

THE WHITE HOUSE
WASHINGTON

219-6924

OFFICE OF LEGISLATIVE AFFAIRS

FAX COVER SHEET

Labor hates it.

(1) trump (no totality)

(2) unworkable

NOTE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND INTENDED FOR THE RECIPIENT ONLY.

wrong decision by inspectors

DATE: 4/29

Watt putting in Kennedy Aug. as an amendment.

TO:

Julie Fernandes

(3) targeting

HHS deciding

FAX#:

6 mo. bar much is admissible

(then decide how long a person out of the country for purposes of a trigger)

FROM:

Peter Jacoby (202) 456-6493
FAX #: (202) 456-6468

RE:

Watt-favored training language.



April 28, 1998

The Honorable Major R. Owens
United States House of Representatives
2305 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Owens:

I understand that you are soon to introduce a bill, the "Workforce Investment Partnership Act." Based on a review of your draft legislation, it appears it addresses the information technology (IT) training needs that are critical to the growth of American industry. As the industry association with leadership on growing the domestic IT workforce, the Information Technology Association of America (ITAA) is pleased to see the way you are attempting to deal with creatively the workforce shortage.

ITAA's recently released a study conducted by Virginia Polytechnic Institute and State University (VA Tech), *Help Wanted 1998: A Call for Collaborative Action for the New Millennium*. This study found that there are currently 346,000 vacant IT positions in American companies. These vacancies exist both at high tech companies and in other industry sectors, including banking, retail, insurance, and hospitality. Every region of the country is impacted by this lack of IT talent. The IT skills gap represents thousands of missed opportunities for American workers, because these high paying, high growth jobs remain vacant.

ITAA supports partnerships among stakeholders in business, academia, and government which create opportunities for Americans to pursue IT jobs. ITAA is especially supportive of those partnerships that leverage existing resources (such as college faculties and community-based organizations) for new types of training programs, as your legislation suggests. ITAA looks forward to working with you and your staff to develop this project and include industry leaders in the process.

Thank you for your leadership on this critical issue. If you have any questions or comments please feel free to contact me at hmill@itaa.org or 703-284-5340, or contact Lauren Brownstein, ITAA's Workforce Education Program Manager, at lbrownstein@itaa.org or 703-284-5318.

Sincerely,

A handwritten signature in black ink, appearing to read "Harris N. Miller". The signature is fluid and cursive.

Harris N. Miller
President

Information Technology Association of America

1616 N. Fort Myer Drive, Suite 1300, Arlington, Virginia 22209-3106 ■ Phone: (703) 522-5055 Fax: (703) 525-2279

"Information Technology Partnerships Act" Mr. Owens

Summary of Bill

Findings

There are more than 200,000 vacancies in various categories of information technology jobs. Positions exist at all levels from aides and mechanics to programmers and designers.

It is in the national interest to promote special initiatives which keep pace with these expanding job opportunities.

Purpose

This bill creates a competitive grant program for colleges and universities to establish and oversee Information Technology Education and Employment Projects. Primarily, these Projects would consist of computer training centers, both on-campus and off-campus. In addition, job placement activities would be expected of grant recipients.

To ensure that these Projects are located in the community and supplement existing on-campus efforts, this bill would prioritize grant applications to colleges and universities that plan to issue sub-grants to community-based entities. Such entities include the following:

- School-to-Work programs
- after school centers
- churches
- adult continuing education programs
- libraries
- museums
- other non-profit cultural and educational organizations

Enrollee Eligibility

Each site must maintain an enrollment of at least 50% low-income and 50% below age 25.

Persons above age 50 shall not be required to meet any means-testing requirements.

Enrollees must have either a high school diploma or a G.E.D.

Computer Competencies

Each Project shall offer, through a combination of classes and activities at the outreach site or on-campus, a full range of computer certificates including basic

computer competence, on-the-job upgrade assistance, and advanced computer competence. To ensure that these certificates genuinely prepare the enrollee for employment in the field of information technology, certificates must be linked to skill standards set by the National Skill Standards Board.

The National Skill Standards Board is an *existing* independent group of business, labor, education, and civic leaders created by the 1994 National Skill Standards Act. It is composed of 28 members and is chaired by the CEO of Corning Incorporated. (For additional information, visit their website: www.nssb.org.)

Funding

This bill authorizes \$100 million to carry out activities of the Information Technology Education and Employment Projects.

Information Technology Partnerships Amendment to H.R. 6

Offered by Mr. Owens

4/28/98

Talking Points

- This amendment is designed to address the information technology (IT) worker shortage that is currently taking place in America. As documented by government reports, industry analyses, and news reports, the shortage of IT workers here at home is expected to become worse by the new millennium.
- The Commerce Department report, *America's New Deficit: The Shortage of Information Technology Workers*, documents a startling fact: In the midst of a Technological Revolution, America has run out of manpower with the technical skills and experience needed to lead and survive in the digital environment.
- The Commerce Department says that currently 200,000 to 400,000 jobs requiring computer software skills are going unfilled because of a worker shortage. One industry executive likened the present situation to running out of iron ore in the middle of the Industrial Revolution.
- The Bureau of Labor Statistics recently predicted a 70% growth in computer and technology-related jobs by 2005. From 1996 to 2005, more than 1.3 million new computer scientists, engineers, and systems analysts will be needed in the U.S. to fill vacant jobs. On average, this amounts to a need of more than 136,000 workers every year.
- Business are complaining for help. In fact, many businesses are lobbying for a relaxation on limits for special employment visas, so that individuals can be brought to America to fill these vacant high-tech positions.
- The Senate Judiciary Committee recently passed the so-called "American Competitiveness Act" - S.1723. This would eventually lift the lid on the annual number of special employment immigration visas (H-1B) to 115,000.
- This approach is shortsighted given the imminent global shortage of information technology workers.
- **More importantly, this approach shortchanges America's domestic workforce.**
- We should support long-term solutions that prioritize training for individuals already here in our communities who are without meaningful jobs.
- This amendment would authorize a competitive grant program for colleges and universities to establish and oversee Information Technology Education and

Employment Projects.

- **Colleges and universities would be expected to enter into partnerships with community-based organizations and local government agencies to house computer training centers in the local community. The computer training centers would actually educate and certify individuals based on industry-recognized computer technology standards.**
- **This amendment recognizes that higher education institutions have great capacities and resources. Schools and universities are existing entities that are already in place to provide an anchor role for a comprehensive information technology training program.**
- **It is in the interest of our business community and in the national interest to promote special initiatives which educate and train America's workforce to take advantage of these vast job opportunities.**
- **Support the Information Technology Partnerships Amendment. It represents a true commitment to America's competitiveness.**

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**AMENDMENT TO H.R. 6
OFFERED BY MR. OWENS**

(information technology partnerships)

(Page & line nos. refer to Amendment in the Nature of a
Substitute)

Page II-16, after line 21, insert the following new
section (and redesignate the succeeding section accord-
ingly):

1 **SEC. 206. POSTSECONDARY INFORMATION TECHNOLOGY**
2 **EDUCATION AND EMPLOYMENT ASSISTANCE.**

3 (a) **FINDINGS.**—The Congress finds the following:

4 (1) There are more than 200,000 to 400,000
5 vacancies in various categories of information tech-
6 nology jobs.

7 (2) From 1996 to 2005, more than 1,300,000
8 new computer scientists, engineers, and systems an-
9 alysts will be required in the United States to fill va-
10 cant jobs, which equals 136,800 new workers per
11 year.

12 (3) Systems analysts will experience the largest
13 job growth, accounting for a 103 percent increase in
14 the number of new positions from 1996 (506,000) to
15 2005 (1,025,000).

16 (4) The shortage of information technology
17 workers transcends industries, affecting the manu-

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1 facturing, service, transportation, health care, edu-
2 cation, and government sectors. Within each sector,
3 vacancies exist at all levels from aides and mechan-
4 ics to programmers and designers.

5 (5) The information technology worker shortage
6 is having an adverse effect on the viability of busi-
7 nesses in the United States and on the Nation's
8 competitiveness. Industry surveys report that half of
9 industry executives cite the lack of workers skilled in
10 technology as the number one obstacle to their com-
11 pany's growth. An additional 20 percent of industry
12 executives identify the lack of information tech-
13 nology workers as a major obstacle to their compa-
14 ny's growth.

15 (6) A major factor affecting the short supply of
16 information technology workers is the mismatch be-
17 tween what universities teach and what industry
18 needs.

19 (7) It is in the national interest to promote spe-
20 cial initiatives which effectively educate and train
21 our domestic workforce to keep pace with these ex-
22 panding job opportunities.

23 (8) Institutions of higher education have the ca-
24 pacity and resources to provide a role of oversight
25 and technical assistance to a wide range of local en-

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1 tities, including community-based organizations, par-
2 ticipating in a comprehensive education and training
3 program for potential technology workers.

4 (9) Higher education institutions must be re-
5 sponsive to the digital environment and expand both
6 their outreach efforts and on-campus activities to
7 train and certify individuals to close the information
8 technology worker gap.

9 (b) AMENDMENT.—Title II is amended by adding at
10 the end the following:

11 **“PART G—INFORMATION TECHNOLOGY**
12 **EDUCATION AND EMPLOYMENT ASSISTANCE**

13 **“SEC. 281. PARTNERSHIPS FOR POSTSECONDARY INFORMA-**
14 **TION TECHNOLOGY EDUCATION AND EM-**
15 **PLOYMENT ASSISTANCE.**

16 “(a) GRANTS AUTHORIZED.—

17 “(1) IN GENERAL.—The Secretary may make
18 grants under this section, in accordance with com-
19 petitive criteria established by the Secretary, to in-
20 stitutions of higher education, in order to establish,
21 oversee the operation of, and provide technical as-
22 sistance to, projects described in paragraph (2).

23 “(2) PROJECTS.—Projects under this section
24 shall be projects implemented by a community-based
25 organization described in subsection (b), or by the



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1 institution of higher education receiving the grant,
2 to provide postsecondary information technology
3 education and employment procurement assistance
4 to eligible individuals described in subsection (c).

5 “(3) RESTRICTIONS.—An institution of higher
6 education shall be eligible to receive only one grant
7 under this section, but may, subject to the require-
8 ments of this section, use the grant to enter into
9 contracts with more than one community-based or-
10 ganization. A community-based organization shall
11 not be eligible to enter into a contract under this
12 section with more than one institution of higher edu-
13 cation.

14 “(4) PERIOD OF GRANT.—The provision of pay-
15 ments under a grant under this section shall not ex-
16 ceed 5 fiscal years and shall be subject to the annual
17 approval of the Secretary and subject to the avail-
18 ability of appropriations for each fiscal year in-
19 volved.

20 “(b) COMMUNITY-BASED ORGANIZATIONS.—

21 “(1) IN GENERAL.—Subject to paragraph (2), a
22 community-based organization described in this sub-
23 section is an entity that, at the time the entity en-
24 ters into a contract with an institution of higher

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1 education for a project under this section, and
2 throughout the duration of that contract—

3 “(A) is—

4 “(i) a governmental agency; or

5 “(ii) an organization described in sec-
6 tion 501(c)(3) of the Internal Revenue
7 Code of 1986 and exempt from tax under
8 section 501(a) of such Code; and

9 “(B) is one of the following:

10 “(i) A local partnership (as defined in
11 section 4 of the School-to-Work Opportuni-
12 ties Act of 1994) receiving a grant under
13 section 302 of such Act.

14 “(ii) An entity organized and operated
15 for religious purposes.

16 “(iii) An entity furnishing school-age
17 child care services after school.

18 “(iv) A community-based computer
19 center.

20 “(v) An entity furnishing adult edu-
21 cation.

22 “(vi) A library.

23 “(vii) A museum.

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1 “(viii) Any other entity organized and
 2 operated for cultural, literary, or edu-
 3 cational purposes.

4 “(2) LIMITATION.—An entity shall not be con-
 5 sidered a community-based organization described in
 6 this subsection unless, at the time the entity enters
 7 into a contract with an institution of higher edu-
 8 cation for a project under this section, it has dem-
 9 onstrated to the satisfaction of the Secretary that—

10 “(A) it has the capacity successfully to re-
 11 cruit eligible individuals described in subsection
 12 (c) for participation in a project described in
 13 subsection (a), consistent with the enrollment
 14 requirements in subsection (d)(2)(E);

15 “(B) it is providing an educational service,
 16 social service, or employment procurement serv-
 17 ice; and

18 “(C) in the case of an entity that inde-
 19 pendently manages its own finances, it has been
 20 in existence 2 years or more.

21 “(c) ELIGIBLE INDIVIDUALS.—An eligible individual
 22 described in this subsection is an individual who—

23 “(1) has submitted a satisfactory application to
 24 receive postsecondary information technology edu-

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1 cation and employment procurement assistance
2 through a project under this section; and

3 "(2) has a certificate of graduation from a
4 school providing secondary education, or the recog-
5 nized equivalent of such a certificate.

6 "(d) DUTIES.—

7 "(1) INSTITUTIONS OF HIGHER EDUCATION.—

8 An institution of higher education receiving a grant
9 under this section shall use the funds provided under
10 the grant to carry out the following duties:

11 "(A) Final selection of community-based
12 organizations described in subsection (b) desir-
13 ing to provide, at one or more sites, in accord-
14 ance with a contract with the institution of
15 higher education and this section, postsecond-
16 ary information technology education and em-
17 ployment procurement assistance to eligible in-
18 dividuals described in subsection (c).

19 "(B) Entering into a contract with each
20 community-based organization selected under
21 subparagraph (A) under which the institution
22 and the organization agree to carry out the du-
23 ties respectively required of them under this
24 section with respect to each site described in
25 subparagraph (A).

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1 “(C) With respect to each site described in
2 subparagraph (A)—

3 “(i) provision of such funding for the
4 establishment and initial operation of the
5 site as was specified in the grant applica-
6 tion submitted by the institution to the
7 Secretary;

8 “(ii) approval of final site selection
9 and preparation;

10 “(iii) initial orientation and training
11 of personnel employed to manage and op-
12 erate the site;

13 “(iv) design and certification of the
14 instructional and academic programs, and
15 oversight of the implementation of the pro-
16 grams;

17 “(v) oversight of equipment purchases
18 and contracts for equipment maintenance;
19 and

20 “(vi) selection of an outside contractor
21 for periodic evaluation of the management
22 and operation of the site.

23 “(2) COMMUNITY-BASED ORGANIZATIONS.—

24 “(A) IN GENERAL.—A community-based
25 organization implementing a project under this

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1 section with an institution of higher education,
2 at one or more sites, shall carry out the duties
3 described in this paragraph, with respect to
4 each such site, subject to the oversight and
5 guidance of the institution.

6 "(B) GENERAL DUTIES.—The organiza-
7 tion—

8 "(i) shall undertake final site selection
9 and preparation;

10 "(ii) shall recruit and hire a site di-
11 rector;

12 "(iii) shall carry out any supple-
13 mentary instructional, academic, or edu-
14 cational activities specified in the contract
15 with the institution of higher education
16 that are not described in subparagraph
17 (D);

18 "(iv) shall assemble an advisory com-
19 mittee composed of individuals residing in
20 the community in which the site is located
21 who desire to assist the organization in en-
22 suring that the goals of the organization
23 are consistent with the goals and needs of
24 the community population;

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1 “(v) shall provide to the institution
2 other evidence of volunteer support from
3 among individuals residing in the commu-
4 nity in which the site is located;

5 “(vi) shall recruit eligible individuals
6 for enrollment, subject to subparagraph
7 (E);

8 “(vii) shall maintain waiting lists of
9 eligible individuals desiring to enroll in the
10 project's programs;

11 “(viii) shall provide career counseling
12 to eligible individuals enrolled in the
13 project's programs; and

14 “(ix) shall provide job and internship
15 information and placement, employer con-
16 tacts, and other forms of employment pro-
17 curement assistance to eligible individuals
18 enrolled in the project's programs.

19 “(C) SITE REQUIREMENTS.—The organiza-
20 tion shall ensure that each site—

21 “(i) has a minimum of 20 fully func-
22 tioning computers with sufficient capacity
23 to perform all of the computer operations
24 that are the subject of the curriculum
25 specified in subparagraph (D);

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1 “(ii) in addition to the space for the
2 computers described in clause (i), has—

3 “(I) a classroom space with the
4 capacity for seating a minimum of 30
5 students;

6 “(II) a space in which to conduct
7 the required career and employment
8 counseling functions specified in sub-
9 paragraph (B); and

10 “(III) a separate office for the
11 site director;

12 “(iii) is real property subject to the
13 control of the organization or the institu-
14 tion, through a lease or other legal instru-
15 ment, for a period of not less than 5 years;

16 “(iv) is open to enrolled individuals
17 not less than 12 hours per day; and

18 “(v) is located within walking distance
19 of public transportation.

20 “(D) INFORMATION TECHNOLOGY CUR-
21 RICULUM.—

22 “(i) IN GENERAL.—The organization
23 shall ensure that each site offers enrollees
24 a curriculum that includes a broad range
25 of course work that will assist them in

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1 qualifying for employment in the field of
2 information technology.

3 "(ii) COURSES LEADING TO CERTIFI-
4 CATION.—Such curriculum shall include
5 course work leading to a certification of
6 competence in areas of information tech-
7 nology recognized by the National Skill
8 Standards Board established under the
9 National Skill Standards Act of 1994.

10 "(iii) SPECIFIC COURSES.—The com-
11 puter training offered shall include courses
12 in basic computer competence, on-the-job
13 upgrade assistance, and advanced com-
14 puter competence.

15 "(E) ENROLLMENT REQUIREMENTS.—The
16 organization shall ensure that its enrollment of
17 eligible individuals at each site is consistent
18 with the following:

19 "(i) Not less than 50 percent of the
20 eligible individuals shall be, at the time of
21 enrollment, individuals—

22 "(I) to whom a credit was al-
23 lowed under section 32 of the Internal
24 Revenue Code of 1986 for the preced-
25 ing taxable year;

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1 “(II) who are recipients of assist-
2 ance under a State program funded
3 under part A of title IV of the Social
4 Security Act;

5 “(III) who are a member of a
6 household participating in the food
7 stamp program; or

8 “(IV) who are considered low-in-
9 come pursuant to regulations promul-
10 gated by the Secretary under this sec-
11 tion.

12 “(ii) Not less than 50 percent of the
13 eligible individuals shall be, at the time of
14 enrollment, under 25 years of age.

15 “(iii) No prerequisite relating to net
16 worth, income, or assets may be applied to
17 any eligible individual who, at the time of
18 enrollment, is over 50 years of age, except
19 that this requirement shall not be con-
20 strued to supersede clause (i).

21 “(e) IMPLEMENTATION OF PROJECTS SOLELY BY IN-
22 STITUTIONS.—The Secretary may make a grant under
23 this section to an institution of higher education that de-
24 sires to implement a project under this section without the
25 participation of a community-based organization described

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1 in subsection (b), if the institution agrees to carry out all
2 of the duties required of such an organization under this
3 section, in addition to the duties otherwise required of an
4 institution of higher education. The Secretary shall, in
5 awarding grants under this section, give priority to institu-
6 tions of higher education whose grant application includes
7 an assurance that the institution will contract with one
8 or more community-based organizations in accordance
9 with this section.

10 “(f) APPLICATIONS.—To apply for a grant under this
11 section for any fiscal year, an institution of higher edu-
12 cation shall submit an application to the Secretary in ac-
13 cordance with the procedures established by the Secretary.
14 The application shall specify the institution’s preliminary
15 selections for the community-based organizations (if any)
16 with which the institution proposes to contract, and shall
17 include information with respect to preliminary site selec-
18 tions.

19 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 such sums as may be necessary for fiscal year 1999 and
22 each of the 4 succeeding fiscal years.

23 “(h) DEFINITIONS.—For purposes of this section:



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1 “(1) ADULT EDUCATION.—The term ‘adult edu-
2 cation’ has the meaning given such term in section
3 312 of the Adult Education Act.

4 “(2) COMMUNITY-BASED COMPUTER CENTER.—
5 The term ‘community-based computer center’ means
6 a computer center—

7 “(A) funded by both the Federal Govern-
8 ment and at least one private sector entity;

9 “(B) located in a low-income community
10 (as determined by the Secretary); and

11 “(C) organized and operated for the pur-
12 pose of providing families with access to com-
13 puter resources that otherwise would not be
14 available to them.

15 “(3) FOOD STAMP PROGRAM.—The term ‘food
16 stamp program’ has the meaning given such term in
17 section 3(h) of the Food Stamp Act of 1977.

18 “(4) LIBRARY.—The term ‘library’ has the
19 meaning given such term in section 213 of the Li-
20 brary Services and Technology Act.

21 “(5) MUSEUM.—The term ‘museum’ has the
22 meaning given such term in section 272 of the Mu-
23 seum and Library Services Act.”.

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105TH CONGRESS
2D SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Texas introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Immigration and Nationality Act to make
changes relating to H-1B nonimmigrants.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Workforce Improve-
5 ment and Protection Act of 1998".

6 **SEC. 2. TEMPORARY INCREASE IN SKILLED FOREIGN**
7 **WORKERS.**

8 Section 214(g) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(g)) is amended—

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1 (1) by amending paragraph (1)(A) to read as
2 follows:

3 "(A) under section 101(a)(15)(H)(i)(b), subject
4 to paragraph (5), may not exceed—

5 "(i) 95,000 in fiscal year 1998;

6 "(ii) 105,000 in fiscal year 1999; and

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

8 (2) by adding at the end the following:

9 "(5) In each of fiscal years 1999 and 2000, the total
10 number of aliens described in section 212(a)(5)(C) who
11 may be issued visas or otherwise provided nonimmigrant
12 status under section 101(a)(15)(H)(i)(b) may not exceed
13 7,500."

14 **SEC. 3. PROTECTION AGAINST DISPLACEMENT OF UNITED**
15 **STATES WORKERS.**

16 (a) **IN GENERAL.**—Section 212(n)(1) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1182(n)(1)) is
18 amended by inserting after subparagraph (D) the follow-
19 ing:

20 "(E)(i) The employer has not laid off or other-
21 wise displaced and will not lay off or otherwise dis-
22 place, within the period beginning 6 months before
23 and ending 90 days following the date of filing of
24 the application or during the 90 days immediately
25 preceding and following the date of filing of any visa

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1 petition supported by the application, any United
2 States worker (as defined in paragraph (3)) (includ-
3 ing a worker whose services are obtained by con-
4 tract, employee leasing, temporary help agreement,
5 or other similar means) who has substantially equiv-
6 alent qualifications and experience in the specialty
7 occupation, and in the area of employment, for
8 which H-1B nonimmigrants are sought or in which
9 they are employed.

10 "(ii) Except as provided in clause (iii), in the
11 case of an employer that employs an H-1B non-
12 immigrant, the employer shall not place the non-
13 immigrant with another employer where—

14 "(I) the nonimmigrant performs his or her
15 duties in whole or in part at one or more work-
16 sites owned, operated, or controlled by such
17 other employer; and

18 "(II) there are indicia of an employment
19 relationship between the nonimmigrant and
20 such other employer.

21 "(iii) Clause (ii) shall not apply to an employ-
22 er's placement of an H-1B nonimmigrant with an-
23 other employer if the other employer has executed
24 an attestation that it satisfies and will satisfy the

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1 conditions described in clause (i) during the period
2 described in such clause.”

3 (b) DEFINITIONS.—

4 (1) IN GENERAL.—Section 212(n) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1182(n)) is
6 amended by adding at the end the following:

7 “(3) For purposes of this subsection:

8 “(A) The term ‘H-1B nonimmigrant’ means an
9 alien admitted or provided status as a nonimmigrant
10 described in section 101(a)(15)(H)(i)(b).

11 “(B) The term ‘lay off or otherwise displace’,
12 with respect to an employee—

13 “(i) means to cause the employee’s loss of
14 employment, other than through a discharge for
15 cause, a voluntary departure, or a voluntary re-
16 tirement; and

17 “(ii) does not include any situation in
18 which employment is relocated to a different ge-
19 ographic area and the employee is offered a
20 chance to move to the new location, with wages
21 and benefits that are not less than those at the
22 old location, but elects not to move to the new
23 location.

24 “(C) The term ‘United States worker’ means—

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1 “(i) a citizen or national of the United
2 States;

3 “(ii) an alien lawfully admitted for perma-
4 nent residence; or

5 “(iii) an alien authorized to be employed
6 by this Act or by the Attorney General.”

7 (2) CONFORMING AMENDMENTS.—Section
8 212(n)(1) of the Immigration and Nationality Act (8
9 U.S.C. 1182(n)(1)) is amended by striking “a non-
10 immigrant described in section 101(a)(15)(H)(i)(b)”
11 each place such term appears and inserting “an H-
12 1B nonimmigrant”.

13 **SEC. 4. RECRUITMENT OF UNITED STATES WORKERS**
14 **PRIOR TO SEEKING NONIMMIGRANT WORK-**
15 **ERS.**

16 Section 212(n)(1) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(n)(1)), as amended by section 3, is
18 further amended by inserting after subparagraph (E) the
19 following:

20 “(F)(i) The employer, prior to filing the appli-
21 cation, has taken, in good faith, timely and signifi-
22 cant steps to recruit and retain sufficient United
23 States workers in the specialty occupation for which
24 H-1B nonimmigrants are sought. Such steps shall
25 have included recruitment in the United States,

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1 using procedures that meet industry-wide standards
2 and offering compensation that is at least as great
3 as that required to be offered to H-1B non-
4 immigrants under subparagraph (A), and offering
5 employment to any qualified United States worker
6 who applies.

7 " (ii) The conditions described in clause (i) shall
8 not apply to an employer with respect to the employ-
9 ment of an H-1B nonimmigrant who is described in
10 subparagraph (A), (B), or (C) of section
11 203(b)(1)."

12 **SEC. 5. LIMITATION ON AUTHORITY TO INITIATE COM-**
13 **PLAINTS AND CONDUCT INVESTIGATIONS**
14 **FOR NON-H-1B-DEPENDENT EMPLOYERS.**

15 (a) **IN GENERAL.**—Section 212(d)(2)(A) of the Im-
16 migration and Nationality Act (8 U.S.C. 1182(n)(2)(A))
17 is amended—

18 (1) in the second sentence, by striking the pe-
19 riod at the end and inserting the following: ", except
20 that the Secretary may only file such a complaint re-
21 specting an H-1B-dependent employer (as defined
22 in paragraph (3)), and only if there appears to be
23 a violation of an attestation or a misrepresentation
24 of a material fact in an application."; and

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1 (B) by inserting after the second sentence
2 the following: "Except as provided in subpara-
3 graph (F) (relating to spot investigations dur-
4 ing probationary period), no investigation or
5 hearing shall be conducted with respect to an
6 employer except in response to a complaint filed
7 under the previous sentence."

8 (b) DEFINITIONS.—Section 212(n)(3) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1182(n)(2)), as
10 added by section 3, is amended—

11 (1) by redesignating subparagraphs (A), (B),
12 and (C) as subparagraphs (B), (C), and (E), respec-
13 tively;

14 (2) by inserting after "purposes of this sub-
15 section:" the following:

16 "(A) The term 'H-1B-dependent employer'
17 means an employer that—

18 "(i)(I) has fewer than 21 full-time equiva-
19 lent employees who are employed in the United
20 States; and (II) employs 4 or more H-1B non-
21 immigrants; or

22 "(ii)(I) has at least 21 but not more than
23 150 full-time equivalent employees who are em-
24 ployed in the United States; and (II) employs
25 H-1B nonimmigrants in a number that is equal

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1 to at least 20 percent of the number of such
2 full-time equivalent employees; or

3 "(iii)(I) has at least 151 full-time equiva-
4 lent employees who are employed in the United
5 States; and (II) employs H-1B nonimmigrants
6 in a number that is equal to at least 15 percent
7 of the number of such full-time equivalent em-
8 ployees.

9 In applying this subparagraph, any group treated as
10 a single employer under subsection (b), (c), (m), or
11 (o) of section 414 of the Internal Revenue Code of
12 1986 shall be treated as a single employer. Aliens
13 employed under a petition for H-1B nonimmigrants
14 shall be treated as employees, and counted as non-
15 immigrants under section 101(a)(15)(H)(i)(b) under
16 this subparagraph."; and

17 (3) by inserting after subparagraph (C) (as so
18 redesignated) the following:

19 "(D) The term 'non-H-1B-dependent employer'
20 means an employer that is not an H-1B-dependent
21 employer."

22 **SEC. 6. INCREASED ENFORCEMENT AND PENALTIES.**

23 (a) **IN GENERAL.**—Section 212(n)(2)(C) of the Im-
24 migration and Nationality Act (8 U.S.C. 1182(n)(2)(C))
25 is amended to read as follows:

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1 “(C)(i) If the Secretary finds, after notice and oppor-
2 tunity for a hearing, a failure to meet a condition of para-
3 graph (1)(B) or (1)(E), a substantial failure to meet a
4 condition of paragraph (1)(C), (1)(D), or (1)(F), or a mis-
5 representation of material fact in an application—

6 “(I) the Secretary shall notify the Attorney
7 General of such finding and may, in addition, im-
8 pose such other administrative remedies (including
9 civil monetary penalties in an amount not to exceed
10 \$1,000 per violation) as the Secretary determines to
11 be appropriate; and

12 “(II) the Attorney General shall not approve
13 petitions filed with respect to that employer under
14 section 204 or 214(c) during a period of at least 1
15 year for aliens to be employed by the employer.

16 “(ii) If the Secretary finds, after notice and oppor-
17 tunity for a hearing, a willful failure to meet a condition
18 of paragraph (1) or a willful misrepresentation of material
19 fact in an application—

20 “(I) the Secretary shall notify the Attorney
21 General of such finding and may, in addition, im-
22 pose such other administrative remedies (including
23 civil monetary penalties in an amount not to exceed
24 \$5,000 per violation) as the Secretary determines to
25 be appropriate; and

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1 “(II) the Attorney General shall not approve
2 petitions filed with respect to that employer under
3 section 204 or 214(c) during a period of at least 1
4 year for aliens to be employed by the employer.

5 “(iii) If the Secretary finds, after notice and oppor-
6 tunity for a hearing, a willful failure to meet a condition
7 of paragraph (1) or a willful misrepresentation of material
8 fact in an application, in the course of which failure or
9 misrepresentation the employer also has failed to meet a
10 condition of paragraph (1)(E)—

11 “(I) the Secretary shall notify the Attorney
12 General of such finding and may, in addition, im-
13 pose such other administrative remedies (including
14 civil monetary penalties in an amount not to exceed
15 \$25,000 per violation) as the Secretary determines
16 to be appropriate; and

17 “(II) the Attorney General shall not approve
18 petitions filed with respect to that employer under
19 section 204 or 214(c) during a period of at least 2
20 years for aliens to be employed by the employer.”.

21 (b) **PLACEMENT OF H-1B NONIMMIGRANT WITH**
22 **OTHER EMPLOYER.**—Section 212(n)(2) of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1182(n)(2)) is amend-
24 ed by adding at the end the following:

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1 “(E) Under regulations of the Secretary, the previous
2 provisions of this paragraph shall apply to a failure of an
3 other employer to comply with an attestation described in
4 paragraph (1)(E)(iii) in the same manner as they apply
5 to a failure to comply with a condition described in para-
6 graph (1)(E)(i).”

7 (c) SPOT INVESTIGATIONS DURING PROBATIONARY
8 PERIOD.—Section 212(n)(2) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(n)(2)), as amended by sub-
10 section (b), is further amended by adding at the end the
11 following:

12 “(F) The Secretary may, on a case-by-case basis,
13 subject an employer to random investigations for a period
14 of up to 5 years, beginning on the date that the employer
15 is found by the Secretary to have committed a willful fail-
16 ure to meet a condition of paragraph (1) or to have made
17 a misrepresentation of material fact in an application. The
18 preceding sentence shall apply to an employer regardless
19 of whether the employer is an H-1B-dependent employer
20 or a non-H-1B-dependent employer. The authority of the
21 Secretary under this subparagraph shall not be construed
22 to be subject to, or limited by, the requirements of sub-
23 paragraph (A).”

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12

1 **SEC. 7. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 on the date of the enactment of this Act and shall apply
4 to applications filed with the Secretary of Labor on or
5 after 30 days after the date of the enactment of this Act,
6 except that the amendments made by section 2 shall apply
7 to applications filed with such Secretary before, on, or
8 after the date of the enactment of this Act.

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105TH CONGRESS
2D SESSION**H. R.** _____

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Texas introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Immigration and Nationality Act to make
changes relating to H-1B nonimmigrants.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Workforce Improve-
5 ment and Protection Act of 1998".

6 **SEC. 2. TEMPORARY INCREASE IN SKILLED FOREIGN**
7 **WORKERS.**

8 Section 214(g) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(g)) is amended—

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1 (1) by amending paragraph (1)(A) to read as
2 follows:

3 "(A) under section 101(a)(15)(H)(i)(b), subject
4 to paragraph (5), may not exceed—

5 "(i) 95,000 in fiscal year 1998;

6 "(ii) 105,000 in fiscal year 1999; and

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

8 (2) by adding at the end the following:

9 "(5) In each of fiscal years 1999 and 2000, the total
10 number of aliens described in section 212(a)(5)(C) who
11 may be issued visas or otherwise provided nonimmigrant
12 status under section 101(a)(15)(H)(i)(b) may not exceed
13 7,500."

14 **SEC. 3. PROTECTION AGAINST DISPLACEMENT OF UNITED**
15 **STATES WORKERS.**

16 (a) **IN GENERAL.**—Section 212(n)(1) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1182(n)(1)) is
18 amended by inserting after subparagraph (D) the follow-
19 ing:

20 "(E)(i) The employer has not laid off or other-
21 wise displaced and will not lay off or otherwise dis-
22 place, within the period beginning 6 months before
23 and ending 90 days following the date of filing of
24 the application or during the 90 days immediately
25 preceding and following the date of filing of any visa

temporary or permanent increase?

intention to go back to 65,000

health care workers inconsistent w/ GATS obligations

(E) -> no lay off

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1 petition supported by the application, any United
 2 States worker (as defined in paragraph (3)) (includ-
 3 ing a worker whose services are obtained by con-
 4 tract, employee leasing, temporary help agreement,
 5 or other similar means) who has substantially equiv-
 6 alent qualifications and experience in the specialty
 7 occupation, and in the area of employment, for
 8 which H-1B nonimmigrants are sought or in which
 9 they are employed.

*6mo. no lay-off.
 OK
 instead of
 90 days*

10 "(ii) Except as provided in clause (iii), in the
 11 case of an employer that employs an H-1B non-
 12 immigrant, the employer shall not place the non-
 13 immigrant with another employer where—

14 "(I) the nonimmigrant performs his or her
 15 duties in whole or in part at one or more work-
 16 sites owned, operated, or controlled by such
 17 other employer; and

*job
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18 "(II) there are indicia of an employment
 19 relationship between the nonimmigrant and
 20 such other employer.

21 "(iii) Clause (ii) shall not apply to an employ-
 22 er's placement of an H-1B nonimmigrant with an-
 23 other employer if the other employer has executed
 24 an attestation that it satisfies and will satisfy the

*end-
 employer
 attestation*

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1 conditions described in clause (i) during the period
2 described in such clause."

3 (b) DEFINITIONS.—

4 (1) IN GENERAL.—Section 212(n) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1182(n)) is
6 amended by adding at the end the following:

7 "(3) For purposes of this subsection:

8 "(A) The term 'H-1B nonimmigrant' means an
9 alien admitted or provided status as a nonimmigrant
10 described in section 101(a)(15)(H)(i)(b).

11 "(B) The term 'lay off' or otherwise displace',
12 with respect to an employee—

13 "(i) means to cause the employee's loss of
14 employment, other than through a discharge for
15 cause, a voluntary departure, or a voluntary re-
16 tirement; and

17 "(ii) does not include any situation in
18 which employment is relocated to a different ge-
19 ographic area and the employee is offered a
20 chance to move to the new location, with wages
21 and benefits that are not less than those at the
22 old location, but elects not to move to the new
23 location.

24 "(C) The term 'United States worker' means—

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1 “(i) a citizen or national of the United
2 States;

3 “(ii) an alien lawfully admitted for perma-
4 nent residence; or

5 “(iii) an alien authorized to be employed
6 by this Act or by the Attorney General.”

7 (2) CONFORMING AMENDMENTS.—Section
8 212(n)(1) of the Immigration and Nationality Act (8
9 U.S.C. 1182(n)(1)) is amended by striking “a non-
10 immigrant described in section 101(a)(15)(H)(i)(b)”
11 each place such term appears and inserting “an H-
12 1B nonimmigrant”.

13 **SEC. 4. RECRUITMENT OF UNITED STATES WORKERS**
14 **PRIOR TO SEEKING NONIMMIGRANT WORK-**
15 **ERS.**

16 Section 212(n)(1) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(n)(1)), as amended by section 3, is
18 further amended by inserting after subparagraph (E) the
19 following:

20 “(F)(i) The employer, prior to filing the appli-
21 cation, has taken, in good faith, timely and signifi-
22 cant steps to recruit and retain sufficient United
23 States workers in the specialty occupation for which
24 H-1B nonimmigrants are sought. Such steps shall
25 have included recruitment in the United States,

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1 using procedures that meet industry-wide standards
2 and offering compensation that is at least as great
3 as that required to be offered to H-1B non-
4 immigrants under subparagraph (A), and offering
5 employment to any qualified United States worker
6 who applies.

OK

←

7 "(ii) The conditions described in clause (i) shall
8 not apply to an employer with respect to the employ-
9 ment of an H-1B nonimmigrant who is described in
10 subparagraph (A), (B), or (C) of section
11 203(b)(1)."

OK

12 **SEC. 5. LIMITATION ON AUTHORITY TO INITIATE COM-**
13 **PLAINTS AND CONDUCT INVESTIGATIONS**
14 **FOR NON-H-1B-DEPENDENT EMPLOYERS.**

15 (a) **IN GENERAL.**—Section 212(n)(2)(A) of the Im-
16 migration and Nationality Act (8 U.S.C. 1182(n)(2)(A))
17 is amended—

18 (1) in the second sentence, by striking the pe-
19 riod at the end and inserting the following: ", except
20 that the Secretary may only file such a complaint re-
21 specting an H-1B-dependent employer (as defined
22 in paragraph (3)), and only if there appears to be
23 a violation of an attestation or a misrepresentation
24 of a material fact in an application."; and

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1 (B) by inserting after the second sentence
 2 the following: "Except as provided in subpara-
 3 graph (F) (relating to spot investigations dur-
 4 ing probationary period), no investigation or
 5 hearing shall be conducted with respect to an
 6 employer except in response to a complaint filed
 7 under the previous sentence."

*does this
 limit DoI
 existing
 authority (?)
 Fraser
 says no.*

8 (b) DEFINITIONS.—Section 212(n)(3) of the Immi-
 9 gration and Nationality Act (8 U.S.C. 1182(n)(2)), as
 10 added by section 3, is amended—

11 (1) by redesignating subparagraphs (A), (B),
 12 and (C) as subparagraphs (B), (C), and (E), respec-
 13 tively;

14 (2) by inserting after "purposes of this sub-
 15 section:" the following:

16 "(A) The term 'H-1B-dependent employer'
 17 means an employer that—

18 "(i)(I) has fewer than 21 full-time equiva-
 19 lent employees who are employed in the United
 20 States; and (II) employs 4 or more H-1B non-
 21 immigrants; or

22 "(ii)(I) has at least 21 but not more than
 23 150 full-time equivalent employees who are em-
 24 ployed in the United States; and (II) employs
 25 H-1B nonimmigrants in a number that is equal

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1 to at least 20 percent of the number of such
2 full-time equivalent employees; or

3 "(iii)(I) has at least 151 full-time equiva-
4 lent employees who are employed in the United
5 States; and (II) employs H-1B nonimmigrants
6 in a number that is equal to at least 15 percent
7 of the number of such full-time equivalent em-
8 ployees.

9 In applying this subparagraph, any group treated as
10 a single employer under subsection (b), (c), (m), or
11 (o) of section 414 of the Internal Revenue Code of
12 1986 shall be treated as a single employer. Aliens
13 employed under a petition for H-1B nonimmigrants
14 shall be treated as employees, and counted as non-
15 immigrants under section 101(a)(15)(H)(i)(b) under
16 this subparagraph."; and

17 (3) by inserting after subparagraph (C) (as so
18 redesignated) the following:

19 "(D) The term 'non-H-1B-dependent employer'
20 means an employer that is not an H-1B-dependent
21 employer."

22 **SEC. 6. INCREASED ENFORCEMENT AND PENALTIES.**

23 (a) **IN GENERAL.**—Section 212(n)(2)(C) of the Im-
24 migration and Nationality Act (8 U.S.C. 1182(n)(2)(C))
25 is amended to read as follows:

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1 “(C)(i) If the Secretary finds, after notice and oppor-
2 tunity for a hearing, a failure to meet a condition of para-
3 graph (1)(B) or (1)(E), a substantial failure to meet a
4 condition of paragraph (1)(C), (1)(D), or (1)(F), or a mis-
5 representation of material fact in an application—

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6 “(I) the Secretary shall notify the Attorney
7 General of such finding and may, in addition, im-
8 pose such other administrative remedies (including
9 civil monetary penalties in an amount not to exceed
10 \$1,000 per violation) as the Secretary determines to
11 be appropriate; and

12 “(II) the Attorney General shall not approve
13 petitions filed with respect to that employer under
14 section 204 or 214(c) during a period of at least 1
15 year for aliens to be employed by the employer.

16 “(ii) If the Secretary finds, after notice and oppor-
17 tunity for a hearing, a willful failure to meet a condition
18 of paragraph (1) or a willful misrepresentation of material
19 fact in an application—

20 “(I) the Secretary shall notify the Attorney
21 General of such finding and may, in addition, im-
22 pose such other administrative remedies (including
23 civil monetary penalties in an amount not to exceed
24 \$5,000 per violation) as the Secretary determines to
25 be appropriate; and

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1 “(II) the Attorney General shall not approve
2 petitions filed with respect to that employer under
3 section 204 or 214(c) during a period of at least 1
4 year for aliens to be employed by the employer.

5 “(iii) If the Secretary finds, after notice and oppor-
6 tunity for a hearing, a willful failure to meet a condition
7 of paragraph (1) or a willful misrepresentation of material
8 fact in an application, in the course of which failure or
9 misrepresentation the employer also has failed to meet a
10 condition of paragraph (1)(E)—

11 “(I) the Secretary shall notify the Attorney
12 General of such finding and may, in addition, im-
13 pose such other administrative remedies (including
14 civil monetary penalties in an amount not to exceed
15 \$25,000 per violation) as the Secretary determines
16 to be appropriate; and

17 “(II) the Attorney General shall not approve
18 petitions filed with respect to that employer under
19 section 204 or 214(c) during a period of at least 2
20 years for aliens to be employed by the employer.”.

21 (b) **PLACEMENT OF H-1B NONIMMIGRANT WITH**
22 **OTHER EMPLOYER.**—Section 212(n)(2) of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1182(n)(2)) is amend-
24 ed by adding at the end the following:

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1 “(E) Under regulations of the Secretary, the previous
2 provisions of this paragraph shall apply to a failure of an
3 other employer to comply with an attestation described in
4 paragraph (1)(E)(iii) in the same manner as they apply
5 to a failure to comply with a condition described in para-
6 graph (1)(E)(i).”

7 (c) SPOT INVESTIGATIONS DURING PROBATIONARY
8 PERIOD.—Section 212(n)(2) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(n)(2)), as amended by sub-
10 section (b), is further amended by adding at the end the
11 following:

12 “(F) The Secretary may, on a case-by-case basis,
13 subject an employer to random investigations for a period
14 of up to 5 years, beginning on the date that the employer
15 is found by the Secretary to have committed a willful fail-
16 ure to meet a condition of paragraph (1) or to have made
17 a misrepresentation of material fact in an application. The
18 preceding sentence shall apply to an employer regardless
19 of whether the employer is an H-1B-dependent employer
20 or a non-H-1B-dependent employer. The authority of the
21 Secretary under this subparagraph shall not be construed
22 to be subject to, or limited by, the requirements of sub-
23 paragraph (A).”

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12

1 SEC. 7. EFFECTIVE DATE.

2 The amendments made by this Act shall take effect
3 on the date of the enactment of this Act and shall apply
4 to applications filed with the Secretary of Labor on or
5 after 30 days after the date of the enactment of this Act,
6 except that the amendments made by section 2 shall apply
7 to applications filed with such Secretary before, on, or
8 after the date of the enactment of this Act.

Total Pages:

LRM ID: IMS313


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

Wednesday, April 29, 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: OMB Request for Views on HR3736 Workforce Improvement and Protection Act of 1998

DEADLINE: see below

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.

COMMENTS: H.R. 3736 is scheduled for markup tomorrow, April 30th in the House Judiciary immigration subcommittee. A letter outlining the Administration's position on H-1B visa reforms for tomorrow's markup is being prepared and will be circulated this afternoon.

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LRM ID: IMS313 SUBJECT: OMB Request for Views on HR3736 Workforce Improvement and Protection Act of 1998

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

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105TH CONGRESS
2D SESSION

H. R. 3736

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Immigration and Nationality Act to make changes relating to H-1B nonimmigrants.

1 *Be it enacted by the Senate and House of Representa-*
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4 This Act may be cited as the "Workforce Improve-
5 ment and Protection Act of 1998".

6 **SEC. 2. TEMPORARY INCREASE IN SKILLED FOREIGN**
7 **WORKERS.**

8 Section 214(g) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(g)) is amended—

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1 (1) by amending paragraph (1)(A) to read as
2 follows:

3 "(A) under section 101(a)(15)(H)(i)(b), subject
4 to paragraph (5), may not exceed—

5 "(i) 95,000 in fiscal year 1998;

6 "(ii) 105,000 in fiscal year 1999; and

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

8 (2) by adding at the end the following:

9 "(5) In each of fiscal years 1999 and 2000, the total
10 number of aliens described in section 212(a)(5)(C) who
11 may be issued visas or otherwise provided nonimmigrant
12 status under section 101(a)(15)(H)(i)(b) may not exceed
13 7,500."

*Foreign
health-care workers*

14 **SEC. 8. PROTECTION AGAINST DISPLACEMENT OF UNITED**
15 **STATES WORKERS.**

16 (a) **IN GENERAL.**—Section 212(n)(1) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1182(n)(1)) is
18 amended by inserting after subparagraph (D) the follow-
19 ing:

20 "(E)(i) The employer has not laid off, or other-
21 wise displaced and will not lay off or otherwise dis-
22 place, within the period beginning 6 months before
23 and ending 90 days following the date of filing of
24 the application or during the 90 days immediately
25 preceding and following the date of filing of any visa

3

1 petition supported by the application, any United
2 States worker (as defined in paragraph (3)) (includ-
3 ing a worker whose services are obtained by con-
4 tract, employee leasing, temporary help agreement,
5 or other similar means) who has substantially equiv-
6 alent qualifications and experience in the specialty
7 occupation, and in the area of employment, for
8 which H-1B nonimmigrants are sought or in which
9 they are employed.

10 "(ii) Except as provided in clause (iii), in the
11 case of an employer that employs an H-1B non-
12 immigrant, the employer shall not place the non-
13 immigrant with another employer where—

14 "(I) the nonimmigrant performs his or her
15 duties in whole or in part at one or more work-
16 sites owned, operated, or controlled by such
17 other employer; and

18 "(II) there are indicia of an employment
19 relationship between the nonimmigrant and
20 such other employer.

21 "(iii) Clause (ii) shall not apply to an employ-
22 er's placement of an H-1B nonimmigrant with an-
23 other employer if the other employer has executed
24 an attestation that it satisfies and will satisfy the

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1 conditions described in clause (i) during the period
2 described in such clause."

3 (b) DEFINITIONS.—

4 (1) IN GENERAL.—Section 212(n) of the Immig-
5 ration and Nationality Act (8 U.S.C. 1182(n)) is
6 amended by adding at the end the following:

7 "(3) For purposes of this subsection:

8 "(A) The term 'H-1B nonimmigrant' means an
9 alien admitted or provided status as a nonimmigrant
10 described in section 101(a)(15)(H)(1)(b).

11 "(B) The term 'lay off or otherwise displace',
12 with respect to an employee—

13 "(i) means to cause the employee's loss of
14 employment, other than through a discharge for
15 cause, a voluntary departure, or a voluntary re-
16 tirement; and

17 "(ii) does not include any situation in
18 which employment is relocated to a different ge-
19 ographic area and the employee is offered a
20 change to move to the new location, with wages
21 and benefits that are not less than those at the
22 old location, but elects not to move to the new
23 location.

24 "(C) The term 'United States worker' means—

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1 “(i) a citizen or national of the United
2 States;

3 “(ii) an alien lawfully admitted for perma-
4 nent residence; or

5 “(iii) an alien authorized to be employed
6 by this Act or by the Attorney General.”.

7 (2) CONFORMING AMENDMENTS.—Section
8 212(n)(1) of the Immigration and Nationality Act (8
9 U.S.C. 1182(n)(1)) is amended by striking “a non-
10 immigrant described in section 101(a)(15)(H)(1)(b)”
11 each place such term appears and inserting “an H-
12 1B nonimmigrant”.

13 **SEC. 6. RECRUITMENT OF UNITED STATES WORKERS**
14 **PRIOR TO SEEKING NONIMMIGRANT WORK-**
15 **ERS.**

16 Section 212(n)(1) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(n)(1)), as amended by section 3, is
18 further amended by inserting after subparagraph (E) the
19 following:

20 “(F)(i) The employer, prior to filing the appli-
21 cation, has taken, in good faith, timely and signifi-
22 cant steps to recruit and retain sufficient United
23 States workers in the specialty occupation for which
24 H-1B nonimmigrants are sought. Such steps shall
25 have included recruitment in the United States,

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1 using procedures that meet industry-wide standards
 2 and offering compensation that is at least as great
 3 as that required to be offered to H-1B non-
 4 immigrants under subparagraph (A), and offering
 5 employment to any qualified United States worker
 6 who applies.

7 "(ii) The conditions described in clause (i) shall
 8 not apply to an employer with respect to the employ-
 9 ment of an H-1B nonimmigrant who is described in
 10 subparagraph (A), (B), or (C) of section
 11 203(b)(1)."

12 **SEC. 6. LIMITATION ON AUTHORITY TO INITIATE COM-**
 13 **PLAINTS AND CONDUCT INVESTIGATIONS**
 14 **FOR NON-H-1B-DEPENDENT EMPLOYERS.**

15 (a) **IN GENERAL.**—Section 212(d)(2)(A) of the Im-
 16 migration and Nationality Act (8 U.S.C. 1182(d)(2)(A))
 17 is amended—

18 (1) in the second sentence, by striking the pe-
 19 riod at the end and inserting the following: "; except
 20 that the Secretary may only file such a complaint re-
 21 specting an H-1B-dependent employer (as defined
 22 in paragraph (3)), and only if there appears to be
 23 a violation of an attestation or a misrepresentation
 24 of a material fact in an application."; and

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1 (B) by inserting after the second sentence
 2 the following: "Except as provided in subpara-
 3 graph (F) (relating to spot investigations dur-
 4 ing probationary period), no investigation or
 5 hearing shall be conducted with respect to an
 6 employer except in response to a complaint filed
 7 under the previous sentence."

8 (b) DEFINITIONS.—Section 212(n)(3) of the Immi-
 9 gration and Nationality Act (8 U.S.C. 1182(n)(2)), as
 10 added by section 3, is amended—

11 (1) by redesignating subparagraphs (A), (B),
 12 and (C) as subparagraphs (B), (C), and (E), respec-
 13 tively;

14 (2) by inserting after "purposes of this sub-
 15 section:" the following:

16 "(A) The term 'H-1B-dependant employer'
 17 means an employer that—

18 "(i)(I) has fewer than 21 full-time equiva-
 19 lent employees who are employed in the United
 20 States; and (II) employs 4 or more H-1B non-
 21 immigrants; or

22 "(ii)(I) has at least 21 but not more than
 23 150 full-time equivalent employees who are em-
 24 ployed in the United States; and (II) employs
 25 H-1B nonimmigrants in a number that is equal

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1 to at least 20 percent of the number of such
2 full-time equivalent employees; or

3 "(iii)(I) has at least 151 full-time equiva-
4 lent employees who are employed in the United
5 States; and (II) employs H-1B nonimmigrants
6 in a number that is equal to at least 15 percent
7 of the number of such full-time equivalent em-
8 ployees.

9 In applying this subparagraph, any group treated as
10 a single employer under subsection (b), (c), (m), or
11 (o) of section 414 of the Internal Revenue Code of
12 1986 shall be treated as a single employer. Aliens
13 employed under a petition for H-1B nonimmigrants
14 shall be treated as employees, and counted as non-
15 immigrants under section 101(a)(15)(H)(i)(b) under
16 this subparagraph."; and

17 (3) by inserting after subparagraph (C) (as so
18 redesignated) the following:

19 "(D) The term 'non-H-1B-dependent employer'
20 means an employer that is not an H-1B-dependent
21 employer.".

22 **SEC. 6. INCREASED ENFORCEMENT AND PENALTIES**

23 (a) **IN GENERAL.**—Section 212(n)(2)(C) of the Im-
24 migration and Nationality Act (8 U.S.C. 1182(n)(2)(C))
25 is amended to read as follows:

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1 “(C)(i) If the Secretary finds, after notice and oppor-
2 tunity for a hearing, a failure to meet a condition of para-
3 graph (1)(B) or (1)(E), a substantial failure to meet a
4 condition of paragraph (1)(C), (1)(D), or (1)(F), or a mis-
5 representation of material fact in an application—

6 “(I) the Secretary shall notify the Attorney
7 General of such finding and may, in addition, im-
8 pose such other administrative remedies (including
9 civil monetary penalties in an amount not to exceed
10 \$1,000 per violation) as the Secretary determines to
11 be appropriate; and

12 “(II) the Attorney General shall not approve
13 petitions filed with respect to that employer under
14 section 204 or 214(e) during a period of at least 1
15 year for aliens to be employed by the employer.

16 “(ii) If the Secretary finds, after notice and oppor-
17 tunity for a hearing, a willful failure to meet a condition
18 of paragraph (1) or a willful misrepresentation of material
19 fact in an application—

20 “(I) the Secretary shall notify the Attorney
21 General of such finding and may, in addition, im-
22 pose such other administrative remedies (including
23 civil monetary penalties in an amount not to exceed
24 \$5,000 per violation) as the Secretary determines to
25 be appropriate; and

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1 “(II) the Attorney General shall not approve
 2 petitions filed with respect to that employer under
 3 section 204 or 214(c) during a period of at least 1
 4 year for aliens to be employed by the employer.

5 “(iii) If the Secretary finds, after notice and oppor-
 6 tunity for a hearing, a willful failure to meet a condition
 7 of paragraph (1) or a willful misrepresentation of material
 8 fact in an application, in the course of which failure or
 9 misrepresentation the employer also has failed to meet a
 10 condition of paragraph (1)(E)—

11 “(I) the Secretary shall notify the Attorney
 12 General of such finding and may, in addition, im-
 13 pose such other administrative remedies (including
 14 civil monetary penalties in an amount not to exceed
 15 \$25,000 per violation) as the Secretary determines
 16 to be appropriate; and

17 “(II) the Attorney General shall not approve
 18 petitions filed with respect to that employer under
 19 section 204 or 214(c) during a period of at least 2
 20 years for aliens to be employed by the employer.”.

21 (b) **PLACEMENT OF H-1B NONIMMIGRANT WITH**
 22 **OTHER EMPLOYER.**—Section 212(n)(2) of the Immigra-
 23 tion and Nationality Act (8 U.S.C. 1182(n)(2)) is amend-
 24 ed by adding at the end the following:

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1 “(E) Under regulations of the Secretary, the previous
2 provisions of this paragraph shall apply to a failure of an
3 other employer to comply with an attestation described in
4 paragraph (1)(E)(iii) in the same manner as they apply
5 to a failure to comply with a condition described in para-
6 graph (1)(E)(i).”

7 (c) SPOT INVESTIGATIONS DURING PROBATIONARY
8 PERIOD.—Section 212(n)(2) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(n)(2)), as amended by sub-
10 section (b), is further amended by adding at the end the
11 following:

12 “(F) The Secretary may, on a case-by-case basis,
13 subject an employer to random investigations for a period
14 of up to 5 years, beginning on the date that the employer
15 is found by the Secretary to have committed a willful fail-
16 ure to meet a condition of paragraph (1) or to have made
17 a misrepresentation of material fact in an application. The
18 preceding sentence shall apply to an employer regardless
19 of whether the employer is an H-1B-dependent employer
20 or a non-H-1B-dependent employer. The authority of the
21 Secretary under this subparagraph shall not be construed
22 to be subject to, or limited by, the requirements of sub-
23 paragraph (A).”

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1 **SEC. 7. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 on the date of the enactment of this Act and shall apply
4 to applications filed with the Secretary of Labor on or
5 after 90 days after the date of the enactment of this Act,
6 except that the amendments made by section 2 shall apply
7 to applications filed with such Secretary before, on, or
8 after the date of the enactment of this Act.

SEC. 7. IMPOSITION AND USE OF FEE.

Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended by adding at the end the following:

"The Attorney General shall impose ~~a special fee~~ on each employer filing a petition to import an alien as a nonimmigrant described in section 101(a)(15)(H)(i)(b). The fee shall equal \$250 for each such nonimmigrant ~~for whom a petition is filed~~. The Attorney General shall deposit all fees collected under the preceding sentence in a fund established for this purpose in the Treasury of the United States. ~~All such amounts of the amounts deposited 80 percent shall be available, in such amounts and under such conditions as may be provided in advance in appropriations Acts, until expended to the secretary of labor for the purposes of carrying out providing training and related activities to assist in preparing workers for employment in industries with skill needs under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and 20 percent shall be available until expended to the Secretary of Education to carry out High Hopes Partnership grants or a similar program authorized under the Higher Education Act of 1965 to assist in preparing students in low-income communities to prepare for entry and successful complete college the minority science and engineering improvement programs under part B of title X of the Higher Education Act of 1965 (20 U.S.C. 1135b et seq.)."~~

authority contained in this necessary to obtain an item, service required in the proper administration and which otherwise could not be obtained in the quantity or the time, in the form or under which it is needed; and giving written notification to the General Services (if the exercise would affect an activity which otherwise is the jurisdiction of the General Services) of the Secretary's intention, the item, service, or facility for which such authority is proposed to be exercised, and justifications for the exercise of such authority.

82, P.L. 97-300, 96 Stat. 1379.

PROVISIONS

authorized to accept on behalf of the centers charitable donations of equipment but not limited to, equipment which is available for appropriate use under this part.

82, P.L. 97-300, 96 Stat. 1380.

EMPLOYMENT PROGRAMS

AUTHORIZED

The Secretary shall conduct, directly or through contracts, programs to meet the employment and training needs of disabled veterans, veterans of the uniformed services of America who are recently separated from military service, and other veterans.

Under this part may be conducted programs of the Secretary, through private nonprofit organizations, in accordance with the provisions of this Act that the Secretary determines to be in the best interest of the area to be served, and which are consistent with the area to be served, and which are consistent with the area to be served, and which are consistent with the area to be served.

Under this part shall include, but not be limited to, the following:

- (1) services provided veterans by the Department of Veterans Affairs and training services funded by the Department of Veterans Affairs;
- (2) employment and training services provided by other public employers; and
- (3) information activities to develop and job training opportunities for such veterans about employment,

job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program-performance standards for grant recipients under this part; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

(29 U.S.C. 1721) Enacted October 13, 1982, P.L. 97-300, 96 Stat. 1380; amended June 13, 1991, P.L. 102-54, sec. 13(k)(2)(C), 105 stat. 276.

PART D—NATIONAL ACTIVITIES

NATIONAL PARTNERSHIP AND SPECIAL TRAINING PROGRAMS

SEC. 451. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

(1) improve access to employment and training opportunities for individuals with special needs;

(2) help alleviate skill shortages and enhance the competitiveness of the labor force;

(3) meet special training needs that are best addressed on a multistate or industry-wide basis; and

(4) encourage the participation and support of all segments of society to further the purposes of this Act.

(b) PROGRAM AUTHORIZED.—The Secretary may establish a system of, and award, special grants to eligible entities to carry out programs that are most appropriately administered at the national level.

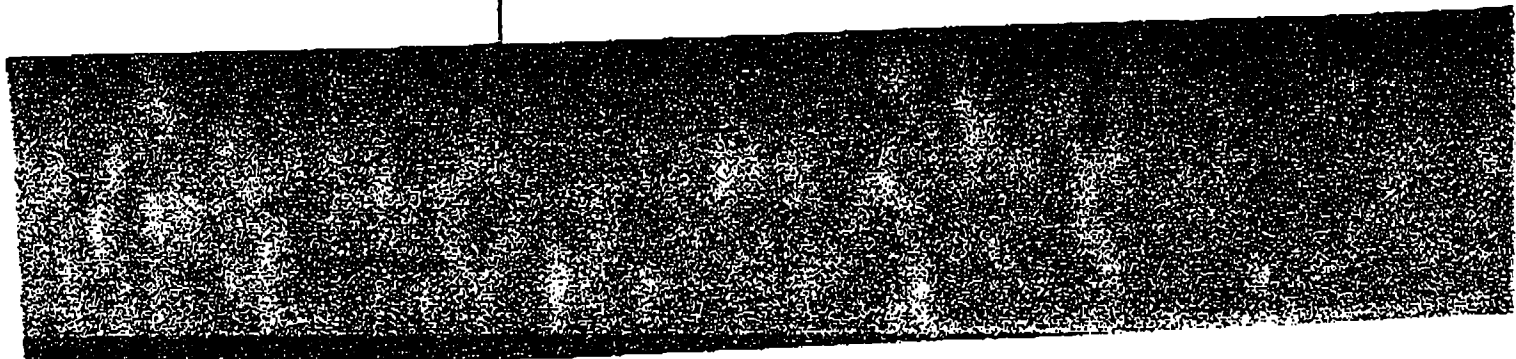
(c) PROGRAMS.—Programs that are most appropriately administered at the national level include—

(1) partnership programs with national organizations with special expertise in developing, organizing, and administering employment and training programs at the national, State, and local levels, such as industry and labor associations, public interest groups, community-based organizations representative of groups that encounter special difficulties in the labor market, and other organizations with special knowledge or capabilities in education and training;

(2) programs that—

(A) address industry-wide skill shortages;

(B) meet training needs that are best addressed on a multistate basis; and



(C) further the goals of increasing the competitiveness of the United States labor force; and

(3) programs that require technical expertise available at the national level to serve specialized needs of particular client groups, including at-risk youth, offenders, individuals of limited-English language proficiency, individuals with disabilities, women, immigrants, single parents, substance abusers, displaced homemakers, youth, older individuals, veterans, school dropouts, public assistance recipients, and other individuals who the Secretary determines require special assistance.

(29 U.S.C. 1731) Enacted September 7, 1992, P.L. 102-367, sec. 403(a), 106 Stat. 1077.

RESEARCH, DEMONSTRATION, AND EVALUATION

SEC. 452. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist the United States in expanding employment opportunities and ensuring access to such opportunities for all who desire such opportunities.

(b) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Secretary shall establish a comprehensive program of training and employment research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the employment and training problems of the United States.

(2) STUDIES.—The program established under this section may include studies concerning—

(A) the development or improvement of Federal, State, local, and privately supported employment and training programs;

(B) labor market processes and outcomes, including improving workplace literacy;

(C) policies and programs to reduce unemployment and the relationships of the policies and programs with price stability and other national goals;

(D) productivity of labor;

(E) improved means of using projections of labor supply and demand, including occupational and skill requirements and areas of labor shortages at the national and subnational levels;

(F) methods of improving the wages and employment opportunities of low-skilled, disadvantaged, and dislocated workers, and workers with obsolete skills;

(G) methods of addressing the needs of at-risk populations, such as youth, homeless individuals and other dependent populations, older individuals, and other groups with multiple barriers to employment;

(H) methods of developing information on immigration, international trade and competition, technological change, and labor shortages; and

(I) methods of easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

(c) PILOT AND DEMONSTRATION PROGRAMS.—

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2, P.L. 102-367, sec. 403(a), 106 Stat.

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GRAMS.—

(1) PROGRAM ESTABLISHED.—

(A) IN GENERAL.—The Secretary shall establish a pro-
gram of pilot and demonstration programs for the purpose
of developing and improving techniques and demonstrating
the effectiveness of specialized methods in addressing em-
ployment and training needs. The Secretary may award
grants and enter into contracts with entities to carry out
the programs.

(B) PROJECTS.—Such programs may include projects in
such areas as—

- (i) school-to-work transition;
- (ii) new methods of imparting literacy skills and
basic education;
- (iii) new training techniques (including projects un-
dertaken with the private sector);
- (iv) methods to eliminate artificial barriers to em-
ployment;
- (v) approaches that foster participation of groups
that encounter special problems in the labor market
(such as displaced homemakers, teen parents, welfare
recipients, and older individuals);
- (vi) processes that demonstrate effective methods for
alleviating the adverse effects of dislocations and plant
closings on workers and their communities; and
- (vii) cooperative ventures among business, industry,
labor, trade associations, community-based organiza-
tions or nonprofit organizations to develop new and
cost-effective approaches to improving work force lit-
eracy.

(2) EVALUATION COMPONENT.—Demonstration programs as-
sisted under this subsection shall include a formal, rigorous
evaluation component. Pilot programs assisted under this sub-
section shall include an appropriate evaluation component.

(3) SPECIAL RULE.—No demonstration program under this
subsection shall be assisted under this section for a period of
more than 7 years. No pilot program under this subsection
shall be assisted under this section for a period of more than
3 years.

(d) EVALUATION.—

(1) PROGRAMS.—

(A) JOB TRAINING PROGRAMS.—The Secretary shall pro-
vide for the continuing evaluation of programs conducted
under this Act, including the cost effectiveness of the pro-
gram in achieving the purposes of this Act.

(B) OTHER PROGRAMS.—The Secretary may conduct eval-
uations of other federally funded employment-related ac-
tivities including programs administered under—

- (i) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);
- (ii) the National Apprenticeship Act (29 U.S.C. 50 et
seq.);
- (iii) the Older Americans Act of 1965 (42 U.S.C.
3001 et seq.);
- (iv) chapter 2 of title II of the Trade Act of 1974 (19
U.S.C. 2271 et seq.); and

(v) the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).

(2) TECHNIQUES.—

(A) METHODS.—Evaluations conducted under paragraph (1) shall utilize sound statistical methods and techniques of the behavioral and social sciences, including random assignment methodologies if feasible.

(B) ANALYSIS.—Such evaluations may include cost-benefit analysis of programs, the impact of the programs on community and participants, the extent to which programs meet the needs of various demographic groups, and the effectiveness of the delivery systems used by various programs.

(C) EFFECTIVENESS.—The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to—

- (i) the statutory goals;
- (ii) the performance standards established by the Secretary; and
- (iii) the extent to which such programs enhance the employment and earnings of participants, reduce income support costs, improve the employment competencies of participants in comparison to comparable persons who did not participate in such programs, and, to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs.

(29 U.S.C. 1732) Enacted September 7, 1992, P.L. 102-367, sec. 402(a)(2), 106 Stat. 1078.

CAPACITY BUILDING, INFORMATION, DISSEMINATION, AND REPLICATION ACTIVITIES

SEC. 453. (a) NATIONAL STRATEGY.—The Secretary shall develop a national strategy for carrying out the activities described in subsection (b)(2) and the replication of programs described in subsection (c), and shall ensure the implementation of the national strategy.

(b) NETWORK.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Capacity Building and Information and Dissemination Network (referred to in this section as the "Network") to enhance the effectiveness of and to strengthen the caliber of services provided through programs authorized under this Act and other Federal, State, and local employment and training programs.

(B) ADMINISTRATION.—The Secretary shall establish and maintain such Network—

- (i) directly;
- (ii) under an interagency agreement; or
- (iii) through a grant or contract awarded on a competitive basis to a single entity, or to a system of enti-

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, P.L. 102-367, sec. 402(a)(2), 106 Stat.

TION, DISSEMINATION, AND
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e entity, or to a system of enti-

ties coordinated by the Secretary, with appropriate ex-
pertise.

(2) ACTIVITIES.—The Network shall—

(A) provide, coordinate, and support the development of,
appropriate training, technical assistance, staff develop-
ment, and other activities that will—

(i) enhance the skills, knowledge, and expertise of
the personnel who staff employment and training and
other closely related human service systems, including
service providers;

(ii) improve the quality of services provided to indi-
viduals served under this Act and other Federal em-
ployment and training programs and encourage inte-
grated service delivery under such programs using—

(I) where cost effective, interactive communica-
tion systems and satellite technology; and

(II) where possible, staff trained in a variety of
Federal human resource programs;

(iii) improve the planning, procurement, and con-
tracting practices pursuant to this Act; and

(iv) provide broad human services policy and plan-
ning training to—

(I) private industry council volunteers; and

(II) where appropriate, members of State
human resource investment councils and other
State councils;

(B) prepare and disseminate staff training curricula and
materials, primarily using computer-based technologies,
for employment and training professionals and support
staff, that focus on enhancing staff competencies and pro-
fessionalism, including instruction on the administrative
requirements of this Act, such as procurement and con-
tracting standards and regulations; and

(C)(i) identify, develop, disseminate, and provide training
in the techniques learned from, innovative and successful
program models, materials, methods, and information, by
using computer-based technologies for organizing a data
base and dissemination and communication system for the
Network, and establishing a computer-based communica-
tions and dissemination methodology to share information
among employment and training personnel and institu-
tions; and

(ii) in identifying such program models, ensure that con-
sideration shall be given to—

(I) the size and scope of the program;

(II) the length of time that the program has been op-
erating;

(III) the nature and reliability of measurable out-
comes for the program;

(IV) the capacity of the sponsoring organization to
provide the technical assistance necessary for States
and service delivery areas to replicate the program;
and