

TITLE IV--AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

SEC. 401. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE.--This title may be cited as the "American Competitiveness and Workforce Improvement Act of 1998".

SUBTITLE A--PROVISIONS RELATING TO H-1B NONIMMIGRANTS

SEC. 411. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H-1B PROGRAM.

(a) TEMPORARY INCREASE IN SKILLED NONIMMIGRANT WORKERS.-- Paragraph (1)(A) of section 214(g) (8 U.S.C. 1184(g)) is amended to read as follows:

"(A) under section 101(a)(15)(H)(i)(b), may not exceed--

"(i) 65,000 in each fiscal year before fiscal year 1999;

"(ii) 115,000 in fiscal year 1999;

"(iii) 115,000 in fiscal year 2000;

"(iv) 107,500 in fiscal year 2001; and

"(v) 65,000 in each succeeding fiscal year; or".

(b) EFFECTIVE DATES. – The amendment made by subsection (a) applies beginning with fiscal year 1999.

SEC. 414. COLLECTION AND USE OF H-1B NONIMMIGRANT FEES FOR SCHOLARSHIPS FOR LOW-INCOME MATH, ENGINEERING, AND COMPUTER SCIENCE STUDENTS AND JOB TRAINING OF UNITED STATES WORKERS.

(a) IMPOSITION OF FEE.--Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) filing (on or after December 1, 1998, and before October 1, 2001) a petition under paragraph (1)--

"(i) initially to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b);

"(ii) to extend the stay of an alien having such status (unless the employer previously has obtained an extension for such alien); or

"(iii) to obtain authorization for an alien having such status to change employers.

"(B) The amount of the fee shall be \$500 for each such petition.

"(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(s)."

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.--Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

"(s) H-1B Nonimmigrant Petitioner Account.--

"(1) IN GENERAL.--There is established in the general fund of the Treasury a

separate account, which shall be known as the 'H-1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

“(2) USE OF FEES FOR JOB TRAINING.--56.3 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998.

“(3) USE OF FEES FOR LOW-INCOME SCHOLARSHIP PROGRAM.--28.2 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 414(d) of the American Competitiveness and Workforce Improvement Act of 1998 for low-income students enrolled in a program of study leading to a degree in mathematics, engineering, or computer science.

“(4) ADDITIONAL NSF USES.--

“(A) Grants for mathematics, engineering, or science enrichment courses.--4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to make merit-reviewed grants, under section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)), for programs that provide opportunities for enrollment in year-round academic enrichment courses in mathematics, engineering, or science.

“(B) Systemic reform activities.--4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out systemic reform activities administered by the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)).

“(5) USE OF FEES FOR DUTIES RELATING TO PETITIONS.--1.5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 214(c) related to petitions made for nonimmigrants described in section 101(a)(15)(H)(i)(b), to decrease the processing time for such petitions, and to carry out duties under section 416 of the American Competitiveness and Workforce Improvement Act of 1998. Such amounts shall be available in addition to any other fees authorized to be collected by the Attorney General with respect to such petitions.

“(6) USE OF FEES FOR APPLICATION PROCESSING AND ENFORCEMENT.--For fiscal year 1999, 6 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 212(n)(1) and for carrying out section 212(n)(2). Beginning with fiscal year 2000, 3 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 212(n)(1), and 3 percent of such amounts shall remain available to such Secretary until expended for carrying out section 212(n)(2). Notwithstanding the preceding sentence, both of the amounts made available for any fiscal year (beginning with fiscal year 2000) pursuant to the preceding sentence shall be available to such Secretary,

and shall remain available until expended, only for decreasing the processing time for applications under section 212(n)(1) until the Secretary submits to the Congress a report containing a certification that, during the most recently concluded calendar year, the Secretary substantially complied with the requirement in section 212(n)(1) relating to the provision of the certification described in section 101(a)(15)(H)(i)(b) within a 7-day period."

(c) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.--

(1) **IN GENERAL.--**In establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of the enactment of this Act, or demonstration programs or projects under section 171(b) of the Workforce Investment Act of 1998, the Secretary of Labor shall use funds available under section 286(s)(2) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) **GRANTS.--**The Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to--

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of the enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under section 121 of the Workforce Investment Act of 1998; or

(B) regional consortia of councils or local boards described in subparagraph (A).

(d) LOW-INCOME SCHOLARSHIP PROGRAM.--

(1) **ESTABLISHMENT.--**The Director of the National Science Foundation (referred to in this subsection as the "Director") shall award scholarships to low-income individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, or computer science.

(2) **ELIGIBILITY.--**

(A) **IN GENERAL.--**To be eligible to receive a scholarship under this subsection, an individual--

(i) must be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act), an alien admitted as a refugee under section 207 of the Immigration and Nationality, or an alien lawfully admitted to the United States for permanent residence;

(ii) shall prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(iii) shall certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, or

computer science.

(B) ABILITY.--Awards of scholarships under this subsection shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(3) LIMITATION.--The amount of a scholarship awarded under this subsection shall be determined by the Director, except that the Director shall not award a scholarship in an amount exceeding \$2,500 per year.

(4) FUNDING.--The Director shall carry out this subsection only with funds made available under section 286(s)(3) of the Immigration and Nationality Act.

SEC. 417. REPORT ON OLDER WORKERS IN THE INFORMATION TECHNOLOGY FIELD.

(a) STUDY.--The Director of the National Science Foundation shall enter into a contract with the President of the National Academy of Sciences to conduct a study, using the best available data, assessing the status of older workers in the information technology field. The study shall consider the following:

(1) The existence and extent of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in--

(A) promotion and advancement;

(B) working hours;

(C) telecommuting;

(D) salary; and

(E) stock options, bonuses, and other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) REPORT.--Not later than October 1, 2000, the Director of the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

SEC. 418. REPORT ON HIGH TECHNOLOGY LABOR MARKET NEEDS; REPORTS ON ECONOMIC IMPACT OF INCREASE IN H-1B NONIMMIGRANTS.

(a) NATIONAL SCIENCE FOUNDATION STUDY AND REPORT.--

(1) IN GENERAL.--The Director of the National Science Foundation shall conduct a study to assess labor market needs for workers with high technology skills during the next 10 years. The study shall investigate and analyze the following:

(A) Future training and education needs of companies in the high

technology and information technology sectors and future training and education needs of United States students to ensure that students' skills at various levels are matched to the needs in such sectors.

(B) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer science, and engineering since 1998.

(C) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(D) The relative achievement rates of United States and foreign students in secondary schools in a variety of subjects, including math, science, computer science, English, and history.

(E) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(F) The needs of the high technology sector for foreign workers with specific skills and the potential benefits and costs to United States employers, workers, consumers, postsecondary educational institutions, and the United States economy, from the entry of skilled foreign professionals in the fields of science and engineering.

(G) The needs of the high technology sector to adapt products and services for export to particular local markets in foreign countries.

(H) An examination of the amount and trend of moving the production or performance of products and services now occurring in the United States abroad.

(2) REPORT.--Not later than October 1, 2000, the Director of the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in paragraph (1).

(3) INVOLVEMENT.--The study under paragraph (1) shall be conducted in a manner that ensures the participation of individuals representing a variety of points of view.

b) REPORTING ON STUDIES SHOWING ECONOMIC IMPACT OF H-1B NONIMMIGRANT INCREASE.--The Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Chair of the Council of Economic Advisers, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, and any other member of the Cabinet, shall promptly report to the Congress the results of any reliable study that suggests, based on legitimate economic analysis, that the increase effected by section 411(a) of this title in the number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act has had an impact on any national economic indicator, such as the level of inflation or unemployment, that warrants action by the Congress.