**Irene Bueno DPC/ODP Inventory Boxes 1- 11**

**BOX 1:**

H1B Background

- Letters Memos Q & A

H1B Legislation

Immigration Q&A working group

- Immigration: Topics
- Immigration Working Group
- INS Q&A

258789

March 23, 1998

President William J. Clinton
1600 Pennsylvania Avenue, NW
The White House
Washington, DC 20501

Dear Mr. President:

As the presidents of associations representing millions of American knowledge workers, we are concerned about recent Administration statements which would hinder the ability of our member firms to hire "the best and the brightest" from around the world in order to remain competitive in a global economy through the H-1B visa program.

Recently, you announced that another 310,000 new jobs were added to the economy last month, real wages continued to rise, and unemployment fell to 4.6%, the lowest in a quarter century.

You asked the question our members ask us every day: "How shall we maintain this momentum?" Your response, "We must do more to continue to create high wage jobs." In fact, as stated, and we wholeheartedly agree, "the new economy is increasingly driven by creativity, innovation, and technology, with high-skill jobs growing at nearly three times the rate of other jobs. In the field of information technology, the hunt for employees with high-tech skills is becoming more and more intense. There are hundreds of thousands of vacancies out there in America right now."

We believe one of the keys to success is expanding opportunities through education and training of older workers, dislocated workers and of course, inspiring younger generations to participate in the "knowledge workforce." Our industries provide high wages, expanding career opportunities and a chance to contribute to one of the fastest growing economies in the world.

Our members offer sophisticated training programs, university programs, and community based partnership training. But even with these programs in place, we face the risk of losing market share to our competitors which have the ability to retain "the best and the brightest" in a competitive global economy. Currently, we are restricted from hiring foreign talent if we reach what is commonly referred to as the H-1B cap, which is statutorily mandated at 65,000. During FY 1997, we reached the cap in August. As of February 20, 1998, approximately 35,000 visas had been issued. This means that we could hit the cap by the end of April or the beginning of May of this year.

We believe that substantially increasing this cap will provide "emergency short term relief" to our companies. We look to you to for strong support of an increase in this nonimmigrant H-1B visa category.

We know we can and will do more to develop a healthy, robust "knowledge workforce." Our companies are committed to workforce development and will continue our efforts, individually and collectively, even after legislative relief to increase the cap is passed in the House and Senate and signed into law.

We would like very much to work with you to help our members retain their advantage in the global economy.

MAR 31 1998

Sincerely,

William T. Archey

William Archey
American Electronics Association

Ed Black
Computer & Communications
Industry Association

Peter F. McCloskey

Peter McCloskey
Electronic Industries Association

Matthew Flanigan

Matthew Flanigan
Telecommunications Industry Association

Ken Kay

Ken Kay
Computer Systems Policy Project

Harris N. Miller
Information Technology Association
of America

George Scalise

George Scalise
Semiconductor Industry Association

Robert Holleyman

Robert Holleyman
Business Software Alliance

Gary Shapiro

Gary Shapiro
Consumer Electronic Manufacturers
Association

Kerry C. Stackpole

Kerry Stackpole
Electronic Messaging Association

Rhett Dawson
Information Technology Industry Council

Jeff Richards

Jeff Richards
Interactive Services Association

William Moroney
Multimedia Telecommunications
Association

Ken Wasch

Ken Wasch
Software Publisher Association

cc: Vice President Gore
Tom Kalil
Don Gips
Ira Magaziner

THE WHITE HOUSE

WASHINGTON

Facsimile from Diane Ikemiyashiro
Office of Presidential Letters and Messages

Voice: (202) 456-5519 FAX: (202) 456-5426

Number of Pages (including cover): 7

Date: 4.15.98

Time: 5:47pm

To: Julie Fernandes

Voice: 

FAX: 6.5581

[ ] incoming letter(s) from:

re:

[ ] for your review

[ ] per my e-mail or voice-mail message to you

[✓] per your request

Additional comments:

Thanks for your help.

-Diane

258186

JACK KEMP

March 18, 1998

The Honorable William J. Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

As you are aware, America's high-technology firms are among the most dynamic and innovative in the world today. From the stock market -- where the current boom has been fueled, in large part, by high-tech stocks -- to the retail market -- where consumers benefit from steadily decreasing prices and expanding choices -- the success of U.S. high-tech businesses has played an integral role in creating prosperity and opportunity that transcends Silicon Valley.

Despite aggressive recruitment and education efforts, America's high-technology sector faces a severe labor shortage. The unemployment rate among electrical engineers has plummeted to 0.4%. According to the Information Technology Association of America, more than 346,000 skilled positions remain vacant. A shortage of skilled workers is preventing high-tech U.S. firms from growing at their full potential.

By November of 1997, the U.S. issued its annual cap of 65,000 H-1B temporary visas, which allow skilled foreign professionals to work in the United States. This year the cap will be hit at least four months before the end of the fiscal year, shutting the door to thousands of skilled employees and causing serious disruption to high-tech industry. U.S. companies and universities will effectively lose access to a crucial pool of skilled labor within eighteen months unless the cap is expanded. This will devastate many of the most dynamic sectors of our economy.

In public statements by Commerce Secretary Daley, and in Congressional testimony from the Department of Labor, your administration has not only expressed opposition to increasing the cap; it has insisted on vastly expanded regulatory burdens that will dramatically reduce U.S. employers' access to this key source of personnel.

Equally troubling, these so-called reforms are packaged in a way that can only be described as anti-immigrant, and I do not use the term casually. It cannot be lost on Department of Labor officials that the majority of the people entering the United States on H-1B visas are of Hispanic or Asian Pacific origin. Cypress Semiconductor CEO T.J. Rodgers recently testified to Congress, "Most of our H-1B hires are individuals of either Asian Pacific or Hispanic descent, just like many other immigrants. Neither these individuals nor anyone who comes through the family immigration or refugee system should be maligned unfairly for 'taking away American jobs.'" I agree.

Mr. Rodgers has also stated, "We would lose jobs without our immigrant talent. The logic of those who claim otherwise including high-ranking members of the Clinton Administration, borders on folly."

I have been dismayed to hear nativist appeals to "protect U.S. workers" coming from the Labor Department. I urge you to overrule those protectionist sentiments and support an increase in the H-1B cap without attaching new and highly restrictive measures that will harm the H-1B recipients, U.S. employers, and the U.S. economy. These new burdens will ultimately cost American jobs by pushing American firms offshore.

I also urge you to support the American Competitiveness Act, authored by Senator Spencer Abraham. This bill increases the cap on H-1B visas sufficiently to meet the current needs of companies and universities; it provides college scholarships for 20,000 more young people a year to study in math, engineering, and computer science; and it targets enforcement at serious violators of the H-1B program, rather than restricting the ability of law-abiding employers to hire needed employees.

The American Competitiveness Act will allow an additional 25,000 skilled workers to enter the United States this year on H-1B visas. This and its attention to education will help to ameliorate labor shortages in high-tech industry now and in the future. In the interest of encouraging economic growth and expanding employment opportunities throughout the entire economy, I hope that you will instruct members of your administration to end their nativist attacks and support Senator Abraham's bill.

Very sincerely yours,

Jack Kemp

Jack Kemp

2563886

# ABLI

March 6, 1998

President William J. Clinton
1st Floor, West Wing
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear President Clinton:

As you know, American businesses face a drastic shortage of "knowledge" workers as we approach the year 2000. I am writing to thank you for your recent efforts to work with the business community to address this important issue. With the economy boasting its lowest levels of unemployment in 24 years, and the increasing demand for highly skilled workers, your support is more critical than ever.

In this dynamic and globally competitive economy, the business community clearly recognizes the need to provide extensive training to Americans preparing to enter a 21st century workforce. We also acknowledge the value and necessity of providing more experienced workers with the additional skills they need to continue to contribute to the vibrant American economy. And yet, even with the efforts of the business community to provide training, there are still more than 340,000 information technology positions nationwide that remain unfilled.

However, in addition to training Americans, the business community has a compelling need to bring highly skilled knowledge workers to this country on a temporary basis to fill critical positions in U.S. companies. These workers, who come to this country on H-1B visas, are a critical component of our workforce, creating jobs for Americans and assuring that U.S. companies can continue to be the best in the world.

As you know, the cap on H-1B visas is currently set at 65,000 per year. Because of the changing needs of the workforce, and the strength of the American economy, the demand for highly skilled workers is greater than ever. This year, we expect to hit the cap on H-1B visas as early as May. If businesses are unable to obtain the workers they need, we are facing a "high-tech train wreck," where products don't get developed and sent to market on time, innovation is stymied, and domestic companies lose ground to competitors in Asia, Europe, and the rest of the world.

To that end, we appreciate the administration's acknowledgement that the cap on H-1B visas must be raised, and raised quickly. But we strongly believe that the only thing wrong with the current H-1B program is that the number of visas is set too low. The way the program is currently structured allows employers the flexibility to quickly adapt to changing markets and concentrate on their core businesses. There is little, if any, evidence that the H-1B program is broken or needs fixing. We believe proposals to "reform" the

MAR 9

**American Business for Legal Immigration**
1800 Diagonal Road, Suite 180
Phone: 703.684.8618 Fax: 703.684.8612
E-mail: emailABLI@aol.com

H-1B program are misguided, and will have a deleterious effect on our ability to remain competitive.

We believe proposals to raise the H-1B cap which include provisions such as shortening the length of the time for which the visa is valid, requiring recruitment attestations, or mandating layoff attestations would be counterproductive. Imposing these sorts of restrictions would be contrary to the spirit of the program and would put American businesses at a distinct disadvantage to the rest of the world.

We appreciate your efforts to help resolve this crisis in a manner that is ultimately good for the country and meets the immediate needs of American businesses.

Again, thank you for your leadership. We look forward to working with you on this issue of paramount importance to the business community.

Sincerely,

Scott Hoffman
Director

American Council on International Personnel
American Electronics Association
American Immigration Lawyers Association
Business Software Alliance
Computing Technology Industries Association
Electronic Industries Association
Information Technology Association of America
National Association of Manufacturers
National Technical Services Association
United States Chamber of Commerce

Total Pages: ___

LRM ID: IMS291

**EXECUTIVE OFFICE OF THE PRESIDENT**
**OFFICE OF MANAGEMENT AND BUDGET**
**Washington, D.C. 20503-0001**

**Monday, April 13, 1998**

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:** Legislative Liaison Officer - See Distribution below

**FROM:** James J. Jukes (for) Assistant Director for Legislative Reference

**OMB CONTACT:** Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

**SUBJECT:** **Report on H1B Temporary Worker Visa Increases and Y2K**

**DEADLINE:** Noon Wednesday, April 15, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

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**LRM ID: IMS291** **SUBJECT:** Report on H1B Temporary Worker Visa Increases and Y2K

**RESPONSE TO**
**LEGISLATIVE REFERRAL**
**MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _______

_____ Other: ____________________

_____ FAX RETURN of ____ pages, attached to this response sheet

DRAFT -- NOT FOR RELEASE

April xxx, 1998

The Honorable Jim Leach
House Committee on Banking and Financial Services
U.S. House of Representatives
Washington D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to testify before the Committee on March 24 to discuss the work of the President's Year 2000 Council. You and your Committee have been leaders at an important time on this very important issue. At the hearing you asked me to examine the issue of increasing H1B visas for the purpose of increasing skilled labor available for dealing with staffing needs of the Year 2000 (Y2K) problem. The point you raise is a serious one. To minimize the disruption associated with the coming of the new millennium, we must do all that we can to ensure that we have qualified, trained people available and able to bring our nation's government and private sector entities into compliance.

First, let me take a moment to describe what the Council is doing with respect to personnel and labor issues. We will be working with the Departments of Defense, Labor, and Education, as well as the Office of Personnel Management (OPM) and the Office of Management and Budget to examine the options for ensuring we do not have a shortage of qualified people who are able to do the work. Within the government, OPM has already encouraged agency heads to utilize retiree rehire authority which OPM can approve through a waiver. Without a waiver, agencies have to offset the amount of the returning employee's salary by the amount of the pension that is being drawn. OPM's action will enable the government to bring qualified individuals back to the government to work on the systems where their expertise is needed.

As I mentioned in my testimony, we will also work with OPM to craft authority to allow qualified personnel to move between agencies so that they will be working where they are most needed. Agencies that are already Y2K compliant should be able allow their staff and contractors to assist agencies that still have work on mission critical systems to complete.

With respect to a specific increase in H1B visas, I do not believe this change would be of substantial assistance in addressing possible personnel challenges associated with the year 2000 problem in light of the short time remaining to address that situation. In particular, as outlined above, we plan to focus our efforts on ensuring skilled workers are able to work where they are most needed in the months ahead. The attached letter outlines more fully concerns the Administration has with legislation which would increase the number of H1B visas.

I look forward to working with you on this issue. Please do not hesitate to contact me at 456-7171 if I can be of further assistance.

Sincerely,

John A. Koskinen
Chairman

Enclosure

cc: The Honorable John J. LaFalce

# Office of the Attorney General
Washington, D. C. 20530

April 2, 1998

The Honorable Orrin Hatch
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Today, your committee will mark-up S. 1723, the "American Competitiveness Act" which is intended to respond to the growing demand for skilled workers in the information technology (IT) industry by increasing the annual cap on the number of temporary visas for foreign "specialty" workers under the H-1B program. For the reasons outlined below, the Administration strongly opposes S. 1723.

The Administration believes that the first step in increasing the availability of skilled workers must be raising the skills of U.S. workers and helping the labor market work better to match employers with U.S. workers. Therefore, substantial additional efforts by industry to increase the skill level of U.S. workers and needed improvements in the H-1B visa program are necessary prerequisites for the Administration to support any short-term increases in the number of visas for temporary foreign workers. Since 1993, this Administration has sought reforms of the H-1B program, including requiring employers to make bona fide efforts to recruit and retain U.S. workers before hiring temporary foreign workers and prohibiting lay-offs of U.S. workers to replace them with temporary foreign workers. These reforms, if enacted, would help target H-1B usage to industries and employers that are experiencing skill shortages.

Regrettably, S. 1723, as introduced, emphasizes providing opportunities for foreign workers rather than providing for and protecting U.S. workers. For example, the bill includes a permanent, substantial increase in the annual number of H-1B visas, from 65,000 up to 115,000. Also, the bill does not require that employers recruit and retain U.S. workers before hiring temporary foreign workers, and it does not prohibit employers from laying-off U.S. workers in order to replace them with temporary foreign workers. Moreover, rather than strengthening program requirements and enforcement to prevent employer abuses of the H-1B program, S.1723 undermines some of the program's important enforcement provisions.

The Administration has reviewed the bill proposed by Senators Kennedy and Feinstein. We believe that the Kennedy-Feinstein approach is, on the whole, consistent with the objectives we have articulated. It constructively addresses both the short-term and long-term implications of the increasing demand for skilled workers by putting U.S. workers first, while addressing the labor market needs of our rapidly changing economy, and making fundamental reforms to the H-1B visa program.

The Administration wants to work with the Congress to address the growing demand for highly skilled workers, while effectively protecting and promoting the interests of U.S. workers and enhancing the international competitiveness of important U.S. industries.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Janet Reno
JANET RENO
Attorney General

William Daley
WILLIAM DALEY
Secretary of Commerce

Alexis M. Herman
ALEXIS HERMAN
Secretary of Labor

cc: Senator Patrick Leahy, Ranking Member
Senator Spencer Abraham, Chairman, Immigration Subcommittee
Senator Edward Kennedy, Ranking Member, Immigration Subcommittee
Members of the Senate Judiciary Committee

Cecilia E. Rouse
04/14/98 04:41:24 PM

Record Type: Record

To: Sally Katzen/OPD/EOP, Julie A. Fernandes/OPD/EOP

cc:
Subject: H1B Options for Education & Training

Hey. Here's some language that Dept of Education would like to propose to get tech-prep and the NSF program working on concert.

Any comments? Suggestions? (See the part in bold in particular). If not, (pending Barbara Chow's approval), I was going to send this to Peter J. so that he could shop this to Mike Meyers and the House staff.

-- Ceci

---------------------- Forwarded by Cecilia E. Rouse/OPD/EOP on 04/14/98 04:37 PM ---------------------------

**Patricia_McNeil @ ed.gov**
04/13/98 07:42:00 PM

Record Type: Record

To: Barbara Chow, Cecilia E. Rouse

cc:
Subject: H1B Options for Education & Training

I left last Thursday's Deputies meeting with a charge to outline a few options for using any additional H1B funding on: a.) Scholarships and b.) Education and Training

Scholarships

On scholarships, Senator Abraham's bill called for amending the State Student Incentive Grants (SSIG) program. The Administration has called for zero funding for SSIG in FY 99.

The State Student Incentive Grant (SSIG) program provides dollar-for-dollar Federal matching funds as an incentive for State support of need-based postsecondary student grant assistance. When the program was first authorized in 1972, 28 States had undergraduate grant programs. Now all States have established need-based student grant programs. Because the program has clearly achieved its original purpose, the Department is proposing to eliminate funding.

Barbara raised the possibility of a setaside within the Pell Grant program as an alternative to the SSIG proposal. We spoke with David Longanecker's staff about this and they DID NOT recommend placing H1B fee money as a setaside within the Pell Grant program. To do so would require a redesign of the entire delivery system of the $7 billion Pell program.

Therefore, if scholarships are provided, the SSIG program seems to be the best vehicle.

Education and Training

We had discussed at the meeting increased investments in education and training in order to prepare new workers for high tech fields.

NSF's Advanced Technological Education (ATE) program had been mentioned. ATE supports demonstration programs and 8 Centers for Excellence to develop curricula, instructional materials, professional development and labs in high tech fields. A major focus of this program is to provide models for other institutions and yield nationally-applicable educational products.

The Education Department funds Tech Prep programs in all states. States provide grants to local consortia of secondary and postsecondary institutions. Tech Prep is extensive in its reach and would serve as an ideal vehicle to bring to scale the innovations demonstrated through the ATE program.

The Tech-Prep model was designed to offer students planned career "pathways" that link their high school classes to advanced technical education in community colleges and 4-year postsecondary institutions.

The Administration has consistently requested additional funding for Tech-Prep ($106 million requested in FY 99) and, in many states,it is the foundation on which School-to-Work systems are built. There is broad Congressional support for Tech-Prep.

We would propose using the H1B fee monies for a discretionary grant program that would support and link ATE and Tech Prep. Using the legislative language provided below we can make separate targeted grants to select Tech Prep consortia to fund ATE models.

Below is the legislative wording that we would suggest be included in the H1B authorizing language (our lawyers are reviewing this and may have some refinements tomorrow):

**Sec.___ Preparation of New Workers for High Tech Careers**

**(1) In general. The Secretary of Education and the Director of the National Science Foundation with fees provided under the authority of ___ shall make grants to create, expand and upgrade programs in**

**advanced technology education to eligible recipients under Title III, Part E of the Carl D. Perkins Vocational Education and Applied Technology Act. To carry out this part**

**(A) The Secretary of Education shall make grants under section 343 (a) of the Carl Perkins Act, notwithstanding any other provision of law, to implement and improve programs using exemplary program models and curricula developed under the National Science Foundation Advanced Technological Education program.**

**(B) The Director of the National Science Foundation shall make grants to eligible recipients to further expand and improve advanced technological education programs.**

-----------------------------------------------------------

Background Information

Accelerated Careers in Technology Program (ACT)

Purpose

The proposed Accelerated Careers in Technology (ACT) program would serve as the catalyst for the creation, expansion, or upgrading of Tech-Prep programs and leading to, for those participating, advanced technical skills in high-tech, high-growth fields.

The program would make available challenge grants to Tech-Prep consortia seeking to design or improve programs using exemplary program models and curricula developed under the NSF Advanced Technological Education program.

The initiative would serve as the catalyst for implementing ATE models and accelerated programs which can help meet pressing, regional and state workforce development demands.

Components:

* Partnership membership shall include, at a minimum, representatives responsible for K-12 education, postsecondary education, and industry representatives.

* The secondary component would provide a setting for career exploration, and offer enhanced curricula in math, science, communications, and technical skills.

* Programs would provide for an accelerated and nonduplicative sequence of progressive academic and technical achievement connecting the last two years of high school with programs at the associate's, bachelor's or graduate degree. By accelerated it is meant the taking of postsecondary level courses, or advanced technical courses, in high school.

* Partnerships will identify industry standards that students must meet and utilize curricula that will span the last two years of high school and one or two years of postsecondary education and lead to a credential accepted industry-wide as evidence of qualification for initial employment, OR design programs using existing industry skill standards (such as developed by the National Skill Standards Board). An example or a recognized credential in the IT area would be certified network administrator or A+ certification for computer technicians.

041319BA.TX

Tom
Ceci
Julie
cc

April 8, 1998

**NOTE TO:** **SALLY KATZEN**
**Deputy Director**

**MARIA ECHAVESTE**
**Asst. to the President &**
**Director of Public Liaison**

**FROM:** **KATHRYN HIGGINS**
**Deputy Secretary of Labor**

Attached is correspondence from a CEO of an IT firm who is interested in helping with our IT-H-1B initiative.

Attachment

Leading the World in Advanced Skills™

March 23, 1998

Mr. Raymond Uhalde
Acting Assistant Secretary for Employment and Training
U. S. Department of Labor
200 Constitution Avenue, NW, Room S2307
Washington, DC 20210

Dear Secretary Uhalde:

I had the good fortune to attend the hearing on "The High-Tech Worker Shortage and U.S. Immigration Policy" in Washington on February 25. I was particularly impressed with your remarks concerning "Tight Labor Markets and IT Skills Shortage."

I feel you did an excellent job of identifying the key issues facing all of the players, including the government. Senator Abraham's American Competitiveness Bill addresses our immediate concerns, but it will need careful revamping if our country's needs are to be served over the long term. I fully support this bill, and I would like to see further segmentation of categories and skill levels for workers. I also believe we should make H-1B visas portable so workers could change jobs after an initial period of service.

As a corporate executive active in politics, I would like to make myself available to the Administration in an advisory capacity. I pioneered the strategic staff augmentation business, conducted some of the original research and polling in the IT staffing field, and have written a book on the Information Elite. I am a regular contributor to numerous publications including ComputerWorld and am regularly read by 350,000 information technology workers.

Enclosed are some recent articles and press releases on this topic as well as a copy of my book for review by your staff. Please feel free to call on me for any assistance you feel might be useful.

Yours truly,

Dominique S. Black
Chairman & CEO

Encl

**ADVANCED**
**Technology Staffing**
220 Twin Dolphin Dr.
Redwood Shores, CA 94065
Phone: 650.596.2800
Fax: 650.596.2900
www.advancedskills.com

Bio

cc: Elena K
Cecilia
Julie

FAX COVER

BIOTECHNOLOGY INDUSTRY ORGANIZATION
1625 K Street N.W., Suite 1100
Washington, D.C. 20006
(202) 857-0244 fax (202) 857-0237
(website) www.bio.org

TO: Name Sally Katzen

Company National Economic Council

Fax # 456-1605

FROM: Name Chuck Ludlam

Date 4/17/98

Number of pages (including cover sheet) ___

COMMENTS:

Please call (202) 857-0244 if you have any problems receiving this fax.

Bio

BIOTECHNOLOGY
INDUSTRY
ORGANIZATION



April 17, 1998

Sally Katzen
Deputy Director, National Economic Council
231 Old Executive Office Building
17th and Pennsylvania Avenue, N.W.
Washington, D.C. 20502

Dear Sally:

BIO has recently joined the H1B visa coalition. Our purpose in joining is to support enactment of relief from the current quota which threatens to limit the number of biotechnology scientists who can work for our industry. We have seen the impact of the current quota on information technology workers dominate the debate. We are concerned that a solution might be crafted that does not provide across-the-board H1B visa relief to include biotechnology company employees. The coalition recruited BIO to join so we feel sure that it would not support a proposal which is unbalanced, but we remain alert to others who might not understand or appreciate our concerns.

We surveyed our Human Resources Committee and found that H1B visas are used to retain U.S. trained foreign Ph.D. graduate students who have collaborated with the firm on biomedical research while they are residing here on a student visa or to hire expertise in a narrow area of science where few experts exist anywhere in the world. A graduate student might, for example, be focusing his or her Ph.D. thesis on research where the firm is interested in developing a product. It then clearly makes sense for the firm to be able to retain the student as a full-time employee to amplify the research and develop it into a product for the benefit of patients. If it becomes unlikely that the firm will be able to retain the student under an H1B visa, it would be less likely that the firm would collaborate with the student on the thesis or that the thesis work will quickly lead to development of cures and therapies for deadly and disabling diseases. This means that the low H1B visa ceiling might have an adverse impact on biomedical research and the interests of patients, not just on economic growth.

Our concern lies with highly trained scientists, not persons with just a BA degree and not even on lab technicians. Our issues are unrelated to any questions which might

[illegible] K Street, N.W., Suite 1100
Washington, D.C. 20006-[illegible]
[illegible]
Fax [illegible]
http://www.bio.org

arise about employees who barely meet (or do not even meet) the minimum standard for this category of visas. It is common in our biotechnology firms for half of the employees to have a Ph.D

While we do not have comprehensive data on the numerical extent of the H1B problem with biotechnology firms, a survey of one hundred of our companies found that 63% expected that the cap would cause a problem, and while overall the number of these employees is not large, the timely hiring each of these employees is very important to the continued research of this industry's companies. For example, one of our companies in Seattle has a research project on dendritic cells, according to our company, only three experts exist in the world. Two of those experts do not want to live in Seattle, leaving a single French scientist able and willing to work for our company. If no H1B visas are available when he decides to work for here in the United States, the company will have to hire the worker through the Green card process and delay the research for about a year and a half. We are attempting to address a problem before it becomes a crisis.

Biotechnology research requires the physical presence of the employees and cannot be conducted electronically from satellite firms. Our industry's research thrives with a critical number of scientist working physically together, when expensive equipment, reagents and technical support coexist. In this sense our industry is more dependent on relief from the quota than other sectors where telecommuting might provide some relief.

Our industry is quite vulnerable. The industry has never had a profitable year and has lost about $4 billion in each of the last three years. Regulatory requirements which increase the cost of doing business or delay the development of products which can produce revenue can jeopardize a firm's prospects. First it faces the challenge of raising huge amounts of capital, conducting cutting-edge biomedical research, securing strong intellectual property protection, navigating the FDA approval process, and then selling its product in a very competitive health care market. It is imperative that they are able to hire the scientists with the expertise to justify this extraordinary risk.

The biotechnology industry has enjoyed three excellent years of capital formation and the number of employees is expanding rapidly. The most comprehensive survey finds that employment has grown by 5%, 9% and 19% the last three years, rising from 103,000 to 140,000 This growth is likely to accelerate. We are now seeing an explosion in biomedical research, a consensus for a doubling of NIH spending, and potential breakthroughs from the genomics revolution, the advent of gene therapy and cell therapy, and new challenges posed by drug-resistant and emerging viruses.

The United States is dominant in international markets, but nearly every other country has targeted biotechnology research as a growth area. As we enter what many call the "Biotech Century," our country has a powerful incentive to ensure that impediments do not exist to continuing this dominance

Please feel free to call us with any questions. 202-857-0244. Thanks very much for your assistance.

Sincerely,

Dave Schmickel
Patent and Legal Counsel

Charles E. Ludlam
Vice President for
Government Relations

cc: Julie

# ABLI

March 6, 1998

Ms. Elena Kagan
Deputy Assistant to the President for Domestic Policy
2nd Floor West Wing
1600 Pennsylvania Ave
Washington, DC 20500

Dear Ms. Kagan:

As you know, American businesses face a drastic shortage of "knowledge" workers as we approach the year 2000. I am writing to thank you for your recent efforts to work with the business community to address this important issue. With the economy boasting its lowest levels of unemployment in 24 years, and the increasing demand for highly skilled workers, your support is more critical than ever.

In this dynamic and globally competitive economy, the business community clearly recognizes the need to provide extensive training to Americans preparing to enter a 21st century workforce. We also acknowledge the value and necessity of providing more experienced workers with the additional skills they need to continue to contribute to the vibrant American economy. And yet, even with the efforts of the business community to provide training, there are still more than 340,000 information technology positions nationwide that remain unfilled.

However, in addition to training Americans, the business community has a compelling need to bring highly skilled knowledge workers to this country on a temporary basis to fill critical positions in U.S. companies. These workers, who come to this country on H-1B visas, are a critical component of our workforce, creating jobs for Americans and assuring that U.S. companies can continue to be the best in the world.

As you know, the cap on H-1B visas is currently set at 65,000 per year. Because of the changing needs of the workforce, and the strength of the American economy, the demand for highly skilled workers is greater than ever. This year, we expect to hit the cap on H-1B visas as early as May. If businesses are unable to obtain the workers they need, we are facing a "high-tech train wreck," where products don't get developed and sent to market on time, innovation is stymied, and domestic companies lose ground to competitors in Asia, Europe, and the rest of the world.

To that end, we appreciate the administration's acknowledgement that the cap on H-1B visas must be raised, and raised quickly. But we strongly believe that the only thing wrong with the current H-1B program is that the number of visas is set too low. The way the program is currently structured allows employers the flexibility to quickly adapt to changing markets and concentrate on their core businesses. There is little, if any, evidence

**American Business for Legal Immigration**
1800 Diagonal Road, Suite 180
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E-mail: emailABLI@aol.com

that the H-1B program is broken or needs fixing. We believe proposals to "reform" the H-1B program are misguided, and will have a deleterious effect on our ability to remain competitive.

We believe proposals to raise the H-1B cap which include provisions such as shortening the length of the time for which the visa is valid, requiring recruitment attestations, or mandating layoff attestations would be counterproductive. Imposing these sorts of restrictions would be contrary to the spirit of the program and would put American businesses at a distinct disadvantage to the rest of the world.

We appreciate your efforts to help resolve this crisis in a manner that is ultimately good for the country and meets the immediate needs of American businesses.

Again, thank you for your leadership. We look forward to working with you on this issue of paramount importance to the business community.

Sincerely,

SH

Scott Hoffman
Director

American Council on International Personnel
American Electronics Association
American Immigration Lawyers Association
Business Software Alliance
Computing Technology Industries Association
Electronic Industries Association
Information Technology Association of America
National Association of Manufacturers
National Technical Services Association
United States Chamber of Commerce

What are the docs?

How sensitive?

We would not normally respond to Members (as opposed to a Committee)

How to respond w/out setting precedents.

Copy of memo
6-1647

cc: Julie
Rob Werner

Rob -
What do we usually say to requests like this?
Elena

# Congress of the United States
Washington, DC 20515

March 5, 1998

The Honorable William M. Daley
Secretary
Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Daley:

We are writing to express our concern about a possible change in Administration policy that would disadvantage American young people and high-technology workers. In January of this year, you appeared before the Information Technology Work Force Convocation in Berkeley and rejected an increase in foreign temporary workers as an appropriate response to an alleged shortage of information technology workers. According to your statement, "[T]his Administration does not support an increase in the caps on visas. For the benefit of the American people, we must focus on home grown, American skills." We agree.

Your January statement followed numerous conversations beginning in September of 1997 between our staffs and representatives of the Department's Technology Administration concerning the credibility and apparent bias of the Department's own publication in the area of information technology personnel needs. In response to warnings from our staffs that the Department's work would be used by the industry to push for increased temporary foreign workers under the H-1B visa program, we were assured again and again that the Administration would not support increased admissions for temporary foreign skilled workers. This was most recently expressed to staff on December 23, 1997, by Kelly H. Carnes, deputy assistant secretary for technology policy in a conference call. At one point in January, we were offered a personal briefing by you to emphasize this position.

For several years, in both tight and loose labor markets, the industry has made no secret of its reasons for wanting additional foreign workers. It is much, much cheaper to hire contract foreign workers than it is to hire, train or retrain Americans. They can be laid off as soon as a project is completed, and they receive no long-term benefits. This same argument was made two years ago when American computer programmers were being laid off in favor of cheaper H-1B workers.

Therefore, we were surprised and dismayed last week to read in the New York Times that the Administration, including the Commerce Department, is "seriously considering proposals to increase the immigration quota for computer scientists and other information technology workers, so that foreigners can fill thousands of job opening in the country." "Higher Quota Urged for Immigrant Technology Workers," Feb. 23, 1998. At this point, the credible evidence of a long-term shortage of workers is highly tenuous, at best, and the U.S. educational establishment and young people themselves are already rapidly responding to a perceived employment opportunity. For example, in a recent Washington Post article, Patrick Valentine, director of American University's corporate and government education and training, described AU's program to recruit liberal arts graduates into technology careers by working with major high technology employers in the area. Mr. Valentine was quoted as follows: "'If a company says, 'We need 10 Microsoft Certified Systems Engineers,' we can do that.'" "Employers Use Training to Recruit Top IT Talent," Washington Post, Feb. 22, 1998.

The Honorable William M. Daley
Page 2

We do not believe that the interests of American workers, families, educational institutions or taxpayers in our volatile labor market are served by an increase in "temporary" foreign workers who ultimately become a permanent addition to a constantly changing labor market. Until we have more objective, reliable information regarding the existence of a long-term shortage of information technology workers and until it can be demonstrated that domestic training programs cannot meet our nation's needs, we see no reason to lift the visa limit.

To assist us in our understanding of Administration policy, we ask that the Department provide us by 5 p.m. on Monday, March 9, 1998, the memorandum cited in the New York Times article of Feb. 23, 1998, and all supporting materials in the Department's possession that relate to the request by officials in the Administration to examine options for increasing the cap on H-1B visas or making any other changes in immigration law. In the past, we have had some difficulty obtaining documents, such as your January 12 speech, from the Department, so we would appreciate your assistance in this matter.

Further, we ask that you instruct appropriate officials in the Department to brief interested members and staff on the Department's and the Administration's position regarding the immigration issue. Please have your staff contact Edith Holleman, Commerce Democratic counsel, at (202) 226-3407 and Dr. Daniel Pearson, Science minority professional staff member, at (202) 225-4494 to arrange for this briefing.

Thank you for your attention to this matter.

Sincerely,

JOHN D. DINGELL
RANKING MEMBER
COMMITTEE ON COMMERCE

GEORGE E. BROWN, JR.
RANKING MEMBER
COMMITTEE ON SCIENCE

Ron Klink
RON KLINK
RANKING MEMBER
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS
COMMITTEE ON COMMERCE

cc: The Honorable Tom Bliley
The Honorable James F. Sensenbrenner, Jr.

# KENNEDY-FEINSTEIN HIGH-TECH IMMIGRATION AND UNITED STATES WORKER PROTECTION ACT

- Temporarily increases 65,000-visa immigration quota of temporary foreign professional and skilled workers ("H-1B visas").

  FY98-2000: 90,000 visas FY2001: 80,000

  After FY2001, return to 65,000 visas annually

- Creates $100 million training program funded through $250 employer user fee.

  -- $90 million for loans to workers to obtain training

  -- $10 million to local "regional skills alliances" to identify local labor market needs and develop strategies.

- Enhances Accountability and Program Integrity.

  -- Authority to investigate: Provides Labor Department independent ability to enforce labor laws against those who break the law instead of waiting for a complaint. Provides $5 million for this purpose.

  -- Requires attestation that companies will not lay off American workers: Bars employers from laying off U.S. workers and bringing in replacement foreign workers.

  -- Requires attestation that companies will recruit at home first: Requires local recruitment efforts before employers can obtain foreign workers under the program.

  -- Expedited process: Retains requirement that Labor Department process employer applications within 7 days to ensure that new requirements pose no additional delay.

*from the office of*

# Senator Edward M. Kennedy

*of Massachusetts*

For Immediate Release:
March 26, 1998

Contact: Kathleen McKiernan
(202) 224-2633

**STATEMENT OF SENATOR EDWARD M. KENNEDY**
**ON IMMIGRATION OF HIGH TECH WORKERS**

I'm honored to join Senator Feinstein on this proposal to grant a temporary increase in immigration quotas for high tech jobs, while taking additional steps to ensure that more American workers are trained for these jobs.

For the next decade, high tech industries will create over a million new jobs in the United States. Some have called for a permanent increase in the quotas, to ensure that companies have the workers they need to survive in this highly competitive market.

The problem is obvious. A permanent increase would permanently deny these good jobs to American workers, and that's not acceptable. The labor market will adjust in time, as it always does, as more and more Americans enter this field. It would be a mistake to tilt the balance unfairly against them.

Our immigration laws should not undercut the ability of young Americans, downsized defense workers, and others to enter this dynamic field.

This week, the General Accounting Office sent a clear warning on this issue, saying that the job market studies used by the industry are flawed, and do not prove that significant worker shortage exists.

Our legislation will accomplish three goals:

First, it provides a temporary increase in immigration quotas from 65,000 to 90,000 visas a year for the next three years. This increase will enable U.S. companies to hire the workers they need now.

Second, we invest in training U.S. workers. Americans want these jobs, and they deserve the training needed to get them. Our bill proposes a modest $250 application fee for each foreign worker sought under the immigration quota. The fee will raise approximately $100 million each year over the next three years to fund training opportunities for Americans.

Third, our bill strengthens the enforcement of the immigration laws. It gives the Labor Department greater authority and resources to ensure that employers pay the proper wage and meet other standards in hiring foreign workers. We specifically make it illegal for employers to lay off American workers and hire foreign workers to replace them. In other words, employers should hire at home first in obtaining new workers, before importing them from abroad.

We believe these steps meet the immediate needs of this important industry, while preserving the priority we owe our own workers, and we urge Congress to enact them.

30-30-30

~~5-9595~~

219-4692

From: Ingrid M. Schroeder on 04/01/98 10:53:25 AM

Record Type: Record

To: Sally Katzen/OPD/EOP, Elena Kagan/OPD/EOP

cc: See the distribution list at the bottom of this message
Subject: Draft Labor Letter on S. 1723 - H1B Visas

Attached is a draft Labor letter recommending that the President veto S. 1723 (which is scheduled for markup tomorrow in the Senate Judiciary Committee) . This bill would permanently increase the cap on H1B visas for foreign temporary "professional" workers. Barbara Chow asked that we bring this matter to your attention.

Before putting this draft letter into the LRD interagency clearance process, we would like you to take a look at it and let us know if you agree with sending a letter and, if so, should it include a veto threat. We would appreciate if you could review the letter and provide comments/sign-off by noon today, in light of tomorrow's markup.

**FYI** - Labor submitted the attached letter with signature blocks for the AG and the Sec. of Commerce, but could not confirm that Justice and Commerce has signed on to the veto recommendation. Therefore, we deleted the Justice and Commerce signature blocks and references to them in the letter and plan to check with the agencies individually to see if they want to sign on.

DRAFT -- NOT FOR RELEASE

The Honorable Orrin Hatch
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

This week your Committee will mark-up S. 1723, "The American Competitiveness Act," which, among other things, would permanently increase the annual limit on admissions of foreign temporary "professional" workers admitted under the Immigration and Nationality Act's (INA) H-1B program. The Administration strongly opposes this bill and, if presented to the President in its current form, the Secretary of Labor would recommend that he veto it.

Like you, we have heard a lot recently about a shortage of trained workers for the information technology (IT) industry. While reliable, independent evidence remains inconclusive, the President believes that our first response to increasing the availability of IT workers -- to meet the industry's needs, continue its expansion and assure its continued global leadership and U.S. economic growth -- must be increasing the skills of U.S. workers and helping the labor market adjust more quickly so there is an adequate supply of skilled workers where there is a demand for skilled workers. While it may be necessary in the short-term to increase the number of visas for foreign temporary "professional" workers under the H-1B program, this must be done only in conjunction with significant additional efforts by the nation's IT industry to educate, train, recruit and retain U.S. workers, and with long-overdue, needed improvements in the H-1B program that would serve these same purposes.

It is the Administration's strongly-held view that any increase in the H-1B program admissions ceiling should be temporary and limited to the minimum amount demonstrably necessary. However, the fundamentally-flawed H-1B program must not be expanded even temporarily -- unless it is also fixed. In 1996, the Department of Labor's Inspector General, in response to a request from the Employment and Training Administration, reviewed the H- 1B program and found that:

*"The [H-1B, or Labor Condition Application (LCA)] ... program is intended to provide U.S. business with timely access to the 'best and brightest' in the international labor market to meet urgent but generally temporary business needs while protecting U.S. workers' wage levels. We found the program does not always meet urgent, short-term demand for highly skilled, unique individuals who are not available in the domestic workforce. Instead, it serves as a probationary try-out employment program for illegal aliens, foreign students, and foreign visitors to determine if they will be sponsored for permanent status." (p. 1)*

*"our contacts with [H-1B] LCA employers disclosed:*

- *75 percent of the aliens worked for employers who did not adequately document that the wage specified on the LCA was the proper wage, and*
- *19 percent of the aliens were paid below the wage specified on the LCA, when we could determine the actual wage paid."*

*"Some LCA employers use the [H-1B] alien labor to reduce payroll costs either by paying less than prevailing wage to their own alien employees or treating these aliens as independent contractors, thereby avoiding related payroll and administrative costs. Other LCA employers are 'job shops' whose business is to provide H-1B alien contract labor to other employers."*

*"The LCA program has become a stepping stone to obtain permanent resident status not only for the 'best and brightest' specialists but also for students, relatives, and friends." (p. 3)*

Since 1993, this Administration has sought reforms of the H-1B program that would address the serious failings uncovered by the Inspector General. The reforms are: (1) assurances that employers seeking to hire foreign temporary workers had made bona fide efforts to recruit and retain U.S. workers in these jobs before hiring foreign temporary workers; (2) assurances that these employers have not laid off or otherwise displaced qualified U.S. workers to replace them with foreign temporary workers; and (3) reduction of the maximum stay of H-1B workers from six to three years. These reforms alone would help target H-1B usage to industries and employers that are truly experiencing genuine skills shortages.

Regrettably, S. 1723 does not address these serious problems in the H-1B program, but instead emphasizes providing U.S. employers with a dramatically larger pool of foreign temporary workers. S. 1723 does not contain requirements that U.S. employers try to recruit and retain U.S. workers before hiring foreign temporary workers, and it does nothing to prohibit employers from laying off U.S. workers in order to replace them with foreign temporary workers. Although represented as strengthening program requirements and enforcement so as to prevent and appropriately punish abuses by employers, S. 1723 actually eliminates some of the important law enforcement provisions in the current H-1B program. For example, the bill increases the maximum fine for "willful" violations, but eliminates fines in current law for certain non-willful violations. And -- ostensibly to provide "reforms to achieve greater accuracy in determining prevailing wages for companies" -- S. 1723 effectively repeals the prevailing wage requirements that exist in current law.

S. 1723 would permanently increase the ceiling on H-1B admissions -- nearly doubling the current cap -- even though the sponsors acknowledge that any shortage (about which the evidence is ambiguous) will be short-term as the labor market adjusts. In the not-too-distant future, this permanent increase will result in increased permanent immigration and pressure on the ceiling on permanent, employment-based admissions in current law and threaten job opportunities and force down wages for U.S. workers in the IT industry.

The Administration stands ready to work with the Congress to address the increased demand for skilled workers in the IT industry, effectively protect and promote the interests of U.S. workers, and enhance the international competitiveness of important industries and U.S. ecomonic growth that derives from it. S. 1723 is clearly not an acceptable and balanced approach to achieving all of these important goals.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ALEXIS HERMAN
Secretary of Labor

cc: Senator Joseph Biden, Ranking Member
Senator Spencer Abraham, Chairman, Immigration Subcommittee
Senator Edward Kennedy, Ranking Member, Immigration Subcommittee
Members of the Senate Judiciary Committee

Message Copied To:

Debra J. Bond/OMB/EOP
Larry R. Matlack/OMB/EOP
Barbara Chow/OMB/EOP
James J. Jukes/OMB/EOP
James C. Murr/OMB/EOP
Julie A. Fernandes/OPD/EOP
Laura Emmett/WHO/EOP
Cecilia E. Rouse/OPD/EOP
Charles Konigsberg/OMB/EOP
Lisa M. Kountoupes/OMB/EOP
Alice E. Shuffield/OMB/EOP

From: Ingrid M. Schroeder on 04/08/98 12:15:40 PM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP, Cecilia E. Rouse/OPD/EOP

cc: Rachel E. Levinson/OSTP/EOP

Subject: OSTP Comments on S. 1723

--------------------- Forwarded by Ingrid M. Schroeder/OMB/EOP on 04/08/98 12:14 PM ---------------------------

**Rachel E. Levinson** 04/08/98 12:14:45 PM

Record Type: Record

To: Ingrid M. Schroeder/OMB/EOP@EOP

cc:

Subject: ostp comments

April 8, 1998

MEMORANDUM FOR JAMES J. JUKES
ASSISTANT DIRECTOR FOR LEGISLATIVE REFERENCE,OMB

FROM: ARTHUR BIENENSTOCK
ASSOCIATE DIRECTOR FOR SCIENCE

DUNCAN MOORE
ASSOCIATE DIRECTOR FOR TECHNOLOGY

SUBJECT: OSTP COMMENTS ON S. 1723, AS AMENDED

OSTP is pleased to provide comments on S. 1723, the American Competitiveness Act, amended.

OSTP believes that our domestic high technology industry will be well served by efforts to guarantee that American workers receive education and training necessary to ensure the availability of skilled workers. We feel that an initiative directed toward achieving that result is an appropriate element of the legislation under consideration. The proposal, as written, would authorize grants to states for low-income students "for attendance on a full-time basis at an institution of higher education in a program of study leading to an associate, baccalaureate or graduate degree in mathematics, computer science, or engineering."

We fully endorse this proposal but feel that even more might be proposed to encourage low-income students to pursue high technology careers. In a meeting earlier this week, NEC suggested that an existing NSF program for curriculum development to improve technician education at the undergraduate and secondary education levels might be one such approach. We agree that such programs should be targeted to improve the competitiveness of American workers. However, we believe that maximal impact could be realized from direct scholarship support for students in such two-year associate programs. Because such students might also work part-time during their education, we would suggest that the phrase "full time" be deleted.

In addition, two-year colleges and other associate degree-granting institutions might receive funding for each student enrolled in specified programs. This support would finance the supplemental costs of high technology equipment necessary for adequate preparation for a state-of-the-art industrial position. To the extent that such support could be channeled through existing funding programs and mechanisms with track records of demonstrated effectiveness, we believe that it would be desirable to do so. This will shorten the time needed to get such programs up and running, increase their chance of success, and minimize the creation of new administrative costs.

Other elements of S. 1723 also address concerns that we have raised in the past regarding possible impacts of immigration reform on the U. S. scientific enterprise. These include: the method for determination of prevailing wages, the definition of "laid off," and the duration of the H-1B visa. The Hatch amendment returns to the "pre-Hathaway" method for determination of prevailing wages, applied to employees of institutions of higher education, related or affiliated nonprofit entities, or nonprofit or Federal research institutes or agencies. We fully endorse this provision.

We also endorse the clarification of the definition of "laid off" as it excludes "the expiration of a grant, contract, or other agreement."

Finally, we note that the amendment does not seek to limit the duration of the H-1B visa to three years, a period that would have, in some cases, restricted the conduct of some government-funded research activities.

# Congress of the United States

Washington, DC 20515

May 19, 1998

Dear Colleague:

Tomorrow you will be considering whether or not to raise the cap on temporary foreign professional worker visas (H-1B visas) from 65,000 per year to 115,000 per year. We urge you to ***oppose any hike in the cap without significant changes in the program to protect American workers and American jobs.***

Don't be fooled by loud cries of worker shortages coming from the high-tech industry. The "shortage" studies quoted in the media have been roundly disparaged as not credible. Even the industry's own study warns against using its numbers. The industry talks about training, but it has failed to reach out and train new workers for its jobs.

The high-tech industry is demanding this increase because it wants cheap, foreign workers who must stay with their employer -- regardless of the hours or the pay -- or face losing their visas. ***Protecting American workers and jobs is not a part of the high-tech agenda.***

Current workers in high-tech companies already know this. They are telling us about their concerns that the H-1B program is being used to displace American workers, especially women, minorities and older (over 40) workers. . These are some of the people we have heard from:

- A woman in Pittsburgh who was told she would not even get an interview with one high-tech firm because the company planned to hire a foreign worker.
- A director of human resources at a Northeast company who was directed to only hire foreigners because they were cheaper.
- A software developer in Seattle who has seen guest workers from India and Eastern Europe accept salaries and contract wages of 25% to 50% of their American counterparts. He has had to drop his contract rate and work more hours to compete with the H-1B workers.
- A software consultant in New Jersey who has over 20 years experience but has had trouble finding jobs despite having excellent references and "hot" skills. In the past nine years, her hourly rate has dropped by one third.
- A laid off engineer in California who was called back to train his foreign replacement but can't get a permanent job himself.
- A former H-1B from India who described how H-1Bs are abused as "indentured servants" who cannot leave their employers.
- An owner of an American software consulting company who gets underbid for projects by companies using cheaper H-1B workers.
- An owner of an American software consulting company working with non-traditional rural workers who says his program will be destroyed by an increase in H-1Bs.

Chairman Smith's bill, HR 3736, the Workforce Improvement and Protection Act of 1998, contains two very important provisions that will go a long way to protect American workers. We ask you to ***oppose any efforts to weaken or remove:***

- The "No Lay-off" Attestation that would prevent an employer from laying-off Americans and replacing them with an H-1B temporary guest worker.
- The "Recruitment of American Workers" attestation which will require employers to recruit American workers before applying for an H-1B visa, and Department of Labor-initiated investigations to ensure that employers are complying with the law.

We also ask that you ***support*** the following amendments:

- Congressman Watt's amendment to set the H-1B quota at 90,000 in 1998, 1999, and 2000. In 2001, it would return to 65,000. It takes from a few months to a few years to train for most of these jobs, and Americans are already responding in record numbers. We can't permanently take away the jobs they are training for.
- Congresswoman Lofgren's amendment to charge a $250 fee on each H-1B application and use that money to fund programs to train Americans for high-tech jobs.
- Congressman Berman's amendment to protect whistleblowers, and
- Congressman Lofgren's amendment mandating a study by the General Accounting Office on worker needs in this industry.

***Don't cut American workers out of this growing and profitable industry. If we permanently give away these jobs, we have only ourselves to blame when we become dependent on others for our technology.***

Sincerely,

Dick Gephardt
Richard Gephardt

David E. Bonior
David Bonior

John D. Dingell
John Dingell

George E. Brown Jr.
George Brown, Jr.

John Conyers Jr.
John Conyers, Jr.

Ron Klink
Ron Klink

# Congress of the United States
Washington, DC 20515

## What are the High-Tech Workers Saying about Wages, Discrimination and H-1b Workers?

## Industry Isn't Telling the Full Story

May 20, 1998

Dear Colleague,

According to the high-tech industry, our economy will be destroyed if Congress does not immediately pass legislation to allow in thousands of more skilled workers to take jobs from Americans. They use Bill Gates, inflation threats and bogus shortage studies as justification for eliminating some of the best-paid jobs for Americans.

But I have been hearing from the actual workers who are in competition for these workers, and **they are talking about age, sex, ethnic and race discrimination, falling salaries, and abusive work conditions for foreign workers:**

"There is no shortage. In fact, there is already a glut of imported workers. On a daily basis, I see guest workers from India and Eastern Europe accept salaries and contract wages of 25% to 50% of their domestic counterparts, eager to work in the U.S. Everyone one of many guest workers I work with all work enormous hours, and most have no families. . . . <u>Personally, I've had to drop my contract rate 5% a year to keep work. In addition . . . if I don't work the 60-80-hour weeks I lose my job</u>." (Emphasis added)

*Software developer, Seattle, Washington*

"I applied for a job and was told the company was holding it until a foreign worker received a visa.

*Computer programmer, Pennsylvania*

"The unwritten policy promulgated by the owners of [company's name] and practiced by the person who makes hiring decisions . . . is that foreigners be hired. I know first hand because I was formerly their director of human resources.

*Human resources manager, New Jersey*

"There is no shortage of qualified labor. There may be a shortage of what some consider "the right type" of candidates but I strongly believe this is a euphemism to disguise discrimination based on age, race and sex. I have seen this with my own eyes."

*Senior engineer, computer company, California*

"I am an African American who has been unemployed (except for three short-term temporary jobs) since 1992 as a result of 'downsizing' . . . . [The administration] seems oblivious to the unemployment problem."

*Software engineer, California*

"I am a 50-year-old female software professional with over 20 years experience. . . . I have had trouble finding jobs despite having excellent references and "hot" skills. I have not been offered decent jobs despite having asked for salaries that are way under what my experience should command. In 1989 . . . I made between $50 and $60 an hour. <u>Nine years later, I have more experience and better skills . . . [but] the going rate is $35 to $40</u>." (Emphasis added.)

*Software consultant, New Jersey*

"After getting my master's in CIS [computer information systems], jobs just didn't seem to be there in industry . . . . I also have a BS in computer science and a BS in mechanical engineering. You'd think someone would have hired me. <u>Of course, I am 40 years old, maybe that had something to do with it</u>." (Emphasis added.)

*Programmer, Arizona*

"Despite the fact that the faculty voted me the outstanding EE graduate student of 1966-67 . . . I watched as foreign nationals obtained work BEFORE GRADUATION while I could not get a SINGLE INTERVIEW with a commercial sector company."

*Engineer, California*

"Although I have a strong background in systems administration, I found it very hard to get a job both because of my age and background [Ph.d. in botany]. . . . This bill is not about bringing in necessary workers, it's really about keeping salaries down and providing companies with an ever increasing supply of fresh bodies to use and toss them out whenever they want." (Emphasis added)

*Systems analyst, New Mexico*

"I train international students to qualify for H-1b and other work visas. . . . I would like to know, however, why these companies show no interest in hiring me."

*Research faculty member, Texas*

I AM ASKING YOU TO BELIEVE IN AMERICAN WORKERS. GIVE THEM THE FIRST CHANCE AT HIGH-TECH AND SKILLED JOBS AND OPPOSE ALL INCREASES IN H-1B VISAS.

Sincerely,

Ron Klink

Ron Klink, M.C.

Office of the Attorney General
Washington, D.C. 20530

April 2, 1998

The Honorable Orrin Hatch
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Today, your committee will mark-up S. 1723, the "American Competitiveness Act" which is intended to respond to the growing demand for skilled workers in the information technology (IT) industry by increasing the annual cap on the number of temporary visas for foreign "specialty" workers under the H-1B program. For the reasons outlined below, the Administration strongly opposes S. 1723.

The Administration believes that the first step in increasing the availability of skilled workers must be raising the skills of U.S. workers and helping the labor market work better to match employers with U.S. workers. Therefore, substantial additional efforts by industry to increase the skill level of U.S. workers and needed improvements in the H-1B visa program are necessary prerequisites for the Administration to support any short-term increases in the number of visas for temporary foreign workers. Since 1993, this Administration has sought reforms of the H-1B program, including requiring employers to make bona fide efforts to recruit and retain U.S. workers before hiring temporary foreign workers and prohibiting lay-offs of U.S. workers to replace them with temporary foreign workers. These reforms, if enacted, would help target H-1B usage to industries and employers that are experiencing skill shortages.

Regrettably, S. 1723, as introduced, emphasizes providing opportunities for foreign workers rather than providing for and protecting U.S. workers. For example, the bill includes a permanent, substantial increase in the annual number of H-1B visas, from 65,000 up to 115,000. Also, the bill does not require that employers recruit and retain U.S. workers before hiring temporary foreign workers, and it does not prohibit employers from laying-off U.S. workers in order to replace them with temporary foreign workers. Moreover, rather than strengthening program requirements and enforcement to prevent employer abuses of the H-1B program, S.1723 undermines some of the program's important enforcement provisions.

The Administration has reviewed the bill proposed by Senators Kennedy and Feinstein. We believe that the Kennedy-Feinstein approach is, on the whole, consistent with the objectives we have articulated. It constructively addresses both the short-term and long-term implications of the increasing demand for skilled workers by putting U.S. workers first, while addressing the labor market needs of our rapidly changing economy, and making fundamental reforms to the H-1B visa program.

The Administration wants to work with the Congress to address the growing demand for highly skilled workers, while effectively protecting and promoting the interests of U.S. workers and enhancing the international competitiveness of important U.S. industries.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

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| JANET RENO | WILLIAM DALEY | ALEXIS HERMAN |
| Attorney General | Secretary of Commerce | Secretary of Labor |

cc: Senator Patrick Leahy, Ranking Member
Senator Spencer Abraham, Chairman, Immigration Subcommittee
Senator Edward Kennedy, Ranking Member, Immigration Subcommittee
Members of the Senate Judiciary Committee

**Office of the Attorney General**
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