It is crucial that a bill which aims to address a skills shortage in industries that have good jobs available take every step to make sure that our own citizens ultimately can become qualified for those jobs.

In my view, the new training authorized in the bill should be paid for largely with proceeds from a modest fee collected from employers for each application for the specialized visas. The Senate cannot technically originate a revenue measure to fund the new training we authorize here. But it is my hope that the House will include such a funding mechanism for new training of U.S. workers and that such a provision will be included in the conference bill. It would be a serious mistake to enact a bill that allows a large increase in the visas but does not call on those employers who will most benefit from the bill to help pay for the new training. I appreciate my colleagues' willingness to work with me on the provision that is included in the managers' amendment, and I appreciate as well the colloquy between Senators ABRAHAM, KENNEDY and myself indicating support from each of us for funding job training in this bill.

Mr. President, I also strongly support both amendments offered by my colleague Senator KENNEDY—one of the recruitment of U.S. workers for available high technology jobs and one regarding non-displacement of U.S. workers currently holding jobs in the information technology industry. They are moderate amendments and should be included in the bill.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not run against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ABRAHAM. Mr. President, at this time, I yield 10 minutes to the Senator from Arizona, Mr. MCCAIN, to speak on the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I rise today to express my strong support for S. 1723, the American Competitiveness Act, of which I am proud to be an original co-sponsor. Although it deals ostensibly with the visa cap on foreign-born high-tech workers, its effect would be far more profound—to enhance the competitiveness of the American economy at a time when U.S. companies, if given access to the necessary resources, are poised to dominate the Information Age for decades to come. As the representatives of the American people, we in Congress should do all we can to contribute to their potential for success in the global economy.

Mr. President, I want to say a special thanks to the Senator from Michigan, Senator ABRAHAM. Senator ABRAHAM brought this issue to the attention of my colleagues on both sides of the aisle a long time ago. It is a critical issue. It is far more important than it appears on its surface. As I mentioned earlier when we discussed this bill upon the contemplation of it coming before the Senate, the high-tech community, the ''silicon valleys'' all over America, are saying that they need to have skilled workers if we are going to maintain the dominance of this industry and remain competitive throughout the world.

The fact is that this piece of legislation is as important to our high-tech community as any that we will consider this year before the U.S. Senate. The taxing of the Internet is close. The issue of pornography on the Internet is close. But this issue of being able to have enough skilled workers to continue this incredible revolution going on in Silicon Valley, I believe, is of the utmost importance. The Senator from Michigan has led on this issue, and all of us are very grateful for his participation.

I might add that he had to go through some very delicate negotiations with the other side of the aisle in order to bring this issue to its conclusion.

I am convinced that the best thing government can do to advance the fortunes of the private sector is to stay out of its way. I support this bill because it makes progress toward that end while providing for the regulatory framework and new educational opportunities to protect and promote American workers. By raising the arbitrary cap on temporary immigrant visas for skilled foreign workers—a cap set in 1990, when the Democrats controlled Congress and the American economy was in recession—this legislation gets government out of the way of American companies, universities, and research labs which simply cannot hire the skilled professionals they need in the domestic labor market because of an arbitrary, anachronistic cap on H–1B visas that does not reflect the forces of supply and demand in the American economy today.

Opponents of this legislation surely cannot believe that government knows better than business what's best for business in America. We cannot and should not condemn American companies for wishing to remain competitive in the global marketplace. Indeed, we should encourage the companies that employ our citizens, contribute to our tax base, and produce the goods and services we consume daily to retain the competitive edge that has sustained them by whatever means are available within the law. If we do not consent to raising the cap on H–1B visas for skilled foreign workers, we will be handicapping the very American companies and their employees we profess to support as legislators empowered by the people to advance the public interest.

Critics having charged that this legislation subordinates the public interest to the private interests of American companies engaged in a vast conspiracy to hoodwink Congress and the American people so that they may replace American professionals with skilled foreign workers content with below-market salaries and no benefits.

Had these critics read our bill or spoken with those of us who support it, they would have had to devise new arguments against raising the H–1B cap by virtue of the emptiness of their own rhetoric. It is a fact that this legislation penalizes any employer which lays off an American worker in order to replace him with an H–1B visa holder and pays that individual anything less than the average prevailing wage in that line of work—a standard which often results in a higher salary than made by American entry-level workers. It is also a fact that the Department of Labor is empowered under the law to investigate and penalize willful abuse of the H–1B visa program and has done so repeatedly since the program began in 1990—a fact which disarms those militants who insist that there exist rampant fraud and abuse within the H–1B market.

This is not a debate about the facts, which are unambiguous. This is a debate about the way in which American society responds to the new challenges and opportunities offered by economic globalization and a knowledge-based economy. We can row with the tide or against it, but we will not have an equal prospect for success. Allowing more skilled professionals to enter the U.S. job market to fill jobs Americans are not filling will enhance the dynamism of the American economy by allowing it to more efficiently produce the goods and services demanded by the American consumer and those who buy American exports overseas.

Erecting barriers to the inflow of valuable human capital will not help American businesses, workers, or consumers. Businesses will suffer from the costs of a labor shortage which they are powerless to change in the short term. Workers will suffer when their companies lose the profits that would accrue from hiring the skilled workers that are unavailable. And consumers will pay higher prices for the goods and services which are available while going without those which are not. Everyone will lose as American companies shift production overseas to the sources of the specialized labor they cannot attract in the United States.

Mr. President, the Information Technology Association of America estimates that there are more than 346,000 unfilled positions for highly-skilled workers in American companies today.

A recent Department of Labor study estimates that the American economy will generate 1.3 million new jobs during each of the next ten years in the computer and information-technology industries. The same study predicts that American universities will be able to supply only a quarter of the graduates needed to fill those jobs during that period. The Hudson Institute predicts that in a few years this worker shortage, if not addressed, will cause a five percent drop in the growth rate of the gross domestic product, which breaks down to a startling $200 billion loss in national output.

In the words of T.J. Rodgers, President and CEO of Cypress Semiconductor Corporation, ''It takes two percent of Americans to feed us all, and five percent to make everything we need. Everything else will be service and information technology, and in that world humans and brains will be the key variable. Any country that would limit its brain power to single select group from that country alone is going to self-destruct.''

I support this bill because I do not wish to encourage more U.S. companies to set up shop in India, Pakistan, Costa Rica, and other sources of skilled labor unavailable in sufficient quantities in the United States. I support this bill because I do not think a job is better going unfilled that going to an educated foreign national on a temporary visa to the United States. I support this bill because I believe the Information Age will be built upon a globalized market for people and technology, not upon barriers to the free flow of goods, services, and professional workers. I support this bill because I do not believe the endless advertisements for specialized labor at attractive salaries in the Employment section of the Sunday newspaper represent a conspiracy by Big Business to fool us all into thinking there really are jobs on offer in many of America's fastest-growing companies. I support this bill because I do not think the government is a better judge of the needs of American companies, universities, and laboratories than are the very companies, universities, and laboratories that have urged us to write this legislation.

Mr. President, I, for one, do not take the health of the American economy or the fabulous returns offered by Wall Street for granted. America prospers when we allow entrepreneurs, small businesses, companies, universities,

and research labs to create wealth and knowledge. Government does not cause economic growth; hard-working people do. It is appalling to think that we would stand in the way of those who would temporarily come to our country to add their value to the economy by working in jobs Americans cannot and do not fill.

Over the long term, we must see to it that American workers possess the skills and know-how to fill the jobs created by American high-tech firms. For this reason, our legislation provides for 20,000 new college scholarships annually for low-income students in math, engineering, and computer science through the State Student Incentive Grant program. Our bill also sunsets the higher H–1B visa cap after five years so we can determine whether an increased supply of foreign professionals remains necessary to our economic well-being.

American unemployment levels stand at their lowest levels in over two decades. Americans are not responding to the ''Wanted'' ads in their local newspapers for high-tech and other skilled positions at U.S. companies, universities, and research centers. Company recruiters are hounding college students—on campus, in the libraries, *even at the beach* during Spring Break—to sign on to lucrative contracts with American firms.

Mr. President, we simply cannot afford to allow this desperate trend to continue. The 65,000-person cap on H–1B workers for Fiscal Year 1998 was reached last week. American companies cannot meet their hiring needs until the new Fiscal Year begins on October 1 unless Congress acts now. Should we fail to do so, we will all pay the price imposed by our shortsightedness. The Information Age and the global marketplace are a reality which we neglect at our peril when we refuse to provide the regulatory framework within which the American economy can thrive and Americans can prosper. The American Competitiveness Act deserves our support.

Mr. President, in addition, this is the last of several bills that we call high-tech bills. I think it is the most important one. I hope that we in the Senate recognize that we need to enact further legislation to help high-tech industries in America.

What has happened is remarkable. What has happened is fragile. And what has happened deserves our attention and support as we provide an enormous growth in opportunity, growth in the way of economy and opportunity to provide knowledge to all Americans and all citizens of the world in the most unprecedented fashion; in fact, the most remarkable changes taking place in the world since the industrial revolution.

I appreciate the cognizance by the Senator from Michigan of this fact and his responsibility for this important legislation.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I would like to thank the Senator from Arizona for his support of this legislation. He has been a great ally with regard to not only this bill but, as the Presiding Officer knows, a variety of other similar legislation to make America more competitive. I thank him for having helped me to move the legislation to the floor today. He has been a great friend and ally on this.

I now yield up to 10 minutes to the Senator from Washington to speak with respect to the legislation.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, this debate on the bill of the Senator from Arizona and his opponents, or those who would significantly change it and limit it, is a debate between optimists and pessimists about the American condition. Senator ABRAHAM's proposal stems from the proposition that we are in a society so dynamic, changing so rapidly, with so many new technologies on each and every day, that we can do nothing but benefit by recruiting into that economy the most highly skilled people from dozens of nations around the world who seek to make their contribution to humanity as a part of the United States of America as against the nations from which they come, hobbled by societal and governmental restrictions. A large number of the men and women on whom this battle is being waged have been educated here in the United States and have already begun to become a part of our culture. It is the theory of this bill, a theory borne out by the experience of H–1B so far, that not only are these men and women who seek to become Americans contributing to their own well-being and to the progress of our society but are, in fact, creating jobs for others.

The opponents of this bill, those who would restrict it, those who would tie it by all kinds of restrictions so as to make it impracticable for most of the high-tech companies of the United States to use, still believe implicitly in a zero sum economy—that any job, no matter how skilled, taken by someone who was born somewhere else will inevitably result in a job being deprived from some person born in the United States of America.

They do this despite the fact that at the hearing on this bill, as I understand it, the Department of Labor could come up with only one example of a true displacement and a guess that there might be two or three others somewhere across the United States.

So, Mr. President, if you believe that we are not really competitive, that we can't grow, that every job that one person takes of a skilled nature simply comes at the expense of another job already there, then of course you can support the amendments proposed by the Senator from Massachusetts and by the administration, and wreck a system that has already been so successful that we need to expand it in order to meet the expanding needs of a dynamic and growing American society and American economy.

I find it particularly curious that these attempts to say that every recruiting company must follow rules set out by the Government in recruiting and in retention, detailed rules with major penalties for noncompliance, have made no such proposal with respect to the great bulk of American immigration.

We get tens, hundreds of thousands of immigrants every year who come to the United States under the guise of family reunification, as seekers of political asylum, as refugees, the great bulk of which have few, if any, skills and over whom there has been a major debate lasting over the last 3 years as to their eligibility for various forms of welfare and who, when they get jobs in order to get off welfare, will be taking the lowest skilled jobs that the United States has to offer where there may well be a real displacement. Yet, these requirements, the requirements of the amendments we are about to deal with, do not deal with these immigrants coming in far larger numbers than the extra 30,000 skilled employees about whom we are speaking at the present time.

Mr. President, the proposal of the Senator from Michigan is a proposal for a dynamic future for the United States. It is a proposal that will not only create opportunities for men and women, many of whom are educated in the United States, and others of whom are exceptional people for themselves, but for the new jobs and the new opportunities they will create.

Let me just take one or two examples of a specific company and the way in which it would be impacted by the proposed amendments. My friends at Microsoft tell me they will have hired an individual for a 12-month contract to do a very specific task, say, to develop an Internet site for stamp and coin collectors but then determined that there wasn't enough to warrant going on with the project and dismissed the employee. The proposed amendments backed by the administration would prevent Microsoft from hiring any new H–1B worker for any project for a period of at least 3 to 9 months, or if someone is dismissed because they have worked on a project and are experts at something which is now an anachronism, you cannot hire a new one through H–1B for something that looks to the future and is totally and completely different without meeting all of these restrictions.

Today we have an example of the Clinton administration's desire to have lawyers and judges design computers. In the amendments this afternoon, quite consistent with that philosophy, we have its desire to act as an employment agency for all of the high-tech companies in America, to tell them who they can hire, when they can hire

them, when they can fire them, and what the restrictions on them will be.

That is not the way we caused our economy in the course of the last 10 years to be one about which we have many questions, many jealousies of the Japanese and of others to the point at which we clearly dominate the world in the very fields in which this bill by the Senator from Michigan is designed to keep us preeminent.

I congratulate the Senator from Michigan for his dogged determination to see to it that we get to this vote and to say that we should deal with it with no amendments other than those of which he approves.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just while my friend from the State of Washington is here, I would ask him if he would read through both the amendments which I intend to offer about protection against displacement of U.S. workers, because the Senator has misstated what my amendment does and then differed with it. The amendment is very clear. It says:

For purposes of this section the term ''replacement'' means the employment of the nonimmigrant at the specific place of employment in the specific employment opportunity from which the United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

That is identical language to what is in the Abraham amendment. So it is difficult—when the Senator talks about Microsoft talking about laying off some employee, not being able to hire someone for 6 months is completely inaccurate. I intend to speak further, but if the Senator wanted to make some comment I would be glad to hear it. But I hope perhaps he might look at page 2 at the definitions of the amendment and I think he would find it is different from what the Senator has stated.

Mr. GORTON. Mr. President, this Senator simply wishes to report that the Kennedy amendments place the Department of Labor in the shoes of most of these employers with respect to the criteria with which they will engage in employment. We have sent the amendments that the Senator from Massachusetts proposes to the companies that will be affected by them and asked them, the people who are engaged in these hiring activities, what the impact will be. They report to us exactly what I have told the Senate here today. They report, in fact, that the Kennedy amendments are so disastrous for their recruiting they will be worse off with 95,000 H–1Bs and the Kennedy amendments than they would be to retain present law.

I, for one, am willing to accept the views of the employers in the high-tech community on the impact of these amendments as being exactly what they feel would apply to them. They do not want the Department of Labor making more of their employment decisions than they are making today.

Mr. KENNEDY. Well, Mr. President, this is the problem. Some companies distort and misrepresent what these amendments are. All The Senator has to do is read the amendment. In the recruitment area, our amendment says:

Take such steps to include a good faith recruitment in the United States using procedures that meet industry-wide standards.

Those are industry-wide standards. All we are trying to do is protect American workers. If there is a job out there and an American can do it, we are saying let him or her have the first crack at it. Let's not displace an American worker with a foreign worker and then find the corresponding pressure that is put upon them.

As I mentioned before, over 90 percent of the workers who are coming in are making $75,000 or less. So it is difficult for me to listen to the Senator from Washington talk about the kind of esoteric job he was looking at in terms of what might be needed for Microsoft and relating it to the more than 90 percent of workers who earn less than $75,000 per year. These are the workers—75 percent earn less than $50,000 and 16 earn more than $75,000. It seems to me we ought to be able to develop the training programs for those workers.

I would like to read through a few of the letters we have here that I mentioned earlier. One is from February of this year from Mr. Whittlinger in Torrance, CA.

Chalk up a Republican's support for your stand on not allowing foreign high tech immigrants in until and unless more Americans are given a chance first. I am unemployed (downsized) and cannot get a job, yet I see companies bring in foreign programmers over hiring me who is already trained (although perhaps not to latest technology/program languages). But I also see a reduced quality and wages (which I think is the primary goal of these companies.)

This is from a technology information worker who expressed his views on this particular provision.

Jay Roberts from the State of Maryland writes:

Currently, I work in the information industry as a senior level individual. My observation is there is little if any shortage.

This is a recruiter who says he is in the information industry. And he says:

We are quite capable of hiring all the qualified help that we need at currently prevailing wages. Should there be any question on this point, prepare the most qualified software resume of which you can think and send it to Microsoft. There is a 95 percent chance that they will not even acknowledge it.

There not being a true software professional shortage makes us face this for what it is—the H1B program is in effect an indentured servant program. H1B workers typically work at lower wages than Americans, and with less complaint.

* * * * *

The current technology revolution has the promise of restoring broad middle class prosperity, which has been severely eroded. . . .

* * * * *

If wages do increase to reflect temporary shortages, this soon corrects itself by more college graduates and career challenges.

* * * * *

Please demonstrate that you support the goals, prosperity, and future of your constituency by opposing increases in the H1B quotas. Furthermore, please begin efforts to force H1B employers to proactively demonstrate that they are hiring and training U.S. citizens prior to any H1B approval.

This is to President Clinton on the same issue, from Mr. Burns, of Portland, OR.

If companies are truly so desperate for engineers they should try raising salaries or expanding in areas of the US outside of Silicon Valley. And if the visa limit must truly be raised, then companies who hire H1B engineers should be willing to never layoff US citizen engineers, but I doubt they'll ever accept that.

High-Tech companies are always in favor of a free market and want to limit government intervention. But, when it comes to employment, they demand special treatment rather than letting supply and demand dictate salaries.

I guess he must be referring to what the GAO report showed, that there hadn't been any noticeable, significant increase in salaries in these areas. Generally, when you get a shortage of the professional personnel, salaries go up: Supply and demand. The GAO review of the Commerce Department's study indicates there is no increase, virtually, in these salaries. That is what we are seeing, and we are hearing from a lot of these American workers, who are trying to find employment.

Here is a letter dated February of this year:

Dear Mr. President,

I am graduating with a degree of computer science this spring. I am in deep debt and hope to find work quickly so I may repay it.

If you allow them to raise or eliminate the current 60,000 person quota on foreign computer workers it will be nothing less than a knife in my heart.

* * * * *

I hope you are on the side of indebted college students on this one.

You know, the list goes on. Here is the letter from Martin Rojo, San Mateo. He said:

. . .I am a professional software engineer who conducts hiring interviews. I can state that in my experience there is no shortage of qualified workers. While it is rare that someone exactly matches a job description in the esoteric world of software and hardware, the candidate's mental acumen is a more important indicator of success than any specific language or platform.

The real purpose behind any attempt to lift visa restrictions is, in my opinion, to allow importation of cheap labor. Part of my past coworkers were hired on H–1B visas, and they were tied to an employer in the manner of an indentured servant, while perfectly qualified American citizens did not get the job. This might be fine in farm labor, but there are many Americans who would fill the open positions if allowed.

We are basically saying OK, let's increase the numbers in a temporary way. But let us also develop training programs so Americans can fill those jobs in the future. And let's say no to displacing American workers with foreign temporary workers. And let's also

say that there must be at least minimum efforts to recruit Americans, following whatever the industry standard is.

All they have to do is attest, check the box, ''We have followed the industry standard and attest we have tried to hire an American.''

I find it difficult to understand, among our colleagues here—what is wrong with seeking American workers for these jobs? What is wrong with just asking employers to observe a requirement to recruit American workers? That is what these amendments do. They ensure that employers are at least going to make an effort to try to recruit Americans and make assurance they are not going to lay off Americans and to displace those Americans from a job that will then be filled by a foreigner.

It seems to me, if we had those two measures and an effective training program, then we could respond to whatever the needs of the information technology industry are for the best and the brightest workers.

But it comes down, Mr. President, to what we do for American workers who, despite doing a good job, in many instances, have been displaced. We find out that there is basic prejudice and discrimination against them. I think that is wrong.

I reserve the remainder of my time.

Mr. ABRAHAM. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Washington is recognized.

Mr. GORTON. Perhaps, Madam President, I owe the Senator from Massachusetts an apology. Perhaps it is true that he knows better than these high-tech companies whom they ought to hire and when they ought to hire them. Perhaps his effectively granting to the Department of Labor the determination of when a layoff is a layoff and when it is not, when a replacement is an appropriate replacement and when it is not, will be dealt with entirely benignly and will not harm any of our international competitiveness.

But, Madam President, I think not. I believe that these companies are better judges of their own needs than is the Senator from Massachusetts or the Department of Labor. And I am convinced that, looking around us, we can see how well this system has worked for the last 10 years, as evidenced by the dynamism and the growth of the American economy matched by no one else. Let's extend what already works rather than destroying what already works. Let's be optimists and not pessimists.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I will yield at this point to the Senator from Ohio, up to 10 minutes. I believe we have used all of our time on the bill, so I yield 10 minutes to him, off of one of the amendments that are time controlled.

Before he speaks, I thank the Senator from Ohio for his work and his staff's efforts to work with our staff and the staff of the ranking member and Senator LIEBERMAN and several others, and especially the Senator from Vermont, the chairman of the Labor Committee, to craft what will be ultimately a provision in the managers' amendment that I think effectively begins to address the issue of job training as a part of this legislation.

At this point, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I am proud to be a cosponsor of S. 1723, the American Competitiveness Act. I'd like to commend Senators ABRAHAM and HATCH for introducing such a well crafted piece of legislation.

I think the title of this bill—the American Competitiveness Act—is especially appropriate, since we are talking about a bill that will make our companies stronger and more able to compete in the global marketplace. None of our businesses can run efficiently when they are understaffed—and in today's marketplace there are plenty of overseas competitors who will pick up the slack and take away our customers if we give them that opportunity.

When the Commerce Department, using the Labor Department's data, projects that our economy will continue to grow at such a rate that more than 1.3 million new information technology jobs will be created over the next decade—but that our universities will produce less than a quarter of the necessary number of information technology graduates, simple math tells us that there will be a shortage of these highly skilled workers.

It may surprise people that the high-tech industry is not just about Silicon Valley. Ohio now ranks 10th in the nation in high-tech employment and 8th in high-tech exports. In Ohio, these jobs, on average, pay close to $14,000 higher than Ohio's average private sector wage—$14,000. I want to keep these jobs in Ohio and I don't want to see them moved overseas.

But let's look beyond statistics at what some of the largest employers in our country are telling us. They are the one we need to listen to. NCR, a leading high-tech company based in Ohio, has expressed concern that the estimated 340,000 high-tech worker shortage nationwide could affect NCR's ability to fill key high-tech positions. TRW, which is also based in Ohio, is a good example of how this shortage of skilled workers affects more than just the information technology industry. TRW, which produces safety equipment for the automotive industry and equipment for the defense industry, tells me that only one U.S. citizen for every 10 foreign students apply at TRW when they go onto a college campus to recruit. The company currently has 1,100 openings nationwide. These unfilled jobs are not helping this company to expand and create more jobs.

Procter & Gamble is another Ohio-based company that uses H–1B visas to hire about six to ten foreign nationals a year. Some people may wonder why such a low number of employees are so essential to a company's productivity, but these specialized scientists, many with doctoral degrees, are needed for key projects. Reaching this year's arbitrary limit on H–1B visas will prevent all employers from filling such specialized positions until the next fiscal year begins, thus delaying some key projects for up to six months. When those key projects are delayed, this means other American workers cannot work, other American workers will not be able to work on these projects. In our global marketplace, competitiveness demands that our companies be able to beat their overseas competitors to market. Any delay in the product cycle—from innovation or creation to production—impedes such competitiveness and could result in such companies moving their operations overseas where such hiring limitations do not exit for their overseas competitors.

Also, in a global marketplace, it only makes sense that small and large domestic companies must cater to a wide range of customer preferences and needs—they must know what the traditions and cultures of all of the countries are that they serve. I would rather have these companies hire a few foreign workers under our H–1B visa program, rather than have these companies move their base of operations—and American jobs—overseas.

The best and the brightest of the foreign workforce are brought into our country under the H–1B system. These are productive men and women who create innovative technologies—many receiving patents for the U.S. companies they work for—and whose ideas launch new projects and, thus, create new jobs for our domestic workforce.

I am a firm believer in educating and training our domestic workforce from within, so that this shortage of highly skilled labor may one day be solved. I strongly believe that part of the solution to this shortage depends on how we raise and educate our children and teenagers—this is why the 20,000 scholarships per year created under this bill (some for low income students) for math and engineering and computer science majors is such an important part of the bill, and such a strong contribution. I again salute my colleague from Michigan for inclusion of this Provision in the bill. Improving the educational process—whether it is job training focused on teens and adults, or math and science courses for children—is not something that can be achieved overnight. We must realistically face the shortage of highly skilled, high-tech workers and allow our companies to hire the workers they need to stay competitive in this global marketplace. The world will not wait for us to catch up in the math and science fields. We must move forward.

The enforcement penalties included in the bill will also help us protect our

domestic workforce form those who willfully violate the H–1B program. First, the bill increases penalties for such violators by 5 times the current penalty—by increasing fines from $1,000 to $5,000. The bill also provides for a 5-year probationary period during which spot inspections of the violating firms may occur at the discretion of the Department of Labor. The bill also adds a $25,000 fine per violation, and a two-year debarment from all employment immigration programs, in cases where an employer lays off a U.S. worker and willfully underpays a H1–B worker to replace the U.S. worker.

This bill also modifies the per-country limits an employment based visas. This modification will help prevent further discriminatory effects that the current per-country limit creates for otherwise qualified people from China and India.

I strongly support Senator ABRAHAM's bill. I believe it contains essential provisions to protect our domestic workforce from willful violators by increasing fines and investigative or probationary periods. Out domestic employers and workforce need to have the cap on H–1B visas raised in order to remain competitive. I urge my colleagues in the Senate to vote in favor of the Abraham bill.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I thank the Senator from Ohio for his support and help on this legislation. As I said before, it is especially appropriate to thank him because of his leadership on the entire topic of workforce development. He is the chairman of the Senate subcommittee that deals with preparing our workforce, job training and other similar topics. I know his support of the approach we are taking in this legislation should satisfy Members on both sides of the aisle, given the respect with which he is held on these issues, that the legislation which we are working on today addresses the concerns of the long term of how we are going to prepare American workers to hold these jobs when this short-term solution expires. I thank him.

Madam President, I suggest the absence of a quorum and ask that the time not be assessed to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. I yield myself 11 minutes.

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

THE TOBACCO LEGISLATION AND YOUTH SMOKING

Mr. KENNEDY. Madam President, we will be moving towards the votes as set out by the two leaders for votes on these amendments in approximately 2 hours. But while there is a brief moment, I would like to address the Senate on one of the issues that we will be addressing later this evening and on tomorrow. That is the amendment that will be offered hopefully in a bipartisan way by Republicans and Democrats on the tobacco bill to raise the cost per pack of tobacco from $1.10 to $1.50.

I have hopes that this will be a bipartisan amendment since there have been Republicans and Democrats who have supported that position both in the Finance Committee when the Finance Committee accepted that concept last week and also in the Budget Committee. I think that there are those on both sides of the aisle that support that particular measure.

I will strongly support the measure and welcome the opportunity to be one of those who commends that position to the Senate, when it is hoped, we will have some determination on that as one of the first orders of business. I believe that under the proposition, which will be announced later on this evening by the two leaders, that will be one of the measures which will be addressed and voted on tomorrow. So I will just take a few moments now to express my strong support for increasing the cigarette price by $1.50 per pack.

Mr. President, youth smoking in America has reached epidemic proportions. According to the report issued last month by the Centers for Disease Control Prevention, smoking rates among high school students have risen by nearly a third between 1991 and 1997. Among African-Americans, the smoking rates have soared by 80 percent. And more than 36 percent of high school students smoke—a 19-year high.

With youth smoking at such a crisis level and still increasing, we cannot rely on half measures. Congress must use the strongest legislative tools available to reduce youth smoking as rapidly as possible.

The amendment we will have before us tomorrow will provide for a cigarette price increase of $1.50 per pack over the next 3 years. The $1.10 per pack increase over 5 years in the managers' amendment is not adequate to achieve the youth smoking reduction goals of 60 percent. And by raising it by $1.50 instead of $1.10 a pack, we can deter an additional 750,000 children from smoking over the next 5 years. That will mean 250,000 fewer premature deaths from tobacco-induced illnesses.

Public health experts have overwhelmingly concluded that an increase of $1.50 a pack is the minimum cigarette price increase necessary to achieve our youth-smoking reduction goals.

Dr. C. Everett Koop and Dr. David Kessler, the National Academy of Sciences, the American Cancer Society, the American Heart Association, the American Lung Association, the American Medical Association, the ENACT Coalition, and the Save Lives Not Tobacco Coalition have all stressed the importance of a price increase of at least $1.50 a pack. It is the single most important step we can take to reduce youth smoking.

More than a third of the Senate have already cosponsored bills proposing the $1.50 a pack increase. The Senate Budget Committee endorsed $1.50 on a bipartisan vote of 14–8 in March. Last Thursday, a bipartisan majority in the Finance Committee voted for a cigarette price index of $1.50. Too many young lives are at stake for us to ignore the advice of all the public health experts.

Mr. President, the $1.10 increase, on the other hand, simply will not do the job. According to the University of Illinois' Professor Frank Chaloupka, the Nation's leading authority on the impact of higher cigarette prices on teenage smoking, an increase of $1.50 a pack would reduce youth smoking by nearly 50 percent. When combined with the youth access provisions and other tobacco control measures, the $1.50 per pack increase will reduce youth smoking by 60 percent and reach the target that we have set. In addition, if the tobacco industry plays by the rules and no longer targets young Americans with their advertisements and promotions, no look-back penalties would need to be applied above the $1.50 a pack increase.

According to Professor Chaloupka, the $1.10 increase will reduce youth smoking by only a third. Even with the nonprice provision in the tobacco legislation, it would be very difficult to achieve the targets for reducing youth smoking.

Ask any parents if saving 750,000 additional children from a lifetime of nicotine addiction and tobacco-induced disease is worth the extra 40 cents needed for the $1.50 price increase instead of the $1.10 increase.

Ask any person who is concerned about the health of the Nation's children whether we should do all we can to prevent these young Americans from taking up this deadly habit.

The vast majority of the American people support the $1.50 per pack increase and Congress should support it, too. Ask any taxpayer if they want to continue to shoulder the burden of paying the health costs of the Nation's smokers. Seventy-five percent of Americans do not smoke, yet the Department of Treasury finds that they pay $130 billion each year for the health costs in lost productivity of the 25 percent who do smoke.

Ask any American if they have had enough of the tobacco industry's distortions and denials of the addictiveness of nicotine or about the industry's cynical marketing of cigarettes to children or about the industry's decades-long coverup of the health risks associated with smoking.