

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	To Irene Bueno from WAVES re: appointments for Jazquelyn Bednarz, John Fraser, Michael Hoefer, Grace Kilbane (partial) (1 page)	03/14/2000	b(7)(C), b(7)(E), b(6)
002. email	To Irene Bueno from WAVES re: appointment for Earl Gohl (partial) (1 page)	03/14/2000	b(7)(C), b(7)(E), b(6)
003. email	To Irene Bueno from WAVES re: appointment for Patrick Stange (partial) (1 page)	03/15/2000	b(7)(C), b(7)(E), b(6)
004. email	To Irene Bueno from Gail Y. Brown re: appointment for John R. Fraser (partial) (1 page)	03/14/2000	b(6)
005. email	To Irene Bueno from Paula Herring re: appointment for Grace A. Kilbane (partial) (1 page)	03/14/2000	b(6)
006. email	To Cathy.St.Denis from Jacquelyn A. Bednarz re: meeting (partial) (1 page)	03/14/2000	b(6)
007. email	To Irene Bueno from Paula Herring re: EB Visa meeting (partial) (1 page)	03/15/2000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S

ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Irene Bueno

03/20/2000 10:56:27 AM

Record Type: Record

To: PATRICK W STANGE <PSTANGE@doleta.gov>

cc:

bcc:

Subject: Re: Draft reduction in recruitment regulations

thanks for this info. I will send to those who attended the EB visa meeting.

PATRICK W STANGE <PSTANGE@doleta.gov>



PATRICK W STANGE <PSTANGE@doleta.gov>

03/17/2000 01:48:18 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: Draft reduction in recruitment regulations

In the Wed. meeting about the EB visas, you asked to see a draft of the regulations currently i internal DOL clearance which will allow employers to change a case currently in the system to a "reduction in recruitment" case with out losing the case's "priority date". This will speed the processsing of the case and will decrease the state's backlog.

Attached, in Word Perfect format, is th draft.



- rirreg.wpd

CLEARANCE DRAFT

Billing Code: 4510-30

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

**Labor Certification Process for the Permanent Employment of Aliens in the
United States; Refiling of Applications**

[RIN 1205 - AB25]

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the permanent employment of aliens in the United States. The proposed amendments would permit employers to request that any labor certification application for permanent employment filed on or before [insert date of publication of this document in the FEDERAL REGISTER] and which has not been sent to the regional certifying officer, be processed as a reduction in recruitment request, provided recruitment has not been conducted pursuant to the permanent labor certification regulations. ETA anticipates that the proposed amendment would reduce the backlog of labor certification applications for permanent employment in State Employment Security Agencies (SESA). This measure to reduce backlogs would result in a variety of desirable benefits, including a reduction in government resources necessary to process applications for alien employment certification, a reduction in processing time for both new applications and those applications currently in the queue, and would facilitate the development and

implementation of a new, more efficient system for processing labor certification applications for permanent employment in the United States.

DATE: Interested persons are invited to submit written comments on the proposed rule on or before [insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESS: Submit written comments to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-4456, Washington, DC 20210, Attention: James H. Norris, Chief, Division of Foreign Labor Certifications.

FOR FURTHER INFORMATION: Contact Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N-4456, Washington, DC 20210. Telephone: (202) 219-5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

Backlogs of applications for permanent alien employment certification have been a growing problem in ETA regional and SESA offices due to declining resources allocated to the permanent labor certification program. These increasing backlogs have resulted in an increase in the time it takes to obtain a determination on an application for permanent employment in the United States.

Recent measures to reduce backlogs in ETA's regional offices have met with considerable success. Consequently, ETA is now turning its attention to reducing the number of backlogged cases in SESA's. Instituting measures to reduce backlogs in SESA's without first reducing backlogs in regional offices would not have resulted in a

reduction in mean processing time. Implementing measures to reduce backlogs in SESA's without first reducing backlogs in the regional offices, would have merely resulted in transferring the backlogged applications from the SESA's to ETA's regional offices.

B. Statutory Standard and Implementing Regulations

Before the Department of State and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and to the Attorney General that:

(a) There are not sufficient United States workers, who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform the work; and

(b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed United States workers.

[8 U.S.C. 1182(a)(5)(A)].

If the Secretary, through ETA, determines that there are no able, willing, qualified, and available U.S. workers and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, DOL so certifies to the INS and to the Department of State, by issuing a permanent alien labor certification.

If DOL cannot make one or both of the above findings, the application for permanent alien employment certification is denied. DOL may be unable to make the two required findings for one or more reasons, including, but not limited to:

(a) The employer has not adequately recruited U.S. workers for the job offered to the alien, or has not followed the proper procedural steps in 20 CFR part 656.

(b) The employer has not met its burden of proof under section 291 of the Immigration and Nationality Act (INA or Act.) (8 U.S.C. 1361), that is, the employer has

not submitted sufficient evidence of its attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, section 291 of the Act (8 U.S.C. 1361) states, in pertinent part that:

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act

C. DEPARTMENT OF LABOR REGULATIONS

The Department of Labor has promulgated regulations, at 20 CFR part 656, governing the labor certification process described above for the permanent employment of immigrant aliens in the United States. Part 656 was promulgated pursuant to section 212(a)(14) of the INA (now at section 212(a)(5)(A)). 8 U.S.C. 1182(a)(5)(A).

The regulations at 20 CFR part 656 set forth the factfinding process designed to develop information sufficient to support the granting or the denial of a permanent labor certification. These regulations describe the potential of the nationwide system of public employment service offices to assist employers in finding available U.S. workers and how the factfinding process is utilized by DOL as the basis of information for the certification determination. See also 20 CFR parts 651 through 658, and the Wagner-Peyser Act (29 U.S.C. Chapter 4B).

Part 656 also sets forth the responsibilities of employers who desire to employ

immigrant aliens permanently in the United States. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State Employment Service System, and by other specified means. The purpose is to assure that there is an adequate test of the availability of U.S. workers to perform the work, and to insure that aliens are not employed under conditions that would adversely affect the wages and working conditions of similarly employed U.S. workers.

D. Backlogs

Since Fiscal Year (FY) 1995, backlogs of applications for permanent alien employment certification in ETA regional offices and SESA's have increased dramatically, largely, due to declining resources. Between October 1994 and October 1998, the total backlog in both regional and SESA offices increased from 40,000 to 104,000 applications for alien employment certification. Regional office backlogs alone increased from 10,000 to 30,000 cases over that period, while backlogs in the SESA offices increased from 30,000 to 74,000 cases. The number of backlogged cases in SESA's on March 31, 1999, stood at about 86,000 applications, as compared to 30,000 at the end of FY 1995.

Early in calendar year 1999 ETA instituted a number of measures to reduce the backlog of applications for permanent alien employment certification that numbered over 38,000 cases in its regional offices at the beginning of February 1999. The efforts to reduce backlogs in regional offices met with considerable success. As of late October 1999, the number of backlogged cases in ETA regional offices numbered 14,642. To accomplish this large reduction in backlogs, regional offices processed over 71,000 cases. In addition to processing backlogged applications, the regions had to keep abreast of the 47,800 new cases received from the SESA's between the beginning of February and late October 1999.

E. Reduction in Recruitment (RIR) Requests

On October 1, 1996, because of the increasing workloads and declining staff

resources to process labor certification applications, ETA issued General Administrative Letter No. 1-97, Measures for Increasing Efficiency in the Permanent Labor Certification Process (GAL 1-97). The GAL instituted a number of measures to increase efficiency which were achievable under current regulations. One of the measures to increase efficiency was to encourage employers to file requests for reduction in recruitment under § 656.21(i) of the permanent labor certification regulations. Requests for reduction in recruitment are given expedited processing at ETA's regional offices, if they contain no deficiencies. The reduction in recruitment provision allows certifying officers to reduce partially or completely the employer's recruitment efforts through the State Employment Security Agencies, for example, by decreasing partially or completely the number of days which the job order and/or ad must be run. The notice requirement at § 656.20(g)(1)(i) and (5) can be reduced partially, but it cannot be eliminated, since it is based on a statutory requirement. See Immigration Act of 1990, Pub. L. 101-649, sec. 122 (b) (Nov. 29 1990).

The reduction in recruitment provision may be utilized by certifying officers when the labor market has been adequately tested within 6 months prior to the filing of the application and there is no expectation that full or partial compliance with the prescribed recruitment measures will produce qualified and willing applicants.

The emphasis on the use of the reduction in recruitment regulation by GAL 1-97 in appropriate cases has worked well and has contributed significantly to ETA being able to manage its increasing case load with limited staff resources. Backlogs in both the regional offices and SESA's would undoubtedly be substantially larger if the use of the RIR provisions in the regulations had not been encouraged by GAL 1-97.

ETA has concluded that backlogs in SESA's could be substantially reduced if employers are allowed to have applications that were not originally filed as RIR cases and which meet the appropriate criteria removed from the SESA's processing queues and processed as reduction in recruitment cases. Furthermore, reducing or eliminating the

backlogs would facilitate the development and implementation of a new permanent employment certification system that ETA has been developing.

The proposed amendment to the RIR regulation at 20 CFR 656.21(i) would allow an employer to file a request to have an application filed on or before [insert date of publication of this document in the FEDERAL REGISTER], which has not been sent to the regional office, processed as a RIR request under § 656.21(i), provided that recruitment has not been conducted pursuant to § 656.21(f) and/or (g). The proposed amendment would contribute substantially to reducing the backlogs of labor certification applications for permanent employment of aliens that currently exist in the SESA's.

The proposed regulation provides that the option to have a permanent labor certification application processed as an RIR request would apply only to cases that were filed on or before [insert the date of the publication of this document in the FEDERAL REGISTER]. ETA's operating experience indicates that without such a limitation employers would be motivated to file large numbers of cases, many of which would be inadequately prepared, simply to obtain a filing date¹ and then convert such cases to reduction in recruitment requests. Providing sufficient lead time to employers to simply file large numbers of cases that could subsequently be converted to RIR cases would undermine the purpose of the proposed rule which is to reduce backlogs of existing cases and to facilitate the orderly implementation of a new streamlined labor certification system.

The Department's experience with section 245(i) of the INA is instructive in this regard. Section 245(i) allows aliens who are the beneficiaries of labor certifications filed

¹ The filing date is important to employers because, according to INS regulations, "[t]he priority date of any petition for classification under section 203(b) of the Act which is accompanied by an individual labor certification from the Department of Labor shall be the date the request for certification was accepted for processing by any office within the employment service system." See 8 CFR 204.5(d).

on or before January 14, 1998, to adjust status to that of a lawful permanent resident despite the fact many of the section 245 conditions for adjustment of status are not met (for example, the conditions that the alien had been inspected and admitted or paroled and had not engaged in unauthorized employment). The Department estimates that employers, in availing themselves of section 245(i), filed 40,000 applications with SESA's between November 1 and January 14, 1999. Most of these applications were filed during the first 2 weeks of January 1998. A very large proportion of the applications, if not the majority, filed in anticipation of the sunset of the grandfathering provisions of 245(i) were inadequately prepared.

Before the issuance of GAL 1-97, cited above, on October 1, 1996, the RIR provisions at § 656.21(i) were not fully utilized for a variety of reasons. The issuance of GAL 1-97 instituted a uniform policy that RIR requests were to be viewed favorably, set forth operating guidelines that were to be followed by all regional offices, and clarified ETA policy regarding the priority to be given RIR requests. Between the issuance of GAL 1-97 in October 1996, and the publication of this document in the FEDERAL REGISTER employers have had ample encouragement and opportunity to file RIR requests.

The proposed regulation also provides that the request to have a previously filed application processed as an RIR request must be accompanied by documentary evidence of good faith recruitment conducted within the 6 months immediately preceding the date of the request. This provision will allow expeditious processing of previously filed applications as RIR requests upon receipt of the employer's request.

The proposed regulation does not specifically address the ability of an employer to amend its application at the time the employer makes a request to have a previously filed application processed as a RIR request. The Department believes that the current administrative practices that have been developed to handle requests to amend labor certifications after filing are sufficient. Interested parties, however, are invited to submit

comments on this issue and the Department will consider those and any other comments in the development of the final rule.

EXECUTIVE ORDER 12866: The Department has determined that this proposed rule is not an “economically significant regulatory action” within the meaning of Executive Order 12866, in that it will not have an economic effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

While it is not economically significant, the Office of Management and Budget reviewed the proposed rule because of the novel legal and policy issues raised by this rulemaking.

REGULATORY FLEXIBILITY ACT: The proposed rule would only affect those employers seeking immigrant workers for permanent employment in the United States. The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities.

UNFUNDED MANDATES REFORM ACT OF 1995: This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996: This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on

competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

EXECUTIVE ORDER 13132: This proposed rule will not have a substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a summary impact statement.

ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES:

The proposed regulation does not affect family well-being.

PAPERWORK REDUCTION ACT: The proposed rule would not modify the existing collection of information requirements in 20 CFR 656.21.

CATALOGUE OF FEDERAL DOMESTIC ASSISTANCE NUMBER: This program is listed in the Catalogue of Federal Domestic Assistance at Number 17.203, "Certification for Immigrant Workers."

LIST OF SUBJECTS: Administrative practice and procedure, Aliens, Crewmembers, Employment, Employment and training, Enforcement, Fraud, Guam, Immigration, Labor, Longshore work, Unemployment, Wages and working conditions.

PROPOSED RULE: Accordingly, Part 656 of Chapter V of Title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 656—[Amended]

1. The authority citations for Part 656 is revised to read as follows:

AUTHORITY: 8 U.S.C. 1182(a)(5)(A) and 1182(p); 29 U.S.C. 49 et seq.; sec.122, Pub. L. 101-649, 109 Stat. 4978.

§ 656.21 [Amended]

2. Section 656.21(i) is amended by adding a new paragraph (i)(6), to read as follows:

§ 656.21 Basic Labor Certification Process

* * * * *

(i) * * *

(6) Notwithstanding the provisions of paragraph (i)(1)(i) of this section an employer may file a request with the SESA to have any application filed on or before [insert same date as publication of this document in the FEDERAL REGISTER] and which has not been sent to the regional certifying officer, processed as a reduction in recruitment request under this paragraph (i), provided that recruitment has not been conducted pursuant to paragraph 656.21(f) and/or (g) of this section.

Signed at Washington, DC, this _____ day of _____, 2000.

RAYMOND L. BRAMUCCI
Assistant Secretary of Labor for
Employment and Training.

EB VISA MEETING
March 15, 2000

my
the
miller
john
Grove
pat
new
Bm
Jugue
Abr
sch

- **Introductions**
- **Background/ Goal - Improve the EB system**
What is the status
What are we doing to reform system + reduce backlog.
- **Purpose of meeting - discuss current status of backlog and develop some proposed solutions**

- **Status of the backlog** — Status
DOL
Walk through process — INS
- **Current plans to reform/improve the program and status of implementation (and the timeframe for completion)**
- **What other proposals should we consider to address this problem**
- **Next Steps**
- 1 pager - similar to H2A.

Irene Bueno

03/14/2000 06:37:01 PM

Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: EB Visa meeting 

sounds good. Thanks.
Debra J. Bond



Debra J. Bond

03/14/2000 03:42:39 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc: brian v. kennedy/opd/eop@eop
bcc:
Subject: Re: EB Visa meeting 

Looks good. My suggested edits are below in **blue**. The main reason for the majority of the edits is to focus on "reform" of the program versus reducing the backlog. This really applies to DOL, not sure about INS. DOL has a plan to reduce the backlog but that is not enough. The process is broken. DOL has developed a plan to completely re-engineer the process -- they just do not really want to implement it.

For INS, it is more of a backlog issue because resources have been pulled off these applications for naturalization processing. I do not know enough about their adjudication process to know whether it should be reformed as well.

Irene Bueno

Irene Bueno

03/14/2000 02:29:17 PM

Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP, Brian V. Kennedy/OPD/EOP@EOP
cc:
Subject: Re: EB Visa meeting

Please let me know what you of this proposed agenda? Thanks.

- Introductions/Background - Goal - Improve the EB system

- Purpose of meeting - ~~identify the reasons for the backlog~~ **discuss current status of backlog** and develop some proposed solutions

- Status of the backlog ~~and what are the reasons for the backlog~~

- What are the current ~~proposals~~ **plans to reform/improve the program** ~~reduce the backlog~~ and what is the status of ~~these proposals~~ **implementation (and the timeframe for completion)**

- What other proposals should we consider **to address this problem**

- Next Steps

----- Forwarded by Irene Bueno/OPD/EOP on 03/14/2000 02:24 PM -----

Irene Bueno

03/14/2000 02:23:33 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Reynaldo Valencia/WHO/EOP@EOP

bcc: Irene Bueno/OPD/EOP

Subject: Re: EB Visa meeting 

We are now confirmed for the meeting on Wed. 3/15 at 2pm in room 211. Please send me your clearance info (Full name, DOB and SSN). Thanks.

Irene Bueno

Irene Bueno

03/13/2000 01:41:19 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

bcc: Irene Bueno/OPD/EOP

Subject: Re: EB Visa meeting 

The proposed date and time of Tuesday at 2pm does not work so we are exploring Wed. 3/15 at 2pm. Please let me know if this works for all of you. Thanks for your patience.

Message Sent To:

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

Irene Bueno

03/14/2000 06:37:39 PM

Record Type: Record

To: Steven M. Mertens/OMB/EOP@EOP
cc: debra j. bond/omb/eop@eop
bcc: Records Management@EOP
Subject: Re: EB Visa meeting 

sounds good. I left you a voice mail message re; Bill Yates attending Steven M. Mertens

Steven M. Mertens

03/14/2000 03:59:13 PM

Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP, Irene Bueno/OPD/EOP@EOP
cc:
Subject: Re: EB Visa meeting 

Implementing reform at INS is also a problem. They seem most interested in dumping more resources into the current flawed system. We should raise the reengineering in both agencies.

Debra J. Bond

02/25/2000 08:55:35 AM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc: brian v. kennedy/opd/eop@eop
bcc:
Subject: Re: Improvements to the EB visa program 

Good idea. You may ask each agency to bring paper (if they have it) on their plans to address this problem.

As background, from the DOL end we do have a backlog reduction plan in the budget that they are supposed to be implementing now. It is changing the current state/federal process to a federal process that is attestation driven and audit based. From the INS end, my understanding is that because INS has been completely focused on naturalization cases, the EB and family cases have truly suffered. It is going to be a balancing act to get them to focus on business/family cases while maintaining their naturalization numbers.

Irene Bueno

Irene Bueno
02/24/2000 06:19:00 PM

Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP, Brian V. Kennedy/OPD/EOP@EOP
cc:
Subject: Improvements to the EB visa program

Separate from the entire H1B debate, I think that we should convene a meeting with DOL and INS and figure why there is such a backlog and come up with administrative proposals to address the backlog. What do you think?

Withdrawal/Redaction Marker

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001. email	To Irene Bueno from WAVES re: appointments for Jazquelyn Bednarz, John Fraser, Michael Hoefer, Grace Kilbane (partial) (1 page)	03/14/2000	b(7)(C), b(7)(E), b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S

ry2205

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Freedom of Information Act - [5 U.S.C. 552(b)]

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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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RR. Document will be reviewed upon request.



WAVES_CONF@PMD.F.EOP.GOV
03/14/2000 07:27:22 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: WAVES Appt. U77382 Confirmation for BUENO, IRENE

ADDRESSEES: IRENE_BUENO

SUBJECT: WAVES Appt. U77382 Confirmation for BUENO, IRENE

FROM: WAVES OPERATIONS CENTER - ACO: (b)(7)e, (b)(7)c, (b)(6)

Date: 03-14-2000

Time: 19:23:41

[001]

This message serves as confirmation of an appointment for the visitors listed below.

Appointment With: BUENO, IRENE
Appointment Date: 3/15/00
Appointment Time: 2:00:00 PM
Appointment Room: 211
Appointment Building: OEOB
Appointment Requested by: BUENO IRENE
Phone Number of Requestor: 66558

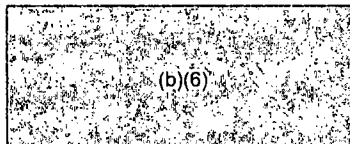
WAVES APPOINTMENT NUMBER: U77382

If you have any questions regarding this appointment, please call the WAVES Center at 456-6742 and have the appointment number listed above available to the Access Control Officer answering your call.

TOTAL NUMBER OF NAMES SUBMITTED FOR ENTRY : 4

TOTAL NUMBER OF NAMES OF CLEARED FOR ENTRY: 4

BEDNARZ, JACQUELYN
FRASER, JOHN
HOEFER, MICHAEL
KILBANE, GRACE



Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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002. email	To Irene Bueno from WAVES re: appointment for Earl Gohl (partial) (1 page)	03/14/2000	b(7)(C), b(7)(E), b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S
ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



WAVES_CONF@PMD.F.EOP.GOV
03/14/2000 08:17:57 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: WAVES Appt. U77382 Confirmation for BUENO

ADDRESSEES: IRENE_BUENO

SUBJECT: WAVES Appt. U77382 Confirmation for BUENO

FROM: WAVES OPERATIONS CENTER - ACC (b)(7)e-(b)(7)c (b)(6)

Date: 03-14-2000

Time: 20:15:59

[002]

This message serves as confirmation of an appointment for the visitors listed below.

Appointment With: BUENO
Appointment Date: 3/15/00
Appointment Time: 2:00:00 PM
Appointment Room: 211
Appointment Building: OEOB
Appointment Requested by: BUENO IRENE
Phone Number of Requestor: 66558

WAVES APPOINTMENT NUMBER: U77382

If you have any questions regarding this appointment, please call the WAVES Center at 456-6742 and have the appointment number listed above available to the Access Control Officer answering your call.

TOTAL NUMBER OF NAMES SUBMITTED FOR ENTRY : 1
TOTAL NUMBER OF NAMES OF CLEARED FOR ENTRY: 1

GOHL, EARL

(b)(6)

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	To Irene Bueno from WAVES re: appointment for Patrick Stange (partial) (1 page)	03/15/2000	b(7)(C), b(7)(E), b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S
ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or
financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President
and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of
personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed
of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C.
2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of
an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial
information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of
personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement
purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of
financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information
concerning wells [(b)(9) of the FOIA]



WAVES_CONF@PMD.F.EOP.GOV
03/15/2000 01:22:53 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: WAVES Appt. U77382 Confirmation for BUENO

ADDRESSEES: IRENE_BUENO

SUBJECT: WAVES Appt. U77382 Confirmation for BUENO

FROM: WAVES OPERATIONS CENTER - ACO: (b)(7)e, (b)(7)c, (b)(6)

Date: 03-15-2000

Time: 13:17:40

[003]

This message serves as confirmation of an appointment for the visitors listed below.

Appointment With: BUENO
Appointment Date: 03/15/2000
Appointment Time: 2:00:00 PM
Appointment Room: 211
Appointment Building: OEOB
Appointment Requested by: BUENO IRENE
Phone Number of Requestor: 66558

WAVES APPOINTMENT NUMBER: U77382

If you have any questions regarding this appointment, please call the WAVES Center at 456-6742 and have the appointment number listed above available to the Access Control Officer answering your call.

TOTAL NUMBER OF NAMES SUBMITTED FOR ENTRY: 1
TOTAL NUMBER OF NAMES OF CLEARED FOR ENTRY: 1

STANGE, PATRICK

(b)(6)

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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004. email	To Irene Bueno from Gail Y. Brown re: appointment for John R. Fraser (partial) (1 page)	03/14/2000	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S
ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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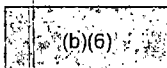


"Gail Y. Brown" <gyh@fenix2.dol-esa.gov>
03/14/2000 03:39:54 PM

Record Type: Record

To: Irene Bueno/OPD/EOP
cc:
Subject: RE: EB Visa meeting

John R. Fraser



[004]

-----Original Message-----

From: Irene_Bueno@opd.eop.gov [SMTP:Irene_Bueno@opd.eop.gov]
Sent: Tuesday, March 14, 2000 2:35 PM
To: gyh@fenix2.dol-esa.gov; PHERRING@doleta.gov
Subject: Re: EB Visa meeting

Please send me clearance info. Thanks.

----- Forwarded by Irene Bueno/OPD/EOP on 03/14/2000 02:34 PM -----

Irene Bueno
03/14/2000 02:23:33 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Reynaldo Valencia/WHO/EOP@EOP
bcc: Irene Bueno/OPD/EOP
Subject: Re: EB Visa meeting (Document link not converted)

We are now confirmed for the meeting on Wed. 3/15 at 2pm in room 211.
Please send me your clearance info (Full name, DOB and SSN). Thanks.

Irene Bueno
03/13/2000 01:41:19 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

bcc: Irene Bueno/OPD/EOP

Subject: Re: EB Visa meeting (Document link not converted)

The proposed date and time of Tuesday at 2pm does not work so we are exploring Wed. 3/15 at 2pm. Please let me know if this works for all of you. Thanks for your patience.

Message Sent

To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

Message Sent

To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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005. email	To Irene Bueno from Paula Herring re: appointment for Grace A. Kilbane (partial) (1 page)	03/14/2000	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S

ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



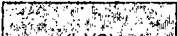
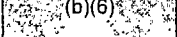
Paula Herring <PHERRING@doleta.gov>
03/14/2000 03:50:56 PM

Record Type: Record

To: Irene Bueno/OPD/EOP
cc: GKILBANE@doleta.gov, PHERRING@doleta.gov
Subject: Re: EB Visa meeting

Irene ---- Listed below is clearance information for Grace for the EB Visa meeting tomorrow:

[005]

Full Name: Grace A. Kilbane
DOB: 
SSN:  (b)(6)

>>> <Irene_Bueno@opd.eop.gov> 03/14 2:35 PM >>>

Please send me clearance info. Thanks.

----- Forwarded by Irene Bueno/OPD/EOP on 03/14/2000 02:34
PM -----

Irene Bueno
03/14/2000 02:23:33 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Reynaldo Valencia/WHO/EOP@EOP
bcc: Irene Bueno/OPD/EOP
Subject: Re: EB Visa meeting (Document link not converted)

We are now confirmed for the meeting on Wed. 3/15 at 2pm in room 211.
Please send me your clearance info (Full name, DOB and SSN). Thanks.

Irene Bueno
03/13/2000 01:41:19 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
bcc: Irene Bueno/OPD/EOP
Subject: Re: EB Visa meeting (Document link not converted)

The proposed date and time of Tuesday at 2pm does not work so we are exploring Wed. 3/15 at 2pm. Please let me know if this works for all of you. Thanks for your patience.

Message Sent

To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

Message Sent

To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	To Cathy.St.Denis from Jacquelyn A. Bednarz re: meeting (partial) (1 page)	03/14/2000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S
ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



Jacquelyn.A.Bednarz@usdoj.gov
03/14/2000 05:20:00 PM

Record Type: Record

To: Cathy.St.Denis@intmail.usdoj.gov, Irene Bueno/OPD/EOP
cc: Michael.D.Hoefer@intmail.usdoj.gov
Subject: INS info for clearance to OEOB for 3/15 mtg @2p.m.

Irene-

Here is the info to secure building clearance for the INS reps:

[006]

Michael D. Hoefer

DOB [REDACTED]
SSN [REDACTED] (b)(6)

Jacquelyn A. Bednarz

DOB [REDACTED]
SSN [REDACTED] (b)(6)

Could you please send the room number for the meeting.

Thanks, Jackie B.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. email	To Irene Bueno from Paula Herring re: EB Visa meeting (partial) (1 page)	03/15/2000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 19894

FOLDER TITLE:

EB [Employment Based] Visa Program

2017-1120-S
ry2205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- b(1) National security classified information [(b)(1) of the FOIA]
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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

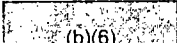
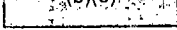


Paula Herring <PHERRING@doleta.gov>
03/15/2000 08:58:48 AM

Record Type: Record

To: Irene Bueno/OPD/EOP
cc: GKILBANE@doleta.gov, PHERRING@doleta.gov, PSTANGE@doleta.gov
Subject: Re: EB Visa meeting

Irene ----- Would you add the following person (attending with Grace) for clearance for the EB Visa meeting today:

Full Name: Patrick W. Stange
DOB: 
SSN: 

[007]

Thanks much!

Paula

>>> <Irene_Bueno@opd.eop.gov> 03/14 2:35 PM >>>

Please send me clearance info. Thanks.

----- Forwarded by Irene Bueno/OPD/EOP on 03/14/2000 02:34 PM -----

Irene Bueno
03/14/2000 02:23:33 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Reynaldo Valencia/WHO/EOP@EOP
bcc: Irene Bueno/OPD/EOP
Subject: Re: EB Visa meeting (Document link not converted)

We are now confirmed for the meeting on Wed. 3/15 at 2pm in room 211.
Please send me your clearance info (Full name, DOB and SSN). Thanks.

Irene Bueno
03/13/2000 01:41:19 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
bcc: Irene Bueno/OPD/EOP
Subject: Re: EB Visa meeting (Document link not converted)

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To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

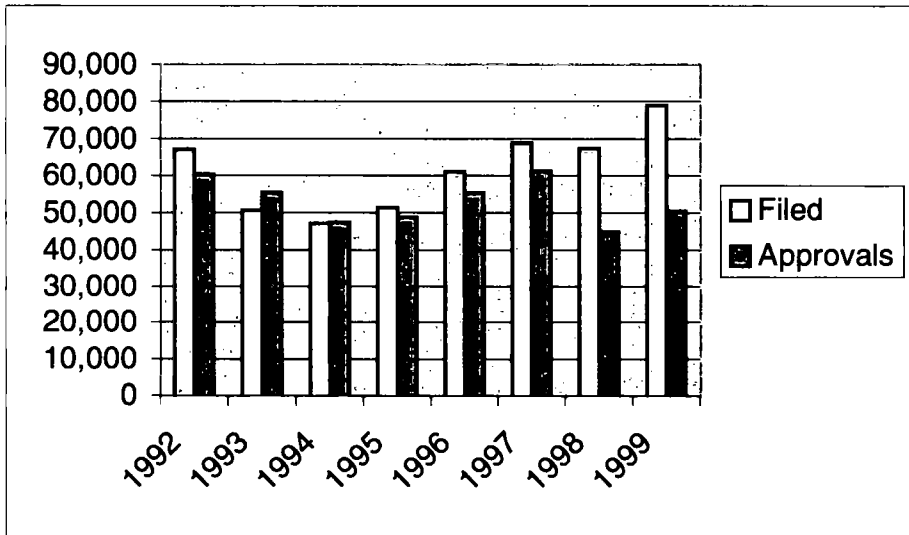
Message Sent

To: _____

fra@fenix2.dol-esa.gov
debra j. bond/omb/eop@eop
gohl-earl@dol.gov @ inet
brian v. kennedy/opd/eop@eop
cathy.st.denis@usdoj.gov
gkilbane@doleta.gov

I-140 FY

FY	Filed	Approvals	Denials
1992	67,043	60,371	4,816
1993	50,721	55,450	4,666
1994	47,130	47,563	4,750
1995	51,511	48,935	6,180
1996	61,046	55,484	8,295
1997	68,824	61,367	7,508
1998	67,511	44,912	9,005
1999	78,879	50,498	8,585
2000	29,639	17,360	2,863



*Rep. Dreier
Article Kennedy*

STATEMENT OF REPRESENTATIVE ZOE LOFGREN

I am proud to join my colleagues both Democrats and Republicans in a bipartisan effort to address the needs of the high-technology industry. The HI-TECH Act of 2000 will channel hundreds of millions of dollars into education and training programs for American children and incumbent workers while at the same time addressing the critical need of the high-technology industry for a highly skilled and talented workforce.

HI-TECH, the acronym for this bill stands for Helping to Improve Technology Education and Achievement. As you know, many of us present are concerned about the Digital Divide. We must make vast improvements to our education system and instill in our children the same enthusiasm and wonder for science and technology that they had when President Kennedy captured their imagination with thoughts of traveling to the moon. We must do that by ensuring that every child has access to technology, in the schools and in the community. No one should be left behind.

I believe this bill has the critical education components necessary to begin to bridge the Digital Divide by channeling much needed dollars to the Upward Bound Program, National Science Foundation scholarships and Student Loan forgiveness for Math and Science Teachers.

Additionally, this bill will help American industry remain competitive by ensuring that American companies have continued access to the greatest minds of our time. Linus Torvalds, the creator of the Linux operating system is in this country on an H-1B visa. He used to be Finland's greatest treasure. Now he's ours. But before Linus gets a greencard he has miles to travel in the INS and DOL bureaucracy.

We should not be making it more difficult for people of his caliber to enter our country---we ought to be making it easier. Do we really want talent like this to be evicted from America, to invent the new new NEW thing in a foreign land, and end up in competition with us? Let them work for America. The HI-TECH Act will make it easier for the US to keep people like Linus.

Some people have argued that the issue before us is one of shortage. That's too simple. Our country's education system fails too many children. And when kids graduate from high school, not enough children pursue the sciences or math or engineering in college. The bottom line is that you can't train a software engineer or a chip designer overnight. It takes years and years of training to become proficient in these extremely specialized fields. So this issue is about long term education and training for Americans and access to great minds for our companies in the short term.

I thank my colleagues, and Chairman Dreier for reaching across the aisle and working with us on this legislation.

The Helping to Improve Technology Education and Achievement Act of 2000
(The HI-TECH Act)

Questions & Answers

What is the purpose of this legislation?

Many of us who value the economic prosperity in America that is fueled by the high-technology sector introduced The Helping to Improve Technology Education and Achievement Act (The HI-TECH Act) on March 15, 2000 to ensure the continued competitiveness of the American high-technology industry-not just in Silicon Valley, but across the nation. The American economy needs talented individuals, both students and experienced personnel, who excel in the fields of math, science, engineering and computer science. These persons are necessary not just on a temporary basis but in permanent positions. Some of these individuals were educated in US universities and colleges, and some are coming to us from the top post-secondary institutions abroad. The purpose of this bill is to allow individuals who excel to contribute to the American economy.

Why do we need this legislation?

We need this bill to address the long and short-term issues that confront American industry when the talent issue emerges. Many American companies utilize the H-1B temporary program because the permanent employment immigration process has broken down. In some areas of the country, companies wait 3-4 years or more to bring a talented, skilled person to the US on a permanent basis. Because many high-technology companies operate on a product cycle of as little as a few months, it is difficult for these same companies to go through the permanent employment system because of the long waiting periods for a visa. While many would say that there is certainly a need for temporary talent, there would be less of a need for H-1B workers if companies were able to employ permanent talent more quickly. To that end, this bill addresses employer concerns on both the temporary and permanent categories.

What does this bill do?

This legislation seeks to accomplish two goals---to address our short-term talent shortage while at the same time ensuring that viable long-term solutions such as education and job training eliminate the future need to expand the H-1B program.

What are the short-term goals of this bill?

The short-term goal is to provide America's cutting edge companies with highly skilled talent, in other words brain power. Unfortunately, the H-1B cap will be reached before the beginning of the next fiscal year---FY 2001. Because of low unemployment rates, and unprecedented growth in the American economy, fueled in large part by the

high-technology industry, it has been difficult to find high-skilled workers. This bill would increase the number of H-1B visas available for three years.

CHANGES TO THE TEMPORARY PROGRAM

What would the new H-1B numbers be?

It would increase the number of H-1B visas available to 200,000 for FY 2001, FY2002 and FY 2003.

How many H-1B visas are available now?

In FY 2000, 115,000 H-1B visas are available. In FY 2001, 107,500 H-1B visas would be available and in FY 2002, the visa numbers would decrease to 65,000.

Why is there a set aside for institutions of higher education?

Universities and colleges face a unique challenge in utilizing the H-1B program because their hiring cycle falls in the spring and the summer months. This is usually the time when the H-1B cap is reached. We decided that it was critical for American colleges and universities to have access to the top minds in the world, so we are allocating 10,000 visas within the 200,000 visa cap for these institutions of higher education.

How many visas are set aside for individuals with a Masters degree or higher?

We are allocating 60,000 of the 200,000 H-1B visas to individuals who have a Masters degree or higher.

When does the Act take effect?

The majority of the provisions of this Act will take effect on October 1, 2000 (FY2001) when new H-1B visas become available.

CHANGES TO EMPLOYMENT BASED IMMIGRATION

What does this bill do on the permanent side?

On the permanent side, the bill allows countries that are hitting the per country quota to borrow numbers from other countries where demand for visas is not quite so great. That means that high-technology companies will have access to talent from countries that have come close to or have hit the cap. After all, immigration based on employment really should not be based on the country that an individual is from, but rather what skills that person can bring to our country. This provision will provide some flexibility to the current system.

What is the per country quota?

140,000 visas are available for employment-based immigrants. Within this cap, a country can only utilize 7%, even if other countries do not utilize their allotment of visas. This becomes a problem when certain countries have larger numbers of individuals with skill sets that are valuable to our economy.

What else does the bill do on the permanent side?

The bill also restores unused or wasted visas to the employment based categories and banks these unused visas for years where the employment based cap is hit. The intent of the law is to allow the employment based category 140,000 visas a year. Because of processing delays by the INS and the DOL, and mistakes on the part of the State Department, these visas were wasted. This bill would restore visas lost in FY 1999 and FY 2000 by allocating the difference between the number of total employment based visas and the number used in FY 1999 and FY 2000 to a bank for use by the employment based category.

PROCESSING ISSUES

Are processing delays at the INS a big problem?

Absolutely. That is why this bill requires a study that will review INS and DOL computer and technology equipment relevant to immigration services. One of the answers to ending the long backlogs is the proper implementation and use of technology. As you know, it's no good if you've got a computer system unless you take advantage of everything it is capable of doing. This study will review INS technology and the time and cost of implementing a web based filing system which would allow petitioner to file with the INS and the DOL online.

Does this bill do anything to address the problems of H-1B visa holders who are adjusting status to permanent status?

Yes. Because nonimmigrants are often caught in the INS nightmare through no fault of their own, we have included a provision that would allow these individuals to stay in this country lawfully employed while they await permanent legal residence status. This would ensure that companies do not lose valuable employees because of mistakes made by our government.

What is the tracking system mentioned in the bill?

The tracking system would allow anyone with an application or petition before the INS to get on a computer and figure out where their case is in the system. We believe the INS has the technology to do this. Now we simply have to help them find the will to implement this system swiftly.

How do we know that the system will work?

This bill requires that INS and DOL to work with the DOC in establishing a Technology Advisory Committee. This committee will be made of members from the high technology field capable of establishing and implementing such a system in an expeditious manner and end-users.

What about recruitment by high technology companies?

The Internet is the recruitment vehicle of choice these days, especially in the high technology industry. The recruitment provision of this bill simply brings DOL up to date with the new economy. An additional benefit to the American workforce is that recruitment via the Internet reaches a much larger audience than recruitment via a newspaper.

Do employers have to recruit on the Internet?

No. But any employer who has a recruitment requirement and would like for the company's Internet recruitment to count must link onto an Internet website designated by the Department of Labor, Attorney General and the Department of Commerce with the advice of the Technology Consulting Committee. High technology companies already recruit widely on the Internet and post positions in their companies on their websites. These websites are accessible to the public.

How does the DOL verify employer recruitment on the Internet?

The Technology Consulting Committee will work with the DOL to ensure that a system is established by which DOL may verify on line recruitment. This may even save the DOL paperwork since recruitment can be verified online.

How will we ensure that H-1B employers are paying H-1B employees the wage that they say they are?

This bill will mandate that employers file a W-2 statement with the Department of Labor. Having that statement on file will put employers who have abused the process on notice. Additionally having the W-2 statement on file will make it easier for the DOL to verify whether the employer has paid the prevailing wage if a complaint is made against that employer.

What is the unemployment rate?

The overall unemployment rate is 4.1%. For persons with a Bachelor's degree, the rate is 1.5%. That low unemployment rate is eclipsed by the even lower rate of unemployment among individuals hired for highly skilled positions within the high technology industry.

EDUCATION & TRAINING

Will there be an increase in the H-1B fee?

The H-1B fee will increase to \$1000 from the current \$500.

Why can't we train out of work employees to take over high technology jobs?

To train a welder to be a software programmer in three months is unlikely if not impossible. The positions for which H-1Bs are sought by high technology employers are high skilled and specialized positions taking years of education and intensive training. Some H-1B visa holders are students who graduated from American universities with degrees and research experience in cutting edge fields like fiber-optics or encryption technology. Why let them leave to carry away this technology to our competitors abroad? Some graduated from elite engineering schools abroad. Others have valuable work experience or have been recognized for their exceptional contributions to science. Linus Torvalds, the inventor of the Linux system, entered our country on an H-1B visa. He used to be Finland's national treasure---now he's ours. While training is important and we must work to improve our domestic training programs, we cannot train or retrain everyone needed to keep our country at the technological forefront.

How much must a company pay to acquire an H-1B visa?

Some companies report that it often costs them from \$5,000-10,000 to fully process an H-1B through the labor and immigration process.

Does this bill address the long term education problems faced by America's children?

Yes. This program will generate a fee that will help address our education crisis.

What will the increased fee be used for?

The increased fee will be used for education and training programs that invest in American children and incumbent workers in order to increase the number of American qualified to fill the specialized positions that H-1Bs fill. We direct the \$1000 fee which could total in excess of \$200 million to increasing funding for four existing education and training programs---1) Stafford Student Loan Forgiveness for Math and Science Teachers, 2) Upward Bound Math/Science Program, 3) National Science Foundation Scholarships and 4) the Regional Skills Alliances Training Program.

What does the Stafford Student Loan Forgiveness program do?

Under current law, students who agree to teach in a low-income school for five years are eligible to have up to \$5,000 of their Stafford loan forgiven. Recognizing the need for qualified science and math teachers, especially in low-income areas, this bill would double the loan forgiveness program to \$10,000 for those who taught science or math in

these same schools and teach for at least three years. We're proud that this program will help our schools retain exceptional individuals in the teaching profession who might otherwise have had to leave for more lucrative careers in private industry.

How much money will flow to the Stafford Student Loan Forgiveness program?

33% of funds generated from the fees will go towards increasing the Stafford student loan forgiveness program for math and science teachers. This could result in as much as \$66 million annually for this program.

What does the Upward Bound Math & Science Program do?

Upward Bound Math/Science program is one of the TRIO programs authorized in the Higher Education Act and administered by the Department of Education. The goal of the program is to help low-income, first-generation students in the eighth to twelfth grades recognize and develop their potential to excel in the fields of math and science. Upward Bound encourages these students to pursue postsecondary degrees in math and science. Program services include summer programs in intensive math and science training; year-round counseling and advisement; exposure to university faculty who do research in math and science; computer training; and participant-conducted scientific research under the guidance of faculty member or graduate student serving as the participant's mentor.

How much money will flow into the Upward Bound Math & Science Program?

17% of the funds generated from this fee will be targeted towards increasing funding for the Upward Bound Math/Science program. This could result in as much as \$34 million annually for this program.

What does money going to the National Science Foundation accomplish?

The National Science Foundation awards scholarships up to \$2,500 to low income undergraduate and graduate students studying math, engineering and computer science. Students agreeing to work in the "public sector" (such as the National Science Foundation or the Department of Defense) for three years would be eligible for scholarships of up to \$5,000.

How much money will the National Science Foundation receive?

15% of funds generated from the fees will be targeted to retaining the National Science Foundation scholarships. This could result in as much as \$30 million annually.

What does this bill do to make sure that US workers will be trained for these high-technology occupations?

The Regional Skills Alliances job training program, administered by the Department of Commerce, is designed to help address the regional workforce shortages

through public/private partnerships to train workers. Employers, public agencies, schools, and labor unions would pool resources to train workers for region-wide emerging job opportunities. Federal funding will be matched by local governments and the private sector to allocate grants to consortia that have meaningful participation with at least ten firms in that industry in the region, be industry-led, be sector-based, and have a commitment for matching funds from local governments and the private sector.

How much money will be targeted to incumbent worker training?

25% of the fees generated or potentially \$50 million annually would be targeted towards the Regional Skills Alliances.

Section Outline

SHORT TITLE THE HELPING TO IMPROVE TECHNOLOGY EDUCATION & ACHIEVEMENT ACT (The HI-TECH Act)

I. Provisions Relating to Employment Based Immigration

Section 101 Allows countries with increased demand on the permanent side to utilize employment-based visas from countries with less demand on a quarterly basis.

Creates a bank of visas in the employment based category for use in future years.

Allows H-1B nonimmigrants who are seeking employment based permanent status and waiting for the DOL and the INS to process their petitions to continue to work in the US on an H-1B visa until they receive their permanent visa.

Section 102 Allows companies who have a recruitment requirement to recruit using the Internet.

Section 103 Establishes a Tracking System to determine the status of INS and DOL filings.

Mandates a feasibility study due January 1, 2001 for on-line filing and to review INS and DOL computer systems within the DOL and the INS relating to immigration services.

Establishes a DOL/DOC/DOJ High-Technology Advisory Committee to assist in the establishment of the tracking system, conducting the feasibility study and establishing a system on line to verify Internet recruitment.

II. Provisions Relating to H-1B Non-Immigrants

Section 201 Increases H-1B visas to 200,000 for FY 2001, 2002, and 2003.

Reserves 70,000 visas for H-1Bs with a MA degree or higher and specifies that 10,000 visas are to be used by institutions of higher education.

Addresses the FY 99 backlog.

- Section 202** Requires W-2 forms to be filed with the Department of Labor to ensure wage compliance.
- Section 203** If their petition for an adjustment of status or permanent status was filed at least 6 months before their duration of stay expires, then the H-1B visa employee will be able to stay in the US in one year increments until his/her petition is processed.
- III. Collection & Use of H-1B Non-Immigrant Fees**
- Section 301** Fee is increased to \$1000.
- Section 302** Increased funding for the Stafford Student Loan Forgiveness Program-Double the loan forgiveness program to \$10,000 for math and science teachers in low income schools.
Amount: \$66 million annually
- Section 303** Increased funding for the Upward Bound Math & Science Program. The goal of the program is to help low-income, first-generation students in the eighth to twelfth grades recognize and develop their potential to excel in the fields of math and science.
Amount: \$34 million annually
- Section 304** National Science Foundation Scholarships
Up to \$2,500 will be available to low income undergraduate and graduate students studying math, engineering and computer science. Students agreeing to work in the "public sector" for three years would be eligible for scholarships of up to \$5,000.
Amount: \$30 million annually
- Section 305** Regional Skills Alliances—Worker Training
Designed to help address the regional workforce shortages through public/private partnerships to train workers, this program would allow employers, public agencies, schools, and labor unions to pool resources to train workers for region-wide emerging job opportunities. Federal funding will be matched by local governments and the private sector to allocate grants to consortia that have meaningful participation with at least ten firms in that industry in the region, be industry-led, be sector-based, and have a commitment for matching funds from local governments and the private sector.
Amount: \$50 million annually
- Section 306** Fees for Administrative Expenses for the DOL and the INS.
- Section 307** The provisions of this act are effective October 1, 2000.

.....
(Original Signature of Member)

106TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Immigration and Nationality Act to promote
a fairer and more efficient means for using highly skilled
workers, to improve the collection and use of H-1B
nonimmigrant fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Helping to Improve Technology Education and Achieve-
4 ment Act of 2000”.

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

Sec. 1. Short title; table of contents.

**TITLE I—PROVISIONS RELATING TO EMPLOYMENT-BASED
IMMIGRATION**

Sec. 101. Assuring fair distribution of employment-based visas.

Sec. 102. Internet recruitment.

Sec. 103. Application of Internet based technologies.

TITLE II—PROVISIONS RELATING TO H-1B NONIMMIGRANTS

Sec. 201. Temporary visa increase.

Sec. 202. Requiring filing of W-2 forms.

Sec. 203. Extension of authorized stay while adjudications are pending.

TITLE III—COLLECTION AND USE OF H-1B NONIMMIGRANT FEES

Sec. 301. Increase in fee on initial petitions.

Sec. 302. Use of fees for student loan forgiveness.

Sec. 303. Use of fees for upward bound.

Sec. 304. Use of fees for low income scholarship program.

Sec. 305. Use of fees for regional skills training alliances.

Sec. 306. Use of fees for administrative purposes.

Sec. 307. Effective date.

7 **TITLE I—PROVISIONS RELATING**
8 **TO EMPLOYMENT-BASED IM-**
9 **MIGRATION**

10 **SEC. 101. ASSURING FAIR DISTRIBUTION OF EMPLOYMENT-**
11 **BASED VISAS.**

12 (a) **LIMITATION ON PER COUNTRY CEILING WITH**
13 **RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.—**

1 (1) SPECIAL RULES.—Section 202(a) of the Im-
2 migration and Nationality Act (8 U.S.C. 1152(a)) is
3 amended by adding at the end the following new
4 paragraph:

5 “(5) RULES FOR EMPLOYMENT-BASED IMMI-
6 GRANTS.—

7 “(A) CERTAIN EMPLOYMENT-BASED IMMI-
8 GRANTS NOT SUBJECT TO PER COUNTRY LIM-
9 TATION IF ADDITIONAL VISAS AVAILABLE.—If
10 the total number of visas available under para-
11 graph (1), (2), (3), (4), or (5) of section 203(b)
12 for a calendar quarter exceeds the number of
13 qualified immigrants who may otherwise be
14 issued such visas, the visas made available
15 under that respective paragraph shall be issued
16 without regard to the numerical limitation
17 under paragraph (2) of this subsection during
18 the remainder of the calendar quarter.

19 “(B) LIMITING FALL ACROSS FOR CERTAIN
20 COUNTRIES SUBJECT TO SUBSECTION (e).—In
21 the case of a foreign state or dependent area to
22 which subsection (e) applies, if the total number
23 of visas issued under section 203(b) exceeds the
24 maximum number of visas that may be made
25 available to immigrants of the state or area

1 under section 203(b) consistent with subsection
2 (e) (determined without regard to this para-
3 graph), in applying subsection (e) all visas shall
4 be deemed to have been required for the classes
5 of aliens specified in section 203(b).".

6 (2) CONFORMING AMENDMENTS.—

7 (A) PER COUNTRY LEVELS FOR EMPLOY-
8 MENT-BASED IMMIGRANTS.—Section 202(a)(2)
9 of such Act (8 U.S.C. 1152(a)(2)) is amended
10 by striking "paragraphs (3) and (4)" and in-
11 serting "paragraphs (3), (4), and (5)".

12 (B) SPECIAL RULES FOR COUNTRIES AT
13 CEILING.—Section 202(e)(3) of such Act (8
14 U.S.C. 1152(e)(3)) is amended by striking "the
15 proportion of the visa numbers" and inserting
16 "except as provided in subsection (a)(5), the
17 proportion of the visa numbers".

18 (3) ONE-TIME PROTECTION UNDER PER COUN-
19 TRY CEILING.—Notwithstanding section 214(g)(4) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1184(g)(4)), any alien who—

22 (A) is the beneficiary of a petition filed
23 under section 204(a) of such Act for a pref-
24 erence status under paragraph (1), (2), or (3)
25 of section 203(b) of such Act; and

1 (B) would be subject to the per country
2 limitations applicable to immigrants under
3 those paragraphs but for this paragraph,
4 may apply for, and the Attorney General may grant,
5 an extension of such nonimmigrant status until the
6 alien's application for adjustment of status has been
7 processed and a decision made thereon.

8 (4) EFFECTIVE DATE.—The amendments made
9 by paragraphs (1) and (2) apply to calendar quar-
10 ters beginning on or after October 1, 2000.

11 (b) RECAPTURE OF UNUSED EMPLOYMENT-BASED
12 IMMIGRANT VISAS.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, the number of employment-based
15 visas (as defined in paragraph (3)) made available
16 for a fiscal year (beginning with fiscal year 2001)
17 shall be increased by the number described in para-
18 graph (2). Visas made available under this sub-
19 section shall only be available in a fiscal year to em-
20 ployment-based immigrants under paragraph (1),
21 (2), or (3) of section 203(b) of the Immigration and
22 Nationality Act.

23 (2) NUMBER AVAILABLE.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), the number described in this para-

1 graph is the difference between the number of
2 employment-based visas that were made avail-
3 able in fiscal year 1999 and 2000 and the num-
4 ber of such visas that were actually used in
5 such fiscal years.

6 (B) REDUCTION.—The number described
7 in subparagraph (A) shall be reduced, for each
8 fiscal year after fiscal year 2001, by the cumu-
9 lative number of immigrant visas made avail-
10 able under paragraph (1) for previous fiscal
11 years.

12 (C) CONSTRUCTION.—Nothing in this
13 paragraph shall be construed as affecting the
14 application of section 201(c)(3)(C) of the Immi-
15 gration and Nationality Act (8 U.S.C.
16 1151(c)(3)(C)).

17 (3) EMPLOYMENT-BASED VISAS DEFINED.—For
18 purposes of this subsection, the term “employment-
19 based visa” means an immigrant visa which is issued
20 pursuant to the numerical limitation under section
21 203(b) of the Immigration and Nationality Act (8
22 U.S.C. 1153(b)).

23 **SEC. 102. INTERNET RECRUITMENT.**

24 (a) IN GENERAL.—In carrying out any requirements
25 under the Immigration and Nationality Act that requires

1 the Secretary of Labor to determine whether an employer
2 has taken action to recruit United States workers, the Sec-
3 retary of Labor shall take into account efforts undertaken
4 through the Internet. If an employer uses exclusively the
5 Internet as a tool to recruit, this shall not in itself be con-
6 sidered to be unsatisfactory.

7 (b) VERIFICATION.—In carrying out subsection (a),
8 the Secretary of Labor shall use the Internet to verify em-
9 ployer recruitment efforts undertaken using that medium.

10 (c) APPLICATION.—Subsections (a) and (b) apply
11 only in the case where the employer demonstrates that the
12 employment position for which the worker was sought was
13 posted for no less than 30 days on the Internet Web Site
14 designated by the Secretary of Labor for the purpose of
15 disseminating information about job opportunities.

16 **SEC. 103. APPLICATION OF INTERNET BASED TECH-**
17 **NOLOGIES.**

18 (a) ESTABLISHMENT OF A TRACKING SYSTEM.—The
19 Attorney General and the Secretary of Labor, not later
20 than 1 year after the date of the enactment of this Act,
21 in consultation with the Technology Advisory Committee
22 established under subsection (c), shall establish an Inter-
23 net web-based system, that will permit a person, employer,
24 immigrant, or nonimmigrant who has filings with the At-
25 torney General or such Secretary for any benefit under

1 the Immigration and Nationality Act, access to online in-
2 formation about the processing status of the filing in-
3 volved.

4 (b) FEASIBILITY STUDY FOR ON-LINE FILING AND
5 IMPROVED PROCESSING.—

6 (1) ON-LINE FILING.—The Attorney General,
7 in consultation with the Secretary of Labor, the Sec-
8 retary of Commerce, and the Technology Advisory
9 Committee under subsection (c), shall conduct a fea-
10 sibility study on the on-line filing of the filings de-
11 scribed in subsection (a). The study shall include an
12 estimate of the timeframe and cost and shall con-
13 sider other factors in implementing such a filing sys-
14 tem, including the feasibility of fee payment on-line.

15 (2) EXAMINATION OF IMPROVED PROC-
16 ESSING.—The study shall also include a review of
17 computerization and technology of the Department
18 of Labor and the Immigration and Naturalization
19 Service relating to the immigration services and
20 processing of filings related to immigrant services.
21 The study shall examine how to meet the goal of
22 achieving processing of 98 percent of filings for law-
23 ful permanent resident status within 3 months of
24 the date on which they are filed and 98 percent of

1 filings for nonimmigrant status within 1 month of
2 the date on which they are filed.

3 (3) REPORT.—A report on the study under this
4 subsection shall be submitted to the Committees on
5 the Judiciary of the House of Representatives and
6 the Senate not later than January 1, 2001.

7 (c) TECHNOLOGY ADVISORY COMMITTEE.—

8 (1) ESTABLISHMENT.—The Attorney General,
9 the Secretary of Labor, and the Secretary of Com-
10 merce shall jointly establish, not later than 30 days
11 after the date of the enactment of this Act an advi-
12 sory committee (in this section referred to as the
13 "Technology Advisory Committee") to assist them
14 in—

15 (A) establishing the tracking system under
16 subsection (a);

17 (B) conducting the study under subsection
18 (b); and

19 (C) establishing a system to verify Internet
20 recruitment described in section 102.

21 The Technology Advisory Committee shall be estab-
22 lished after consultation with the Committees on the
23 Judiciary of the House of Representatives and the
24 Senate.

1 (2) COMPOSITION.—The Technology Advisory
2 Committee shall be composed of representatives
3 from high technology companies capable of estab-
4 lishing and implementing the system in an expedi-
5 tious manner, and representatives of persons who
6 may use the tracking system described in subsection
7 (a) and the on-line filing system described in sub-
8 section (b)(1).

9 **TITLE II—PROVISIONS RELAT-**
10 **ING TO H-1B NON-**
11 **IMMIGRANTS**

12 **SEC. 201. TEMPORARY VISA INCREASE.**

13 (a) IN GENERAL.—Section 214(g)(1)(A)(iv) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1184(g)(1)(A)(iv)) is amended to read as follows:

16 “(iv) subject to paragraphs (5) and (6),
17 200,000 in each of fiscal years 2001, 2002, and
18 2003; and”.

19 (b) RESERVATION FOR INSTITUTIONS OF HIGHER
20 EDUCATION AND OTHER RESEARCH ORGANIZATIONS.—
21 Section 214(g) of the Immigration and Nationality Act (8
22 U.S.C. 1184(g)) is amended by adding at the end the fol-
23 lowing:

24 “(5) Of the number specified in paragraph (1)(A)(iv),
25 10,000 in each of fiscal years 2001, 2002, and 2003 shall

1 be reserved to provide nonimmigrant status to aliens with
2 respect to whom a petition under section 214(c) has been
3 filed by an employer that is—

4 “(A) an institution of higher education (as de-
5 fined in section 101(a) of the Higher Education Act
6 of 1965), or a related or affiliated nonprofit entity;
7 or

8 “(B) a nonprofit research organization or a
9 governmental research organization.”.

10 (c) RESERVATION FOR ALIENS WITH MASTER'S DE-
11 GREE.—Section 214(g) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1184(g)), as amended by subsection
13 (b), is further amended by adding at the end the following:
14 “(6) Of the number specified in paragraph (1) (A) (iv),
15 60,000 in each of fiscal years 2001, 2002, and 2003 shall
16 be reserved to provide nonimmigrant status to aliens who
17 have attained a master's or higher degree (or its equiva-
18 lent).”.

19 (d) ADDITIONAL VISAS FOR FISCAL YEAR 1999.—

20 (1) IN GENERAL.—Notwithstanding section
21 214(g) (1) (A) (ii) of the Immigration and Nationality
22 Act (8 U.S.C. 1184(g) (1) (A) (ii)), the total number
23 of aliens who may be issued visas or otherwise pro-
24 vided nonimmigrant status under section
25 101(a) (15) (H) (i) (b) of such Act in fiscal year 1999

1 is increased by a number equal to the number of
2 aliens who are issued such a visa or provided such
3 status during the period beginning on the date on
4 which the limitation in such section 214(g)(1)(A)(ii)
5 is reached and ending on September 30, 1999.

6 (2) EFFECTIVE DATE.—Paragraph (1) shall
7 take effect as if included in the enactment of section
8 411 of the American Competitiveness and Workforce
9 Improvement Act of 1998 (as contained in title IV
10 of division C of the Omnibus Consolidated and
11 Emergency Supplemental Appropriations Act, 1999;
12 Public Law 105-277).

13 **SEC. 202. REQUIRING FILING OF W-2 FORMS.**

14 (a) IN GENERAL.—Section 212(n)(1) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1182(n)(1)) is
16 amended by inserting after subparagraph (G) the fol-
17 lowing new subparagraph:

18 “(H) The employer will, with respect to each
19 employee who is an alien admitted or provided sta-
20 tus as a nonimmigrant described in section
21 101(a)(15)(H)(i)(b), annually submit to the Sec-
22 retary of Labor a copy of the most recent statement
23 under section 6051 of the Internal Revenue Code of
24 1986. Such submission may be made by electronic
25 means.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to applications described in section
3 212(n)(1) of the Immigration and Nationality Act made
4 on or after October 1, 2000, but only with respect to state-
5 ments made under section 6051 of the Internal Revenue
6 Code of 1986 on or after January 1, 2001.

7 **SEC. 203. EXTENSION OF AUTHORIZED STAY WHILE ADJU-**
8 **DICATIONS ARE PENDING.**

9 (a) EXEMPTION FROM LIMITATION.—The limitation
10 contained in section 214(g)(4) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1184(g)(4)) with respect to the du-
12 ration of authorized stay shall not apply to any non-
13 immigrant alien previously issued a visa or otherwise pro-
14 vided nonimmigrant status under section
15 101(a)(15)(H)(i)(b) of such Act on whose behalf a petition
16 under section 204(b) of such Act to accord the alien immi-
17 grant status under section 203(b) of such Act, or an appli-
18 cation for adjustment of status under section 245 of such
19 Act to accord the alien status under section 203(b) of such
20 Act, has been filed, if 6 months or more have elapsed since
21 the date of filing of a labor certification application on
22 the alien's behalf, if required for the alien to obtain status
23 under section 203(b) of such Act, or the filing of the peti-
24 tion under section 204(b) of such Act.

1 (b) EXTENSION OF H1-B WORKER STATUS.—The
2 Attorney General shall extend the stay of an alien who
3 qualifies for an exemption under subsection (a) in 1-year
4 increments until such time as a final decision is made on
5 the application for the alien to obtain lawful permanent
6 residence.

7 **TITLE III—COLLECTION AND**
8 **USE OF H-1B NONIMMIGRANT**
9 **FEES**

10 **SEC. 301. INCREASE IN FEE ON INITIAL PETITIONS.**

11 Section 214(c) (9) (B) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1184(c) (9) (B)) is amended by striking
13 "\$500 for each such petition." and inserting "\$1,000 for
14 each petition under clause (i) and \$500 for each petition
15 under clause (ii) or (iii).".

16 **SEC. 302. USE OF FEES FOR STUDENT LOAN FORGIVENESS.**

17 (a) AUTHORITY TO USE DEPOSITS.—Section
18 286(s) (2) of the Immigration and Nationality Act (8
19 U.S.C. 1356(s) (2)) is amended to read as follows:

20 "(2) USE OF FEES FOR STUDENT LOAN FOR-
21 GIVENESS.—33 percent of the amounts deposited
22 into the H-1B Nonimmigrant Petitioner Account on
23 and after October 1, 2000, shall remain available to
24 the Secretary of Education until expended to carry

1 out the student loan forgiveness program under sec-
2 tion 428L of the Higher Education Act of 1965."

3 (b) PROGRAM.—Part B of title IV of the Higher Edu-
4 cation Act of 1965 is amended by inserting after section
5 428K (20 U.S.C. 1078–11) the following new section:

6 **"SEC. 428L. LOAN FORGIVENESS FOR MATHEMATICS AND**
7 **SCIENCE TEACHERS.**

8 "(a) PURPOSE.—It is the purpose of this section to
9 encourage more individuals to enter and stay in the field
10 of teaching mathematics, science, and related fields.

11 "(b) PROGRAM.—

12 "(1) IN GENERAL.—The Secretary shall carry
13 out a program of assuming the obligation to repay,
14 pursuant to subsection (c), a loan made, insured, or
15 guaranteed under this part or part D (excluding
16 loans made under sections 428B and 428C or com-
17 parable loans made under part D) for any new bor-
18 rower after October 1, 1998, who—

19 "(A) has been employed as a full-time
20 teacher of mathematics, science, or a related
21 field for 3 consecutive complete school years in
22 a school that qualifies under section
23 465(a)(2)(A) for loan cancellation for Perkins
24 loan recipients who teach in such schools;

25 "(B) is a fully qualified teacher; and

1 “(C) is not in default on a loan for which
2 the borrower seeks forgiveness.

3 “(2) AWARD BASIS; PRIORITY.—

4 “(A) AWARD BASIS.—Subject to subpara-
5 graph (B), loan repayment under this section
6 shall be on a first-come, first-served basis and
7 subject to the availability of appropriations.

8 “(B) PRIORITY.—The Secretary shall give
9 priority in providing loan repayment under this
10 section for a fiscal year to student borrowers
11 who received loan repayment under this section
12 for the preceding fiscal year.

13 “(3) REGULATIONS.—The Secretary is author-
14 ized to prescribe such regulations as may be nec-
15 essary to carry out the provisions of this section.

16 “(c) LOAN REPAYMENT.—

17 “(1) ELIGIBLE AMOUNT.—The amount of the
18 Secretary may repay on behalf of any individual
19 under this section shall not exceed—

20 “(A) 80 percent of the sum of the principal
21 amounts outstanding of the individual's quali-
22 fying loans at the end of 3 consecutive complete
23 school years of service described in subsection
24 (b) (1) (A);

1 “(B) an additional 10 percent of such sum
2 at the end of each of the next 2 consecutive
3 complete school years of such service; and

4 “(C) a total of more than \$10,000.

5 “(2) CONSTRUCTION.—Nothing in this section
6 shall be construed to authorize the refunding of any
7 repayment of a loan made under this part or part
8 D.

9 “(3) INTEREST.—If a portion of a loan is re-
10 paid by the Secretary under this section for any
11 year, the proportionate amount of interest on such
12 loan which accrues for such year shall be repaid by
13 the Secretary.

14 “(4) DOUBLE BENEFITS PROHIBITED.—No bor-
15 rower may, for the same service, receive a benefit
16 under both this section and subtitle D of title I of
17 the National and Community Service Act of 1990
18 (42 U.S.C. 12601 et seq.). No borrower may receive
19 a reduction of loan obligations under both this sec-
20 tion and section 428J or 460.

21 “(d) REPAYMENT TO ELIGIBLE LENDERS.—The Sec-
22 retary shall pay to each eligible lender or holder for each
23 fiscal year an amount equal to the aggregate amount of
24 loans which are subject to repayment pursuant to this sec-
25 tion for such year.

1 “(e) APPLICATION FOR REPAYMENT.—

2 “(1) IN GENERAL.—Each eligible individual de-
3 siring loan repayment under this section shall sub-
4 mit a complete and accurate application to the Sec-
5 retary at such time, in such manner, and containing
6 such information as the Secretary may require.

7 “(2) CONDITIONS.—An eligible individual may
8 apply for loan repayment under this section after
9 completing the required number of years of quali-
10 fying employment.

11 “(3) FULLY QUALIFIED TEACHERS.—An appli-
12 cation for loan repayment under this section shall
13 include such information as is necessary to dem-
14 onstrate that the applicant—

15 “(A) if teaching in a public elementary or
16 secondary school (other than as a teacher in a
17 public charter school), has obtained State cer-
18 tification as a teacher (including certification
19 obtained through alternative routes to certifi-
20 cation) or passed the State teacher licensing
21 exam and holds a license to teach in such State;
22 and

23 “(B) if teaching in—

24 “(i) an elementary school, holds a
25 bachelor's degree and demonstrates knowl-

1 edge and teaching skills in reading, writ-
2 ing, mathematics, science, and other areas
3 of the elementary school curriculum; or

4 "(ii) a middle or secondary school,
5 holds a bachelor's degree and demonstrates
6 a high level of competency in all subject
7 areas in which he or she teaches through—

8 "(I) a high level of performance
9 on a rigorous State or local academic
10 subject areas test; or

11 "(II) completion of an academic
12 major in each of the subject areas in
13 which he or she provides instruction.

14 "(f) EVALUATION.—

15 "(1) IN GENERAL.—The Secretary shall con-
16 duct, by grant or contract, an independent national
17 evaluation of the impact of the program assisted
18 under this section.

19 "(2) COMPETITIVE BASIS.—The grant or con-
20 tract described in subsection (b) shall be awarded on
21 a competitive basis.

22 "(3) CONTENTS.—The evaluation described in
23 this subsection shall—

1 “(A) determine the number of individuals
2 who were encouraged by the program assisted
3 under this section to pursue teaching careers;

4 “(B) determine the number of individuals
5 who remain employed in a teaching mathe-
6 matics, science, or related fields as a result of
7 participation in the program;

8 “(C) identify the barriers to the effective-
9 ness of the program;

10 “(D) assess the cost-effectiveness of the
11 program; and

12 “(E) identify the number of years each in-
13 dividual participates in the program.

14 “(4) INTERIM AND FINAL EVALUATION RE-
15 PORTS.—The Secretary shall prepare and submit to
16 the President and the Congress such interim reports
17 regarding the evaluation described in this subsection
18 as the Secretary deems appropriate, and shall pre-
19 pare and so submit a final report regarding the eval-
20 uation by January 1, 2004.

21 “(g) FUNDS FOR PROGRAM.—The Secretary shall
22 carry out this section only with funds made available
23 under section 286(s)(2) of the Immigration and Nation-
24 ality Act.”.

1 (c) CONFORMING AMENDMENT.—Section 414 of the
2 American Competitiveness and Workforce Improvement
3 Act of 1998 (as contained in title IV of division C of the
4 Omnibus Consolidated and Emergency Supplemental Ap-
5 propriations Act, 1999; Public Law 105-277) is amended
6 by striking subsection (c) and redesignating subsection (d)
7 as subsection (c).

8 **SEC. 303. USE OF FEES FOR UPWARD BOUND.**

9 Section 286(s) (4) of the Immigration and Nationality
10 Act (8 U.S.C. 1356(s) (4)) is amended to read as follows:

11 “(4) USE OF FEES FOR UPWARD BOUND.—17
12 percent of the amounts deposited into the H-1B
13 Nonimmigrant Petitioner Account on and after Oc-
14 tober 1, 2000, shall remain available to the Sec-
15 retary of Education until expended to carry out sec-
16 tion 402C of the Higher Education Act of 1965, ex-
17 clusively for the benefit of mathematics and science
18 education projects.

19 **SEC. 304. USE OF FEES FOR LOW INCOME SCHOLARSHIP**
20 **PROGRAM.**

21 (a) CHANGE IN PERCENTAGE ALLOCATED.—Section
22 286(s) (3) of the Immigration and Nationality Act (8
23 U.S.C. 1356(s) (3)) is amended—

24 (1) by striking “28.2 percent” and inserting
25 “15 percent”; and

1 (2) by inserting "on and after October 1,
2 2000," after "Account".

3 (b) PROGRAMMATIC CHANGES.—Section 414(c) of
4 the American Competitiveness and Workforce Improve-
5 ment Act of 1998 (as redesignated by section 302(c) of
6 this Act) is amended—

7 (1) in paragraph (2)(B), by striking "Awards"
8 and inserting "Subject to paragraph (3), awards";
9 and

10 (2) by amending paragraph (3) to read as fol-
11 lows:

12 “(3) SCHOLARSHIP AMOUNT.—

13 “(A) IN GENERAL.—The amount of a
14 scholarship awarded under this subsection shall
15 be determined by the Director.

16 “(B) GENERAL LIMITATION.—Subject to
17 subparagraph (C), the amount of such scholar-
18 ship may not exceed \$2,500 per year.

19 “(C) INCREASE IN CASE OF PUBLIC SEC-
20 TOR EMPLOYMENT.—

21 “(i) IN GENERAL.—In the case of a
22 scholarship recipient who enters into an
23 agreement described in clause (ii) the
24 amount of such scholarship may be up to
25 \$5,000 per year.

1 “(ii) AGREEMENT.—The agreement
2 described in this clause is an agreement
3 between the Director and the scholarship
4 recipient under which the recipient
5 agrees—

6 “(I) to work in a public sector
7 position (as defined by the Director)
8 for at least 3 years after the date of
9 completion of the degree program for
10 which the scholarship is awarded; or

11 “(II) to repay the amount of the
12 scholarship.”.

13 **SEC. 305. USE OF FEES FOR REGIONAL SKILLS TRAINING**
14 **ALLIANCES.**

15 (a) AUTHORITY TO USE DEPOSITS.—Section 286(s)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1356(s)) is amended—

18 (1) by redesignating paragraphs (5) and (6) as
19 paragraphs (6) and (7); and

20 (2) by inserting after paragraph (4) the fol-
21 lowing new paragraph:

22 “(5) USE OF FEES FOR REGIONAL SKILLS
23 TRAINING ALLIANCES.—25 percent of the amounts
24 deposited into the H-1B Nonimmigrant Petitioner
25 Account on and after October 1, 2000, shall remain

1 available to the Secretary of Commerce until ex-
2 pended to carry out subsections (d) and (e) of sec-
3 tion 414 of the American Competitiveness and
4 Workforce Improvement Act of 1998.”.

5 (b) PROGRAM AUTHORIZED.—Section 414 of the
6 American Competitiveness and Workforce Improvement
7 Act of 1998 (as amended by section 304 of this Act) is
8 amended—

9 (1) in the section heading, by striking “**AND**
10 **JOB TRAINING OF UNITED STATES WORKERS.**”
11 and inserting “, **LOAN FORGIVENESS FOR MATH-**
12 **EMATICS AND SCIENCE TEACHERS, UPWARD**
13 **BOUND PROGRAM, AND REGIONAL SKILLS**
14 **TRAINING ALLIANCES.**”; and

15 (2) by adding at the end the following new sub-
16 sections:

17 “(d) SKILL GRANTS.—

18 “(1) AUTHORIZATION.—

19 “(A) IN GENERAL.—The Secretary of
20 Commerce (in this subsection referred to as the
21 ‘Secretary’), acting through the Director of the
22 National Institute of Standards and Tech-
23 nology, and in consultation with the Secretary
24 of Labor, shall provide grants to eligible entities
25 described in subparagraph (B) to assist such

1 entities to improve the job skills necessary for
2 employment in specific industries.

3 "(B) ELIGIBLE ENTITIES DESCRIBED.—

4 "(i) IN GENERAL.—An eligible entity
5 described in this subparagraph is a consor-
6 tium that—

7 "(I) shall consist of representa-
8 tives from not less than 10 businesses
9 (or a nonprofit organization that rep-
10 resents not less than 10 businesses);
11 and

12 "(II) may consist of representa-
13 tives from labor organizations, State
14 and local government, and educational
15 institutions.

16 "(ii) MAJORITY OF REPRESENTA-
17 TIVES.—A majority of the representatives
18 comprising the consortium shall be rep-
19 resentatives described in clause (i) (I).

20 "(iii) ADDITIONAL REQUIREMENT.—
21 To the maximum extent practicable, each
22 business, organization, or government that
23 forms an eligible entity under clause (i)—

1 “(I) shall be located in the same
2 geographic region of the United
3 States; and

4 “(II) shall coordinate their pro-
5 grams with existing State, local, and
6 regional training plans and economic
7 development strategies to the max-
8 imum extent practicable.

9 “(C) PRIORITY FOR SMALL BUSINESSES.—
10 In providing grants under subparagraph (A),
11 the Secretary shall give priority to an eligible
12 entity if a majority of representatives forming
13 the entity represent small-business concerns, as
14 described in section 3(a) of the Small Business
15 Act (15 U.S.C. 632(a)).

16 “(D) MAXIMUM AMOUNT OF GRANT.—The
17 amount of a grant provided to an eligible entity
18 under subparagraph (A) may not exceed
19 \$1,000,000 for any fiscal year.

20 “(2) APPLICATION.—

21 “(A) IN GENERAL.—The Secretary may
22 not provide a grant under this subsection to the
23 eligible entity unless such entity submits to the
24 Secretary an application at such time, in such

1 manner, and containing such information as the
2 Secretary may reasonably require.

3 "(B) CERTAIN STATES WITH MULTIPLE
4 CONSORTIA.—In a State in which 2 or more eli-
5 gible entities seek grants under this subsection
6 for a fiscal year, as determined by the Governor
7 of the State, the Governor may solicit proposals
8 from the entities concerning the activities to be
9 carried out under the grants. If the Governor
10 solicits such proposals, based on the proposals
11 received, the Governor shall submit an applica-
12 tion on behalf of 1 or more of the entities to
13 the Secretary at such time, in such manner,
14 and containing such information as the Sec-
15 retary may reasonably require. The provisions
16 of this subsection relating to eligible entities
17 shall apply to each of the entities for which the
18 Governor applies.

19 "(3) USE OF AMOUNTS.—

20 "(A) IN GENERAL.—The Secretary may
21 not provide a grant under this subsection to an
22 eligible entity unless such entity agrees to use
23 amounts received from such grant to improve
24 the job skills necessary for employment by busi-

1 nesses in the industry with respect to which
2 such entity was established.

3 "(B) CONDUCT OF PROGRAM.—

4 "(i) IN GENERAL.—In carrying out
5 the program described in subparagraph
6 (A), the eligible entity may provide for—

7 "(I) an assessment of training
8 and job skill needs for the industry;

9 "(II) development of a sequence
10 of skill standards that are
11 benchmarked to advanced industry
12 practices;

13 "(III) development of curriculum
14 and training methods;

15 "(IV) purchase, lease, or receipt
16 of donations of training equipment;

17 "(V) identification of training
18 providers;

19 "(VI) development of apprentice-
20 ship programs;

21 "(VII) development of training
22 programs for dislocated workers;

23 "(VIII) development of the mem-
24 bership of the entity;

1 “(IX) provision of training pro-
2 grams for workers; and

3 “(X) development of training
4 plans for businesses.

5 “(ii) ADDITIONAL REQUIREMENT.—In
6 carrying out the program described in sub-
7 paragraph (A), the eligible entity shall pro-
8 vide for development and tracking of per-
9 formance outcome measures for the pro-
10 gram and the training providers involved
11 in the program.

12 “(C) ADMINISTRATIVE COSTS.—The eligi-
13 ble entity may use not more than 10 percent of
14 the amount of a grant to pay for administrative
15 costs associated with the program described in
16 subparagraph (A).

17 “(4) REQUIREMENT OF MATCHING FUNDS.—
18 The Secretary may not provide a grant under this
19 subsection to an eligible entity unless such entity
20 agrees that—

21 “(A) it will make available non-Federal
22 contributions toward the costs of carrying out
23 activities under paragraph (3) in an amount
24 that is not less than \$2 for each \$1 of Federal

1 funds provided under a grant under this sub-
2 section; and

3 "(B) of such non-Federal contributions,
4 not less than \$1 of each such \$2 shall be from
5 businesses participating in the eligible entity.

6 "(5) LIMIT ON ADMINISTRATIVE EXPENSES.—
7 The Secretary may use not more than 6 percent of
8 the funds made available to carry out this subsection
9 to pay for Federal administrative costs associated
10 with making grants under this subsection and to de-
11 velop and maintain an electronic clearinghouse of in-
12 formation on projects undertaken by eligible entities
13 under this subsection.

14 "(6) FUNDING.—The Secretary shall carry out
15 this subsection with funds made available under sec-
16 tion 286(s)(5) of the Immigration and Nationality
17 Act (8 U.S.C. 1356(s)(5)).

18 "(e) PLANNING GRANTS.—

19 "(1) AUTHORIZATION.—

20 "(A) IN GENERAL.—The Secretary of
21 Commerce, acting through the Director of the
22 National Institute of Standards and Tech-
23 nology, and in consultation with the Secretary
24 of Labor, shall provide grants to States to en-
25 able the States to assist businesses, organiza-

1 tions, and agencies described in subsection
2 (d)(1)(B) in conducting planning to form con-
3 sortia described in such subsection.

4 “(B) MAXIMUM AMOUNT OF GRANT.—The
5 amount of a grant provided to a State under
6 subparagraph (A) may not exceed \$500,000 for
7 any fiscal year.

8 “(2) APPLICATION.—The Secretary of Com-
9 merce may not provide a grant under this subsection
10 to a State unless such State submits to the Sec-
11 retary an application at such time, in such manner,
12 and containing such information as the Secretary
13 may reasonably require.

14 “(3) REQUIREMENT OF MATCHING FUNDS.—
15 The Secretary may not provide a grant under this
16 subsection to a State unless such State agrees that
17 it will make available non-Federal contributions to-
18 ward the costs of carrying out activities under this
19 subsection in an amount that is not less than \$1 for
20 each \$1 of Federal funds provided under a grant
21 under this subsection.

22 “(4) FUNDING.—The Secretary shall carry out
23 this subsection with funds made available under sec-
24 tion 286(s)(5) of the Immigration and Nationality
25 Act (8 U.S.C. 1356(s)(5)).”.

1 **SEC. 306. USE OF FEES FOR ADMINISTRATIVE PURPOSES.**

2 Section 286(s) of the Immigration and Nationality
3 Act (8 U.S.C. 1356(s)), as amended by section 305(a),
4 is further amended—

5 (1) in paragraph (6)—

6 (A) by striking "1.5 percent" and inserting
7 "2 percent"; and

8 (B) by inserting "on and after October 1,
9 2000," after "Account"; and

10 (2) in the second sentence of paragraph (7)—

11 (A) by striking "3 percent" and inserting
12 "4 percent" each place it appears; and

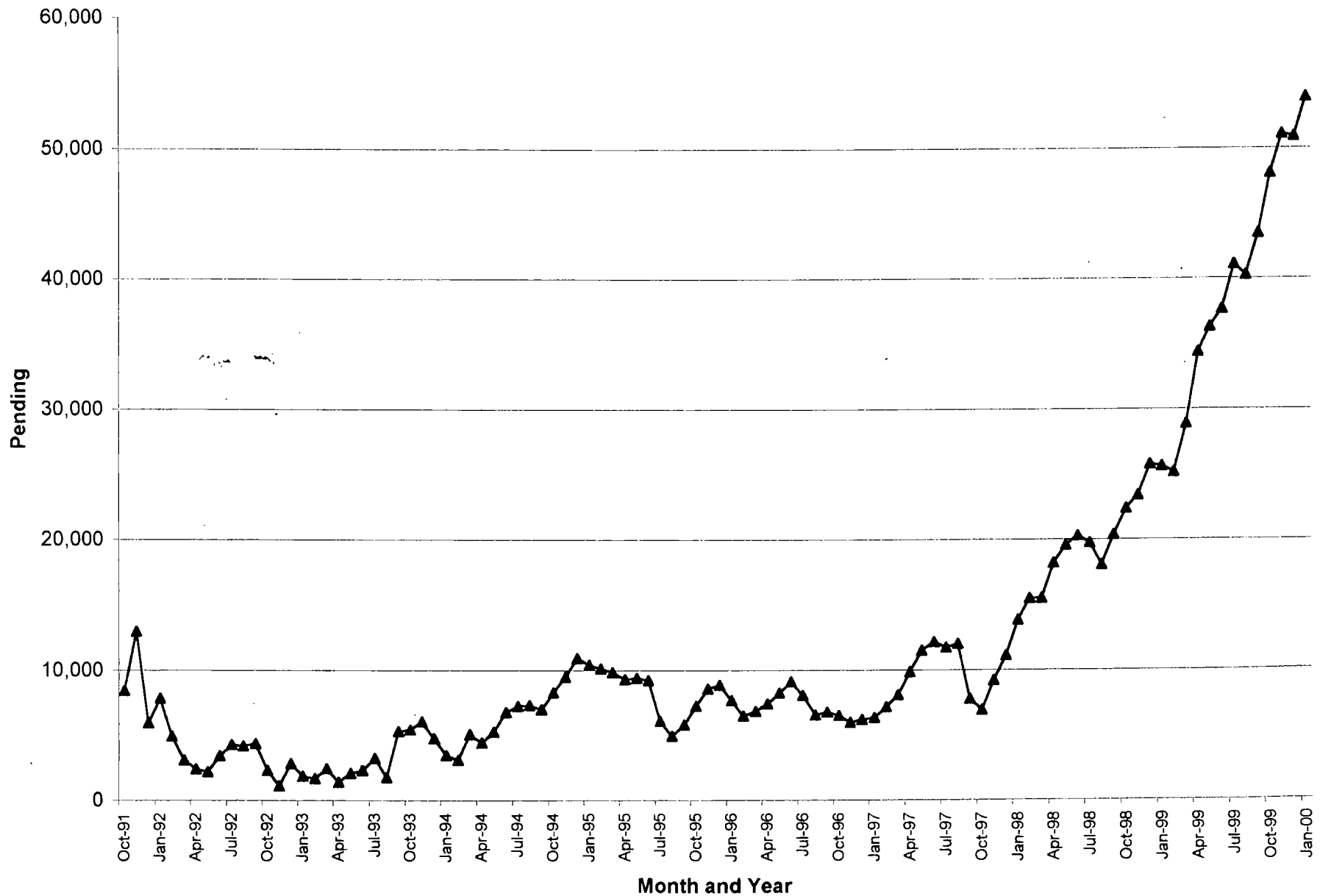
13 (B) by inserting "on and after October 1,
14 2000," after "Account".

15 **SEC. 307. EFFECTIVE DATE.**

16 The amendments made by this title apply to fees col-
17 lected under section 214(c)(9)(A) of the Immigration and
18 Nationality Act (8 U.S.C. 1184(c)(9)(A)) with respect to
19 petitions filed on and after October 1, 2000.

NS/3/15/00

I-140 Petitions Pending by Month October 1991 to January 2000



Redesigning the Department of Labor's System for Employment Based Immigration

Background

The Immigration and Nationality Act requires that for most employment based visas, before an alien can be given a visa to immigrate to work in the United States, the Secretary of Labor must certify to the Department of State and the Attorney General that :

- there are not sufficient U.S. workers who are able willing and qualified at the place where the labor is to be performed, and;
- the employment of the alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

Number of Visas affected:

EB -2 (Members of the Professions Holding Advanced Degrees)

Maximum Number : 40,000 (plus unused from EB-1's 40,000)

Visas used in 1998 : 14,384

EB-3 (Skilled Workers, Professionals, and Other Workers)

Maximum Number : 40,000 (plus unused from EB -1 and EB -2)

(Note : 10,000 cap on unskilled workers)

Visas used in 1998 : 34,417

The Foreign Labor Certification process for work-based immigration in the United States has been a "two-tiered" system involving both the State Employment Service Agencies (SESAs) and the U.S. Department of Labor for more than 30 years. In this process, the employer starts the process by applying to the SESA in the state where the job opportunity is located. The SESA is responsible for reviewing the case for completeness, confirming that the employer was offering the proper "prevailing wage," and working with the employer to advertise the job opportunity and search the SESA's applicant file to adequately test the labor market to insure that there are no qualified U.S. workers available for the position. After the SESA completes their processing, the case is sent to the Department of Labor, where it is reviewed in detail to determine, among other things, that the job being offered was not designed in such a manner that only the foreign worker was qualified for the job, and that the job was being legitimately offered to U.S. workers. After the review is completed at the federal level and the Department is assured that U.S. workers have been adequately considered for the job opportunity, the Department issues to the employer a labor certification which allows the employer to file a visa petition with INS that requests that the foreign worker be admitted into the United States to work.

The Case Backlog Problem

States

Prior to 1997, the permanent case backlog was manageable in size. The state backlog in FY 1995 was 32,139 and in FY 1996 was 39,775. About this time the economic expansion began producing record numbers of requests for foreign workers in all labor certification programs: permanent, temporary professionals (H-1B), temporary agricultural (H-2A), and temporary nonagricultural (H-2B). At the end of FY 1997, the permanent backlog had expanded to 57,100 cases. In FY 1998, the backlog problem was further exacerbated by the elimination of the Immigration and Naturalization Service's regulation 245(i) which resulted in the receipt of over 100,000 cases during FY 1998 alone. This regulation was important to foreign workers because the regulation contained a provision that permitted foreign workers to utilize the 245(i) benefits, which allowed their case to be acted upon even if their legal status had ended, as long as the foreign worker had an application for labor certification in process prior to January 14, 1998. The permanent case backlog at the end of FY 1998 totaled 94,610.

State Foreign Labor Certification Permanent Program Activity

Fiscal Year	Cases Completed	Backlog
1995	45,771	32,139
1996	55,245	39,775
1997	51,116	57,100
1998	67,551	94,610
1999	77,979	75,400

Regional Offices

Beginning in FY 1995, the number of cases received for processing in all labor certification programs in the regional offices began increasing significantly. The program which increased most during this period was the H-1B (temporary professional) program. In 1998 Congress temporarily increased the quota for H-1B workers allowed into the United States in a given year from 65,000 to 115,000. As a result of this quota increase, the case load in the H-1B program increased from 97,000 in FY 1994 to 242,000 in FY 1998 and to over 350,000 in FY 1999 (Many employers apply to the Department of Labor for H-1B certifications in advance so that they are in a position to make a request to INS for a visa when they decide they actually need an H-1B worker). H-1B applications receive processing priority over permanent cases because of the legislated mandate to act on H-1B cases within seven working days of receipt. To maintain compliance with the H-1B processing mandate, there were periods during FY 1997 and 1998 when all regional labor certification staff were required to process H-1 B applications, leaving no time to process permanent cases.

In February 1999, a system was implemented nationally which allowed employers to transmit H-1B applications (Labor Condition Application) via electronic facsimile and to receive a certification decision on their application by a return fax. As a result, over half the H-1B applications in FY1999 were via the new facsimile process. This electronic processing allowed many of the regional staff that had been required to process H-1B applications to ensure compliance with the seven-day H-1B processing requirement to return to processing permanent cases. This successful system is serving as the conceptual backbone of the automated processing in the new permanent system.

Action has been initiated to eliminate the backlog of permanent applications in both the states (backlog in Dec., 1999 : 59,672) and the ETA regional offices (backlog on Feb.25, 2000 : 21,975) so that the new process may be introduced without the impediment of having to simultaneously process cases under the old system:

- States with major backlogs have been provided additional funding to eliminate their backlogs.
- A regulatory change is in clearance which will allow employers with non- "RIR" cases at the state level to change the case to a Reduction in Recruitment case while keeping the priority date, as long as RIR criteria are met. (SESAs and employers have told us that many employers will take advantage of this opportunity, which should significantly reduce state backlogs, because these cases are immediately transmitted to ETA for processing.)
- The goal is to eliminate the state backlog in most SESAs by the end of FY 2001.
- Regional offices have been provided additional funds to work overtime and hire additional temporary staff. A similar effort last year enabled the regional offices to process over 70,000 cases.

The primary tool in keeping the case backlog at a minimal level in the future is a redesigned permanent processing system which is described below.

Redesigned Permanent Processing System

- In FY 2001 a new process will be implemented in which applications for permanent cases and H-2B cases will be sent directly to an ETA processing center - much like the current H-1B process. After this process is implemented, SESAs will no longer be responsible for processing any new permanent or H-2B cases.
- The new system for processing permanent cases without SESA intervention in the labor market test will work in the following manner:
 - Employers will contact the SESA to obtain a prevailing wage

determination. This procedure will be the same as the one currently being used, but the form used will be "machine readable" to allow use in the new process.

- Employers will be responsible for testing the labor market on their own - as in the current "Reduction in Recruitment"(RIR) process, which has been available for many years and is currently being used in most states more than the SESA labor market test process.
- Employers will send their machine readable applications directly to an ETA processing center.
- Computers will do a "first analysis" of the information provided on the form. Certain information provided on the form could trigger a request for audit by Federal staff. If no request for audit has been triggered by the information provided, the application will be immediately certified, unless it is selected for audit on a random basis as a quality control measure.
- If selected for audit, the employer will be required to send backup material supporting the information provided on the form.
- ETA retains the authority to do supervised recruitment (much like the current process, but not through the SESAs) in cases where serious questions arise regarding the adequacy of the employer's labor market test.
- The President's FY 2001 budget request contains a proposed fee of \$1,500 charged to employers for each application made for a permanent employment certification. These funds will be utilized by the Department to fund both the Federal administrative costs for the labor certification programs, and fund programs to train U.S. workers in order to reduce our reliance on foreign workers.

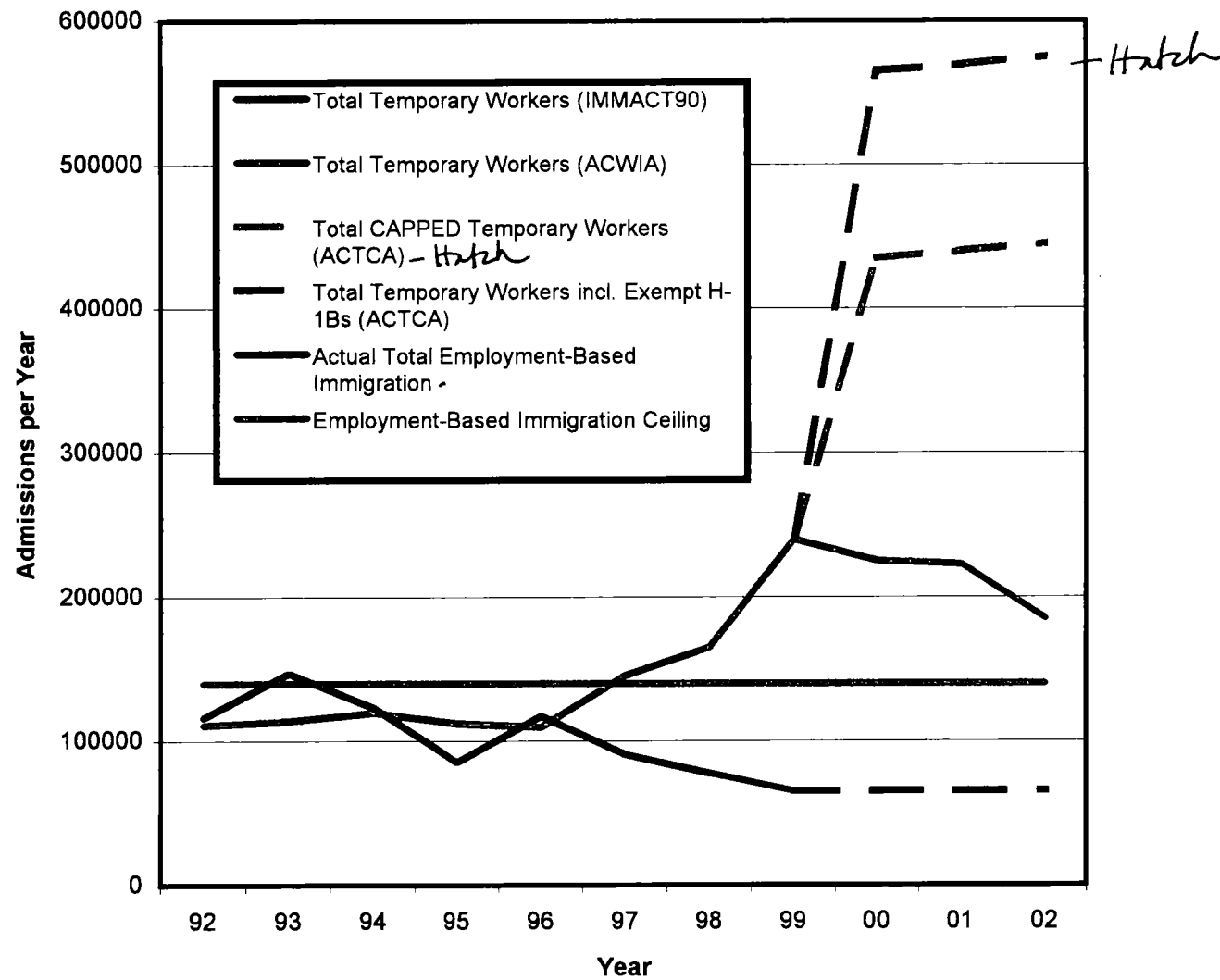
Significant Dates to Achieve System Redesign

- April 30, 2000 Advance Notice of Proposed Rule Making published
- Sept. 1, 2000 Notice of Proposed Rule Making published
- Feb.1, 2001 Final Rule published
- March 5, 2001 Implement new system

Estimated Costs for System Redesign

System development costs:	\$2, 300,000
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Permanent vs. Temporary Worker Migration: 1992-2002



3/15/00

*EBVIRAS**Figure out what
man wants**Congressional report***UNITED STATES DEPARTMENT OF LABOR****FACSIMILE TRANSMISSION**

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Backlog Reduction Plan

Background

The Foreign Labor Certification process for work-based immigration in the United States has been a "two-tiered" system involving both the State Employment Service Agencies (SESAs) and the U.S. Department of Labor for more than 30 years. In this process, the employer starts the process by applying to the SESA in the state where the job opportunity is located. The SESA is responsible for reviewing the case for completeness, confirming that the employer was offering the proper "prevailing wage," and working with the employer to advertise the job opportunity and search the SESA's applicant file to adequately test the labor market to insure that there are no qualified U.S. workers available for the position. After the SESA completes their processing, the case is sent to the Department of Labor, where it is reviewed in detail to determine, among other things, that the job being offered was not designed in such a manner that only the foreign worker was qualified for the job, and that the job was being legitimately offered to U.S. workers. After the review is completed at the federal level and the Department is assured that U.S. workers have been adequately considered for the job opportunity, the Department issues to the employer a labor certification which allows the employer to file a visa petition with INS that requests that the foreign worker be admitted into the United States to work.

States

Prior to 1997, the permanent case backlog was manageable in size. The state backlog in FY 1995 was 32,139 and in FY 1996 was 39,775. In FY 1997 funds provided to states for the purpose of processing foreign labor certification cases were reduced from \$47,000,000 to \$31,000,000. This 33% reduction in program funding coincided with an economic expansion that produced record numbers of requests for foreign workers made in all labor certification programs: permanent, temporary professionals (H-1B), temporary agricultural (H-2A), and temporary nonagricultural (H-2B). At the end of FY 1997, the permanent backlog had expanded to 57,100 cases. In FY 1998, the backlog problem was further exacerbated by the elimination of the Immigration and Naturalization Service's regulation 245(i) which resulted in the receipt of over 100,000 cases during FY 1998 alone. This regulation was important to foreign workers because the regulation contained a provision that permitted foreign workers to utilize the 245(i) benefits, which allowed their case to be acted upon even if their legal status had ended, as long as the foreign worker had an application for labor certification in process prior to January 14, 1998. The permanent case backlog at the end of FY 1998 totaled 94,610. 245(i)

In FY 1999, \$5,000,000 above the requested funding level was provided to the states specifically for backlog reduction. This 16% increase was allocated to states with the largest backlog. In addition, General Administration Letter 1-97 (GAL 1-97), published Oct. 1, 1996 provided states with guidance to help increase productivity in the permanent program. This funding and additional guidance resulted in a 34% increase in state output of permanent cases in FY 1999.

State Foreign Labor Certification Permanent Program Activity

Fiscal Year	Cases Completed	Backlog
1995	45,771	32,139
1996	55,245	39,775
1997	51,116	57,100
1998	67,551	94,610
1999	77,979	75,400

Regional Offices

Immediately prior to FY 1995, regional offices were allocated 91 FTE to process foreign labor certification cases. By FY 1997, as a result of general reduction in Department of Labor staffing, the regional staffing level had been reduced to 78 FTE, where it has remained through FY 1999. However, the number of cases received for processing in all labor certification programs in the regional offices began increasing significantly. The program which increased most during this period was the H-1B (temporary professional) program. In 1998 Congress temporarily increased the quota for H-1B workers allowed into the United States in a given year from 65,000 to 115,000. As a result of this quota increase, the case load in the H-1B program increased from 97,000 in FY 1994 to 242,000 in FY 1998 and to over 350,000 in FY 1999 (Many employers apply to the Department of Labor for H-1B certifications in advance so that they are in a position to make a request to INS for a visa when they decide they actually need an H-1B worker). H-1B applications receive processing priority over permanent cases because of the legislated mandate to act on H-1B cases within seven working days of receipt. To maintain compliance with the H-1B processing mandate, there were periods during FY 1997 and 1998 when all regional labor certification staff were required to process H-1 B applications, leaving no time to process permanent cases.

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Backlog Reduction Actions Taken to Date

States

In late FY 1996, the Employment and Training Administration published General Administration Letter 1-97 (GAL 1-97). This letter provided guidance to both the states and regional offices regarding various methods that could be used to streamline the processing of permanent cases under existing regulations. Prominent in the guidance was reemphasis on the "Reduction in Recruitment" (RIR) process. The RIR process decreased the time involved in processing cases because it relies on evidence provided by the employer that a test of the labor market has been done prior to the filing of the application, which eliminates the need for the state to advertise and collect résumés. This is the most time consuming portion of the state processing. The effectiveness of the GAL was demonstrated by the fact that the states processed over 51,000 cases in FY 1997, just 4000 fewer cases than the previous fiscal year despite the fact that state funding had been reduced by 33%, and in FY 1998 processed over 67,000 cases with no additional staffing.

X In FY 1999, an increase of \$5,000,000 was provided to reduce the backlog. These funds were allocated to the seven states who had 90% of the backlog. This allocation of additional funds, combined with the continued utilization of the GAL 1-97 guidance, resulted in the states processing almost 78,000 cases, more than any year in the history of the program.

Regional Offices

The guidance promulgated in GAL 1-97 was also beneficial to the regional offices. However, the effectiveness of GAL 1-97 in increasing the efficiency of case processing at the state level increased the number of incoming cases in the regional offices, since the guidelines promulgated in GAL 1-97 allowed states to forward to the regional offices more cases in FY 1998 than ever before in the history of the program. This factor, coupled with the dramatic increase in H-1B applications during FY 1997 to FY 1999 period created a large backlog in permanent cases in the regional offices. In FY 1999, two major steps were taken to assist the regional offices in processing permanent cases:

- In February 1999, a system was implemented nationally which allowed employers to transmit H-1B applications (Labor Condition Application) via electronic facsimile and to receive a certification decision on their application by a return fax. As a result, over half the H-1B applications in FY 1999 were via the new facsimile process (LCA fax). This electronic processing allowed many of the regional staff that had been required to process H-1B applications to ensure compliance with the seven-day H-1B processing requirement to return to processing permanent cases.

- Also in February 1999, a priority "backlog reduction effort" was implemented in the regional offices by providing \$500,000 for overtime and hiring temporary staff. These additional funds allowed experienced analysts to concentrate on processing permanent cases. The success of the effort is evidenced by the fact that the regional offices processed over 72,000 cases in FY 1999, almost twice the 40,000 cases processed in FY 1998.

Plans of Backlog Reduction - FY 2000/FY 2001

States

Current Status:

State Backlog as of December 1999: 67,701

An analysis of the state backlogs revealed that 10 states accounted for 88% of the nation's total backlog. Those states and their permanent case backlog in mid-December, 1999, are as follows:

California	16,940
New York	13,726
New Jersey	9,584
Texas	5,530
Maryland	3,068
Illinois	2,928
Massachusetts	2,450
Florida	2,187
Michigan	1,765
Connecticut	1,492
Total	59,672

Plan for State Backlog Reduction:

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- In FY 2000, Congress provided \$5,000,000 over the FY 1999 funding level. ETA is utilizing these funds to directly address backlogs in these ten key states by providing funds to these states in excess of the FY 1999 allocation. A total amount of \$4,200,000 has been distributed to these states in the same proportion as their portion of the total backlog for the ten states. This amount is the major portion of the \$5 million increase this fiscal year. The remainder will be distributed in the future to meet the greatest need. This strategy will focus available resources to those states with the most apparent need.

Proposed by
State
- A proposed regulation has been developed which will allow employers who have applications in the backlog to advertise for the position using the Reduction in Recruitment process criteria and will allow states to process these applications as RIRs without the employer losing the application's "priority date" as would occur under the current regulations. It is expected that many employers will take advantage of this opportunity to receive a faster decision on their certification application while maintaining their priority date. It is important to employers that the priority dates be retained because the Department of State processes visas in the order of the priority dates, and for foreign workers from certain high demand countries a loss of a few months in priority date can mean a loss of years in obtaining a visa. The RIR processing can be accomplished with a much higher degree of efficiency than the processing of a non-RIR permanent case. It is therefore expected that this proposed regulation will have a major impact on reducing the backlog. States and user representatives have indicated they are looking forward with anticipation to this regulation change. It is anticipated that the proposed rule will be published in March, 2000 and effective May 2000.

Streamline 2 tier system
- In FY 2001, ETA will implement a system which will streamline the current "two tier" process in which the state agency first does preliminary review and processing and then forwards the case to the Federal level (regional office) for further review and final decision by eliminating

the redundant preliminary state processing.

The following illustrates the Department's schedule of reducing the state backlog through these actions:

	<u>FY 2000</u>	<u>FY 2001</u>
Backlog beginning of year	75,400	40,400
Incoming Cases	55,000	27,000
Cases Processed	90,000	67,400
Backlog end of year	40,400	0

Regional Offices

Current Status:

Current regional office Backlog (1/21/00):

19,136

Projected Regional Permanent Program Activity

	<u>FY 2000</u>	<u>FY 2001</u>
Carry in	18,314	26,314
New applications Received	90,000	92,000
Rebuttal and Remands	8,000	4,000
Applications Processed	90,000	122,314
Backlog	26,314	0

In FY 2000, it is projected that the regional offices will receive 90,000 cases as a result of backlog reduction efforts in the state. During the backlog reduction effort in FY 1999, the regional offices processed over 9,000 cases per month. Based on that output, we anticipate that by implementing the backlog reduction plan described below, regional offices can process 90,000 permanent cases each year. This will result in a backlog of 26,314 permanent cases in the regional offices at the end of FY 2000. By the end of FY 2001, we anticipate that states will have sent the remainder of the old cases filed under the current system to the regional offices. ETA will implement a new process in FY 2001 in which employers transmit permanent cases directly to the regional offices for processing. This procedure will require the regional offices to operate two separate programs after mid FY 2001 until all of the cases in the old system have been processed. For the new process to be successful, it is imperative that no backlog be allowed to develop, so processing of the new system must take priority over processing the old cases.

Regional Backlog Reduction Plan