

106TH CONGRESS
2^D SESSION

S. 2045

AN ACT

To amend the Immigration and Nationality Act with respect
to H-1B nonimmigrant aliens.

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

1 **TITLE I—AMERICAN COMPETI-**
2 **TIVENESS IN THE TWENTY-**
3 **FIRST CENTURY**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “American Competitive-
6 ness in the Twenty-first Century Act of 2000”.

7 **SEC. 102. TEMPORARY INCREASE IN VISA ALLOTMENTS.**

8 (a) FISCAL YEARS 2001–2003.—Section
9 214(g)(1)(A) of the Immigration and Nationality Act (8
10 U.S.C. 1184(g)(1)(A)) is amended—

11 (1) by redesignating clause (v) as clause (vii);

12 and

13 (2) by striking clause (iv) and inserting the fol-
14 lowing:

15 “(iv) 195,000 in fiscal year 2001;

16 “(v) 195,000 in fiscal year 2002;

17 “(vi) 195,000 in fiscal year 2003;

18 and”.

19 (b) ADDITIONAL VISAS FOR FISCAL YEARS 1999 AND
20 2000.—

21 (1) IN GENERAL.—(A) Notwithstanding section
22 214(g)(1)(A)(ii) of the Immigration and Nationality
23 Act (8 U.S.C. 1184(g)(1)(A)(ii)), the total number
24 of aliens who may be issued visas or otherwise pro-
25 vided nonimmigrant status under section

1 101(a)(15)(H)(i)(b) of such Act in fiscal year 1999
2 is increased by a number equal to the number of
3 aliens who are issued such a visa or provided such
4 status during the period beginning on the date on
5 which the limitation in such section 214(g)(1)(A)(ii)
6 is reached and ending on September 30, 1999.

7 (B) In the case of any alien on behalf of whom
8 a petition for status under section
9 101(a)(15)(H)(I)(b) is filed before September 1,
10 2000, and is subsequently approved, that alien shall
11 be counted toward the numerical ceiling for fiscal
12 year 2000 notwithstanding the date of the approval
13 of the petition. Notwithstanding section
14 214(g)(1)(A)(iii) of the Immigration and Nationality
15 Act, the total number of aliens who may be issued
16 visas or otherwise provided nonimmigrant status
17 under section 101(a)(15)(H)(i)(b) of such Act in fis-
18 cal year 2000 is increased by a number equal to the
19 number of aliens who may be issued visas or other-
20 wise provided nonimmigrant status who filed a peti-
21 tion during the period beginning on the date on
22 which the limitation in such section 214(g)(1)(A)(iii)
23 is reached and ending on August 31, 2000.

24 (2) EFFECTIVE DATE.—Paragraph (1) shall
25 take effect as if included in the enactment of section

1 411 of the American Competitiveness and Workforce
2 Improvement Act of 1998 (as contained in title IV
3 of division C of the Omnibus Consolidated and
4 Emergency Supplemental Appropriations Act, 1999;
5 Public Law 105–277).

6 **SEC. 103. SPECIAL RULE FOR UNIVERSITIES, RESEARCH**
7 **FACILITIES, AND GRADUATE DEGREE RECIPI-**
8 **ENTS; COUNTING RULES.**

9 Section 214(g) of the Immigration and Nationality
10 Act (8 U.S.C. 1184(g)) is amended by adding at the end
11 the following new paragraphs:

12 “(5) The numerical limitations contained in para-
13 graph (1)(A) shall not apply to any nonimmigrant alien
14 issued a visa or otherwise provided status under section
15 101(a)(15)(H)(i)(b) who is employed (or has received an
16 offer of employment) at—

17 “(A) an institution of higher education (as de-
18 fined in section 101(a) of the Higher Education Act
19 of 1965 (20 U.S.C. 1001(a))), or a related or affili-
20 ated nonprofit entity; or

21 “(B) a nonprofit research organization or a
22 governmental research organization.

23 “(6) Any alien who ceases to be employed by an em-
24 ployer described in paragraph (5)(A) shall, if employed as
25 a nonimmigrant alien described in section

1 101(a)(15)(H)(i)(b), who has not previously been counted
 2 toward the numerical limitations contained in paragraph
 3 (1)(A), be counted toward those limitations the first time
 4 the alien is employed by an employer other than one de-
 5 scribed in paragraph (5).

6 “(7) Any alien who has already been counted, within
 7 the 6 years prior to the approval of a petition described
 8 in subsection (c), toward the numerical limitations of
 9 paragraph (1)(A) shall not again be counted toward those
 10 limitations unless the alien would be eligible for a full 6
 11 years of authorized admission at the time the petition is
 12 filed. Where multiple petitions are approved for 1 alien,
 13 that alien shall be counted only once.”.

14 **SEC. 104. LIMITATION ON PER COUNTRY CEILING WITH RE-**
 15 **SPECT TO EMPLOYMENT-BASED IMMI-**
 16 **GRANTS.**

17 (a) SPECIAL RULES.—Section 202(a) of the Immi-
 18 gration and Nationality Act (8 U.S.C. 1152(a)) is amend-
 19 ed by adding at the end the following new paragraph:

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

22 “(A) EMPLOYMENT-BASED IMMIGRANTS
 23 NOT SUBJECT TO PER COUNTRY LIMITATION IF
 24 ADDITIONAL VISAS AVAILABLE.—If the total
 25 number of visas available under paragraph (1),

1 (2), (3), (4), or (5) of section 203(b) for a cal-
2 endar quarter exceeds the number of qualified
3 immigrants who may otherwise be issued such
4 visas, the visas made available under that para-
5 graph shall be issued without regard to the nu-
6 merical limitation under paragraph (2) of this
7 subsection during the remainder of the calendar
8 quarter.

9 “(B) LIMITING FALL ACROSS FOR CERTAIN
10 COUNTRIES SUBJECT TO SUBSECTION (E).—In
11 the case of a foreign state or dependent area to
12 which subsection (e) applies, if the total number
13 of visas issued under section 203(b) exceeds the
14 maximum number of visas that may be made
15 available to immigrants of the state or area
16 under section 203(b) consistent with subsection
17 (e) (determined without regard to this para-
18 graph), in applying subsection (e) all visas shall
19 be deemed to have been required for the classes
20 of aliens specified in section 203(b).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 202(a)(2) of the Immigration and
23 Nationality Act (8 U.S.C. 1152(a)(2)) is amended
24 by striking “paragraphs (3) and (4)” and inserting
25 “paragraphs (3), (4), and (5)”.

1 (2) Section 202(e)(3) of the Immigration and
2 Nationality Act (8 U.S.C. 1152(e)(3)) is amended by
3 striking “the proportion of the visa numbers” and
4 inserting “except as provided in subsection (a)(5),
5 the proportion of the visa numbers”.

6 (c) ONE-TIME PROTECTION UNDER PER COUNTRY
7 CEILING.—Notwithstanding section 214(g)(4) of the Im-
8 migration and Nationality Act (8 U.S.C. 1184(g)(4)), any
9 alien who—

10 (1) is the beneficiary of a petition filed under
11 section 204(a) of that Act for a preference status
12 under paragraph (1), (2), or (3) of section 203(b) of
13 that Act; and

14 (2) is eligible to be granted that status but for
15 application of the per country limitations applicable
16 to immigrants under those paragraphs,
17 may apply for, and the Attorney General may grant, an
18 extension of such nonimmigrant status until the alien’s
19 application for adjustment of status has been processed
20 and a decision made thereon.

21 **SEC. 105. INCREASED PORTABILITY OF H-1B STATUS.**

22 (a) IN GENERAL.—Section 214 of the Immigration
23 and Nationality Act (8 U.S.C. 1184) is amended by add-
24 ing at the end the following new subsection:

1 “(m)(1) A nonimmigrant alien described in para-
2 graph (2) who was previously issued a visa or otherwise
3 provided nonimmigrant status under section
4 101(a)(15)(H)(i)(b) is authorized to accept new employ-
5 ment upon the filing by the prospective employer of a new
6 petition on behalf of such nonimmigrant as provided under
7 subsection (a). Employment authorization shall continue
8 for such alien until the new petition is adjudicated. If the
9 new petition is denied, such authorization shall cease.

10 “(2) A nonimmigrant alien described in this para-
11 graph is a nonimmigrant alien—

12 “(A) who has been lawfully admitted into the
13 United States;

14 “(B) on whose behalf an employer has filed a
15 nonfrivolous petition for new employment before the
16 date of expiration of the period of stay authorized by
17 the Attorney General; and

18 “(C) who, subsequent to such lawful admission,
19 has not been employed without authorization in the
20 United States before the filing of such petition.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to petitions filed before, on, or
23 after the date of enactment of this Act.

1 **SEC. 106. SPECIAL PROVISIONS IN CASES OF LENGTHY AD-**
2 **JUDICATIONS.**

3 (a) EXEMPTION FROM LIMITATION.—The limitation
4 contained in section 214(g)(4) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1184(g)(4)) with respect to the du-
6 ration of authorized stay shall not apply to any non-
7 immigrant alien previously issued a visa or otherwise pro-
8 vided nonimmigrant status under section
9 101(a)(15)(H)(i)(b) of that Act on whose behalf a petition
10 under section 204(b) of that Act to accord the alien immi-
11 grant status under section 203(b) of that Act, or an appli-
12 cation for adjustment of status under section 245 of that
13 Act to accord the alien status under such section 203(b),
14 has been filed, if 365 days or more have elapsed since—

15 (1) the filing of a labor certification application
16 on the alien's behalf (if such certification is required
17 for the alien to obtain status under such section
18 203(b)); or

19 (2) the filing of the petition under such section
20 204(b).

21 (b) EXTENSION OF H1-B WORKER STATUS.—The
22 Attorney General shall extend the stay of an alien who
23 qualifies for an exemption under subsection (a) in one-year
24 increments until such time as a final decision is made on
25 the alien's lawful permanent residence.

1 (c) INCREASED JOB FLEXIBILITY FOR LONG DE-
2 LAYED APPLICANTS FOR ADJUSTMENT OF STATUS.—

3 (1) Section 204 of the Immigration and Nation-
4 ality Act (8 U.S.C. 1154) is amended by adding at
5 the end the following new subsection:

6 “(j) JOB FLEXIBILITY FOR LONG DELAYED APPLI-
7 CANTS FOR ADJUSTMENT OF STATUS TO PERMANENT
8 RESIDENCE.—A petition under subsection (a)(1)(D) for
9 an individual whose application for adjustment of status
10 pursuant to section 245 has been filed and remained
11 unadjudicated for 180 days or more shall remain valid
12 with respect to a new job if the individual changes jobs
13 or employers if the new job is in the same or a similar
14 occupational classification as the job for which the petition
15 was filed.”.

16 (2) Section 212(a)(5)(A) of the Immigration
17 and Nationality Act (8 U.S.C. 1182(a)(5)(A)) is
18 amended by adding at the end the following new
19 clause:

20 “(iv) LONG DELAYED ADJUSTMENT
21 APPLICANTS.—A certification made under
22 clause (i) with respect to an individual
23 whose petition is covered by section 204(j)
24 shall remain valid with respect to a new
25 job accepted by the individual after the in-

1 dividual changes jobs or employers if the
2 new job is in the same or a similar occupa-
3 tional classification as the job for which
4 the certification was issued.”.

5 (d) RECAPTURE OF UNUSED EMPLOYMENT-BASED
6 IMMIGRANT VISAS.—

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

17 (2) NUMBER AVAILABLE.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B), the number described in this para-
20 graph is the difference between the number of
21 employment-based visas that were made avail-
22 able in fiscal year 1999 and 2000 and the num-
23 ber of such visas that were actually used in
24 such fiscal years.

1 (B) REDUCTION.—The number described
2 in subparagraph (A) shall be reduced, for each
3 fiscal year after fiscal year 2001, by the cumu-
4 lative number of immigrant visas actually used
5 under paragraph (1) for previous fiscal years.

6 (C) CONSTRUCTION.—Nothing in this
7 paragraph shall be construed as affecting the
8 application of section 201(c)(3)(C) of the Immi-
9 gration and Nationality Act (8 U.S.C.
10 1151(c)(3)(C)).

11 (3) EMPLOYMENT-BASED VISAS DEFINED.—For
12 purposes of this subsection, the term “employment-
13 based visa” means an immigrant visa which is issued
14 pursuant to the numerical limitation under section
15 203(b) of the Immigration and Nationality Act (8
16 U.S.C. 1153(b)).

17 **SEC. 107. EXTENSION OF CERTAIN REQUIREMENTS AND AU-**
18 **THORITIES THROUGH FISCAL YEAR 2002.**

19 (a) ATTESTATION REQUIREMENTS.—Section
20 212(n)(1)(E)(ii) of the Immigration and Nationality Act
21 (8 U.S.C. 1182(n)(1)(E)(ii)) is amended by striking “Oc-
22 tober 1, 2001” and inserting “October 1, 2003”.

23 (b) DEPARTMENT OF LABOR INVESTIGATIVE AU-
24 THORITIES.—Section 413(e)(2) of the American Competi-
25 tiveness and Workforce Improvement Act of 1998 (as con-

1 tained in title IV of division C of Public Law 105–277)
2 is amended by striking “September 30, 2001” and insert-
3 ing “September 30, 2003”.

4 **SEC. 108. RECOVERY OF VISAS USED FRAUDULENTLY.**

5 Section 214(g)(3) of the Immigration and Nationality
6 Act (8 U.S.C. 1184 (g)(3)) is amended to read as follows:

7 “(3) Aliens who are subject to the numerical limita-
8 tions of paragraph (1) shall be issued visas (or otherwise
9 provided nonimmigrant status) in the order in which peti-
10 tions are filed for such visas or status. If an alien who
11 was issued a visa or otherwise provided nonimmigrant sta-
12 tus and counted against the numerical limitations of para-
13 graph (1) is found to have been issued such visa or other-
14 wise provided such status by fraud or willfully misrepre-
15 senting a material fact and such visa or nonimmigrant sta-
16 tus is revoked, then one number shall be restored to the
17 total number of aliens who may be issued visas or other-
18 wise provided such status under the numerical limitations
19 of paragraph (1) in the fiscal year in which the petition
20 is revoked, regardless of the fiscal year in which the peti-
21 tion was approved.”.

22 **SEC. 109. NSF STUDY AND REPORT ON THE “DIGITAL DI-**
23 **VIDE”.**

24 (a) STUDY.—The National Science Foundation shall
25 conduct a study of the divergence in access to high tech-

1 nology (commonly referred to as the “digital divide”) in
2 the United States.

3 (b) REPORT.—Not later than 18 months after the
4 date of enactment of this Act, the Director of the National
5 Science Foundation shall submit a report to Congress set-
6 ting forth the findings of the study conducted under sub-
7 section (a).

8 **SEC. 110. MODIFICATION OF NONIMMIGRANT PETITIONER**
9 **ACCOUNT PROVISIONS.**

10 (a) ALLOCATION OF FUNDS.—Section 286(s) of the
11 Immigration and Nationality Act (8 U.S.C. 1356(s)) is
12 amended—

13 (1) in paragraph (2), by striking “56.3 per-
14 cent” and inserting “55 percent”;

15 (2) in paragraph (3), by striking “28.2 per-
16 cent” and inserting “23.5 percent”;

17 (3) by amending paragraph (4) to read as fol-
18 lows:

19 “(4) NATIONAL SCIENCE FOUNDATION COM-
20 PETITIVE GRANT PROGRAM FOR K–12 MATH,
21 SCIENCE AND TECHNOLOGY EDUCATION.—

22 “(A) IN GENERAL.—15 percent of the
23 amounts deposited into the H–1B Non-
24 immigrant Petitioner Account shall remain
25 available to the Director of the National Science

1 Foundation until expended to carry out a direct
2 or matching grant program to support private-
3 public partnerships in K–12 education.

4 “(B) TYPES OF PROGRAMS COVERED.—
5 The Director shall award grants to such pro-
6 grams, including those which support the devel-
7 opment and implementation of standards-based
8 instructional materials models and related stu-
9 dent assessments that enable K–12 students to
10 acquire an understanding of science, mathe-
11 matics, and technology, as well as to develop
12 critical thinking skills; provide systemic im-
13 provement in training K–12 teachers and edu-
14 cation for students in science, mathematics, and
15 technology; support the professional develop-
16 ment of K–12 math and science teachers in the
17 use of technology in the classroom; stimulate
18 system-wide K–12 reform of science, mathe-
19 matics, and technology in rural, economically
20 disadvantaged regions of the United States;
21 provide externships and other opportunities for
22 students to increase their appreciation and un-
23 derstanding of science, mathematics, engineer-
24 ing, and technology (including summer insti-
25 tutes sponsored by an institution of higher edu-

1 cation for students in grades 7–12 that provide
2 instruction in such fields); involve partnerships
3 of industry, educational institutions, and com-
4 munity organizations to address the educational
5 needs of disadvantaged communities; provide
6 college preparatory support to expose and pre-
7 pare students for careers in science, mathe-
8 matics, engineering, and technology; and pro-
9 vide for carrying out systemic reform activities
10 under section 3(a)(1) of the National Science
11 Foundation Act of 1950 (42 U.S.C.
12 1862(a)(1)).”;

13 (4) in paragraph (6), by striking “6 percent”
14 and inserting “5 percent”; and

15 (5) in paragraph (6), by striking “3 percent”
16 each place it appears and inserting “2.5 percent”.

17 (b) LOW-INCOME SCHOLARSHIP PROGRAM.—Section
18 414(d)(3) of the American Competitiveness and Workforce
19 Improvement Act of 1998 (as contained in title IV of divi-
20 sion C of Public Law 105–277) is amended by striking
21 “\$2,500 per year.” and inserting “\$3,125 per year. The
22 Director may renew scholarships for up to 4 years.”.

23 (c) REPORTING REQUIREMENT.—Section 414 of the
24 American Competitiveness and Workforce Improvement
25 Act of 1998 (as contained in title IV of division C of Pub-

1 lie Law 105–277) is amended by adding at the end the
 2 following new subsection:

3 “(e) REPORTING REQUIREMENT.—The Secretary of
 4 Labor and the Director of the National Science Founda-
 5 tion shall—

6 “(1) track and monitor the performance of pro-
 7 grams receiving H–1B Nonimmigrant Fee grant
 8 money; and

9 “(2) not later than one year after the date of
 10 enactment of this subsection, submit a report to the
 11 Committees on the Judiciary of the House of Rep-
 12 resentatives and the Senate—

13 “(A) the tracking system to monitor the
 14 performance of programs receiving H–1B grant
 15 funding; and

16 “(B) the number of individuals who have
 17 completed training and have entered the high-
 18 skill workforce through these programs.”.

19 **SEC. 111. DEMONSTRATION PROGRAMS AND PROJECTS TO**
 20 **PROVIDE TECHNICAL SKILLS TRAINING FOR**
 21 **WORKERS.**

22 Section 414(c) of the American Competitiveness and
 23 Workforce Improvement Act of 1998 (as contained in title
 24 IV of division C of Public Law 105–277; 112 Stat. 2681–
 25 653) is amended to read as follows:

1 “(c) DEMONSTRATION PROGRAMS AND PROJECTS TO
2 PROVIDE TECHNICAL SKILLS TRAINING FOR WORK-
3 ERS.—

4 “(1) IN GENERAL.—

5 “(A) FUNDING.—The Secretary of Labor
6 shall use funds available under section
7 286(s)(2) of the Immigration and Nationality
8 Act (8 U.S.C. 1356(s)(2)) to establish dem-
9 onstration programs or projects to provide tech-
10 nical skills training for workers, including both
11 employed and unemployed workers.

12 “(B) TRAINING PROVIDED.—Training
13 funded by a program or project described in
14 subparagraph (A) shall be for persons who are
15 currently employed and who wish to obtain and
16 upgrade skills as well as for persons who are
17 unemployed. Such training is not limited to skill
18 levels commensurate with a four-year under-
19 graduate degree, but should include the prepa-
20 ration of workers for a broad range of positions
21 along a career ladder. Consideration shall be
22 given to the use of grant funds to demonstrate
23 a significant ability to expand a training pro-
24 gram or project through such means as training
25 more workers or offering more courses, and

1 training programs or projects resulting from
2 collaborations, especially with more than one
3 small business or with a labor-management
4 training program or project. The need for the
5 training shall be justified through reliable re-
6 gional, State, or local data.

7 “(2) GRANTS.—

8 “(A) ELIGIBILITY.—To carry out the pro-
9 grams and projects described in paragraph
10 (1)(A), the Secretary of Labor shall, in con-
11 sultation with the Secretary of Commerce, sub-
12 ject to the availability of funds in the H-1B
13 Nonimmigrant Petitioner Account, award—

14 “(i) 75 percent of the grants to a
15 local workforce investment board estab-
16 lished under section 116(b) or section 117
17 of the Workforce Investment Act of 1998
18 (29 U.S.C. 2832) or consortia of such
19 boards in a region. Each workforce invest-
20 ment board or consortia of boards receiv-
21 ing grant funds shall represent a local or
22 regional public-private partnership con-
23 sisting of at least—

24 “(I) one workforce investment
25 board;

1 “(II) one community-based orga-
2 nization or higher education institu-
3 tion or labor union; and

4 “(III) one business or business-
5 related nonprofit organization such as
6 a trade association: *Provided*, That
7 the activities of such local or regional
8 public-private partnership described in
9 this subsection shall be conducted in
10 coordination with the activities of the
11 relevant local workforce investment
12 board or boards established under the
13 Workforce Investment Act of 1998
14 (29 U.S.C. 2832); and

15 “(ii) 25 percent of the grants under
16 the Secretary of Labor’s authority to
17 award grants for demonstration projects or
18 programs under section 171 of the Work-
19 force Investment Act (29 U.S.C. 2916) to
20 partnerships that shall consist of at least 2
21 businesses or a business-related nonprofit
22 organization that represents more than one
23 business, and that may include any edu-
24 cational, labor, community organization, or
25 workforce investment board, except that

1 such grant funds may be used only to
2 carry out a strategy that would otherwise
3 not be eligible for funds provided under
4 clause (i), due to barriers in meeting those
5 partnership eligibility criteria, on a na-
6 tional, multistate, regional, or rural area
7 (such as rural telework programs) basis.

8 “(B) DESIGNATION OF RESPONSIBLE FIS-
9 CAL AGENTS.—Each partnership formed under
10 subparagraph (A) shall designate a responsible
11 fiscal agent to receive and disburse grant funds
12 under this subsection.

13 “(C) PARTNERSHIP CONSIDERATIONS.—
14 Consideration in the awarding of grants shall
15 be given to any partnership that involves and
16 directly benefits more than one small business
17 (each consisting of 100 employees or less).

18 “(D) ALLOCATION OF GRANTS.—In mak-
19 ing grants under this paragraph, the Secretary
20 shall make every effort to fairly distribute
21 grants across rural and urban areas, and across
22 the different geographic regions of the United
23 States. The total amount of grants awarded to
24 carry out programs and projects described in
25 paragraph (1)(A) shall be allocated as follows:

1 “(i) At least 80 percent of the grants
2 shall be awarded to programs and projects
3 that train employed and unemployed work-
4 ers in skills in high technology, information
5 technology, and biotechnology, including
6 skills needed for software and communica-
7 tions services, telecommunications, systems
8 installation and integration, computers and
9 communications hardware, advanced man-
10 ufacturing, health care technology, bio-
11 technology and biomedical research and
12 manufacturing, and innovation services.

13 “(ii) No more than 20 percent of the
14 grants shall be available to programs and
15 projects that train employed and unem-
16 ployed workers for skills related to any sin-
17 gle specialty occupation, as defined in sec-
18 tion 214(i) of the Immigration and Nation-
19 ality Act.

20 “(3) START-UP FUNDS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), not more than 5 percent of
23 any single grant, or not to exceed \$75,000,
24 whichever is less, may be used toward the start-

1 up costs of partnerships or new training pro-
2 grams and projects.

3 “(B) EXCEPTION.—In the case of partner-
4 ships consisting primarily of small businesses,
5 not more than 10 percent of any single grant,
6 or \$150,000, whichever is less, may be used to-
7 ward the start-up costs of partnerships or new
8 training programs and projects.

9 “(C) DURATION OF START-UP PERIOD.—
10 For purposes of this subsection, a start-up pe-
11 riod consists of a period of not more than 2
12 months after the grant period begins, at which
13 time training shall immediately begin and no
14 further Federal funds may be used for start-up
15 purposes.

16 “(4) TRAINING OUTCOMES.—

17 “(A) CONSIDERATION FOR CERTAIN PRO-
18 GRAMS AND PROJECTS.—Consideration in the
19 awarding of grants shall be given to applicants
20 that provide a specific, measurable commitment
21 upon successful completion of a training course,
22 to—

23 “(i) hire or effectuate the hiring of
24 unemployed trainees (where applicable);

1 “(ii) increase the wages or salary of
2 incumbent workers (where applicable); and

3 “(iii) provide skill certifications to
4 trainees or link the training to industry-ac-
5 cepted occupational skill standards, certifi-
6 cates, or licensing requirements.

7 “(B) REQUIREMENTS FOR GRANT APPLI-
8 CATIONS.—Applications for grants shall—

9 “(i) articulate the level of skills that
10 workers will be trained for and the manner
11 by which attainment of those skills will be
12 measured;

13 “(ii) include an agreement that the
14 program or project shall be subject to eval-
15 uation by the Secretary of Labor to meas-
16 ure its effectiveness; and

17 “(iii) in the case of an application for
18 a grant under subsection (c)(2)(A)(ii), ex-
19 plain what barriers prevent the strategy
20 from being implemented through a grant
21 made under subsection (c)(2)(A)(i).

22 “(5) MATCHING FUNDS.—Each application for
23 a grant to carry out a program or project described
24 in paragraph (1)(A) shall state the manner by which
25 the partnership will provide non-Federal matching

1 resources (cash, or in-kind contributions, or both)
2 equal to at least 50 percent of the total grant
3 amount awarded under paragraph (2)(A)(i), and at
4 least 100 percent of the total grant amount awarded
5 under paragraph (2)(A)(ii). At least one-half of the
6 non-Federal matching funds shall be from the busi-
7 ness or businesses or business-related nonprofit or-
8 ganizations involved. Consideration in the award of
9 grants shall be given to applicants that provide a
10 specific commitment or commitments of resources
11 from other public or private sources, or both, so as
12 to demonstrate the long-term sustainability of the
13 training program or project after the grant expires.

14 “(6) ADMINISTRATIVE COSTS.—An entity that
15 receives a grant to carry out a program or project
16 described in paragraph (1)(A) may not use more
17 than 10 percent of the amount of the grant to pay
18 for administrative costs associated with the program
19 or project.”.

20 **SEC. 112. KIDS 2000 CRIME PREVENTION AND COMPUTER**
21 **EDUCATION INITIATIVE.**

22 (a) SHORT TITLE.—This section may be cited as the
23 “Kids 2000 Act”.

24 (b) FINDINGS.—Congress makes the following find-
25 ings:

1 (1) There is an increasing epidemic of juvenile
2 crime throughout the United States.

3 (2) It is well documented that the majority of
4 juvenile crimes take place during after-school hours.

5 (3) Knowledge of technology is becoming in-
6 creasingly necessary for children in school and out
7 of school.

8 (4) The Boys and Girls Clubs of America have
9 2,700 clubs throughout all 50 States, serving over
10 3,000,000 boys and girls primarily from at-risk com-
11 munities.

12 (5) The Boys and Girls Clubs of America have
13 the physical structures in place for immediate imple-
14 mentation of an after-school technology program.

15 (6) Building technology centers and providing
16 integrated content and full-time staffing at those
17 centers in the Boys and Girls Clubs of America na-
18 tionwide will help foster education, job training, and
19 an alternative to crime for at-risk youth.

20 (7) Partnerships between the public sector and
21 the private sector are an effective way of providing
22 after-school technology programs in the Boys and
23 Girls Clubs of America.

24 (8) PowerUp: Bridging the Digital Divide is an
25 entity comprised of more than a dozen nonprofit or-

1 organizations, major corporations, and Federal agen-
2 cies that have joined together to launch a major new
3 initiative to help ensure that America's underserved
4 young people acquire the skills, experiences, and re-
5 sources they need to succeed in the digital age.

6 (9) Bringing PowerUp into the Boys and Girls
7 Clubs of America will be an effective way to ensure
8 that our youth have a safe, crime-free environment
9 in which to learn the technological skills they need
10 to close the divide between young people who have
11 access to computer-based information and tech-
12 nology-related skills and those who do not.

13 (c) AFTER-SCHOOL TECHNOLOGY GRANTS TO THE
14 BOYS AND GIRLS CLUBS OF AMERICA.—

15 (1) PURPOSES.—The Attorney General shall
16 make grants to the Boys and Girls Clubs of America
17 for the purpose of funding effective after-school
18 technology programs, such as PowerUp, in order to
19 provide—

20 (A) constructive technology-focused activi-
21 ties that are part of a comprehensive program
22 to provide access to technology and technology
23 training to youth during after-school hours,
24 weekends, and school vacations;

1 (B) supervised activities in safe environ-
2 ments for youth; and

3 (C) full-time staffing with teachers, tutors,
4 and other qualified personnel.

5 (2) SUBAWARDS.—The Boys and Girls Clubs of
6 America shall make subawards to local boys and
7 girls clubs authorizing expenditures associated with
8 providing technology programs such as PowerUp, in-
9 cluding the hiring of teachers and other personnel,
10 procurement of goods and services, including com-
11 puter equipment, or such other purposes as are ap-
12 proved by the Attorney General.

13 (d) APPLICATIONS.—

14 (1) ELIGIBILITY.—In order to be eligible to re-
15 ceive a grant under this section, an applicant for a
16 subaward (specified in subsection (c)(2)) shall sub-
17 mit an application to the Boys and Girls Clubs of
18 America, in such form and containing such informa-
19 tion as the Attorney General may reasonably re-
20 quire.

21 (2) APPLICATION REQUIREMENTS.—Each appli-
22 cation submitted in accordance with paragraph (1)
23 shall include—

24 (A) a request for a subgrant to be used for
25 the purposes of this section;

1 (B) a description of the communities to be
2 served by the grant, including the nature of ju-
3 venile crime, violence, and drug use in the com-
4 munities;

5 (C) written assurances that Federal funds
6 received under this section will be used to sup-
7 plement and not supplant, non-Federal funds
8 that would otherwise be available for activities
9 funded under this section;

10 (D) written assurances that all activities
11 funded under this section will be supervised by
12 qualified adults;

13 (E) a plan for assuring that program ac-
14 tivities will take place in a secure environment
15 that is free of crime and drugs;

16 (F) a plan outlining the utilization of con-
17 tent-based programs such as PowerUp, and the
18 provision of trained adult personnel to supervise
19 the after-school technology training; and

20 (G) any additional statistical or financial
21 information that the Boys and Girls Clubs of
22 America may reasonably require.

23 (e) GRANT AWARDS.—In awarding subgrants under
24 this section, the Boys and Girls Clubs of America shall
25 consider—

1 (1) the ability of the applicant to provide the
2 intended services;

3 (2) the history and establishment of the appli-
4 cant in providing youth activities; and

5 (3) the extent to which services will be provided
6 in crime-prone areas and technologically underserved
7 populations, and efforts to achieve an equitable geo-
8 graphic distribution of the grant awards.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There is authorized to be
11 appropriated \$20,000,000 for each of the fiscal
12 years 2001 through 2006 to carry out this section.

13 (2) SOURCE OF FUNDS.—Funds to carry out
14 this section may be derived from the Violent Crime
15 Reduction Trust Fund.

16 (3) CONTINUED AVAILABILITY.—Amounts made
17 available under this subsection shall remain available
18 until expended.

19 **SEC. 113. USE OF FEES FOR DUTIES RELATING TO PETI-**
20 **TIONS.**

21 (a) Section 286(s)(5) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1356(s)(5)) is amended to read as fol-
23 lows: “4 percent of the amounts deposited into the H-
24 1B Nonimmigrant Petitioner Account shall remain avail-
25 able to the Attorney General until expended to carry out

1 duties under paragraphs (1) and (9) of section 214(c) re-
2 lated to petitions made for nonimmigrants described in
3 section 101(a)(15)(H)(i)(b), under paragraph (1) (C) or
4 (D) of section 204 related to petitions for immigrants de-
5 scribed in section 203(b).”.

6 (b) Notwithstanding any other provision of this Act,
7 the figure on page 14, line 16 is deemed to be “22 per-
8 cent”; the figure on page 16, line 14 is deemed to be “4
9 percent”; and the figure on page 16, line 16 is deemed
10 to be “2 percent”.

11 **SEC. 114. EXCLUSION OF CERTAIN “J” NONIMMIGRANTS**
12 **FROM NUMERICAL LIMITATIONS APPLICA-**
13 **BLE TO “H-1B” NONIMMIGRANTS.**

14 The numerical limitations contained in section 102
15 of this title shall not apply to any nonimmigrant alien
16 granted a waiver that is subject to the limitation contained
17 in paragraph (1)(B) of the first section 214(l) of the Im-
18 migration and Nationality Act (relating to restrictions on
19 waivers).

20 **SEC. 115. STUDY AND REPORT ON THE “DIGITAL DIVIDE”.**

21 (a) STUDY.—The Secretary of Commerce shall con-
22 duct a review of existing public and private high-tech
23 workforce training programs in the United States.

24 (b) REPORT.—Not later than 18 months after the
25 date of enactment of this Act, the Secretary of Commerce

1 shall submit a report to Congress setting forth the find-
2 ings of the study conducted under subsection (a).

3 **SEC. 116. SEVERABILITY.**

4 If any provision of this title (or any amendment made
5 by this title) or the application thereof to any person or
6 circumstance is held invalid, the remainder of the title
7 (and the amendments made by this title) and the applica-
8 tion of such provision to any other person or circumstance
9 shall not be affected thereby. This section be enacted 2
10 days after effective date.

11 **TITLE II—IMMIGRATION SERV-**
12 **ICES AND INFRASTRUCTURE**
13 **IMPROVEMENTS**

14 **SEC. 201. SHORT TITLE.**

15 This title may be cited as the “Immigration Services
16 and Infrastructure Improvements Act of 2000”.

17 **SEC. 202. PURPOSES.**

18 (a) PURPOSES.—The purposes of this title are to—

19 (1) provide the Immigration and Naturalization
20 Service with the mechanisms it needs to eliminate
21 the current backlog in the processing of immigration
22 benefit applications within 1 year after enactment of
23 this Act and to maintain the elimination of the back-
24 log in future years; and

1 (2) provide for regular congressional oversight
2 of the performance of the Immigration and Natu-
3 ralization Service in eliminating the backlog and
4 processing delays in immigration benefits adjudica-
5 tions.

6 (b) POLICY.—It is the sense of Congress that the
7 processing of an immigration benefit application should be
8 completed not later than 180 days after the initial filing
9 of the application, except that a petition for a non-
10 immigrant visa under section 214(e) of the Immigration
11 and Nationality Act should be processed not later than
12 30 days after the filing of the petition.

13 **SEC. 203. DEFINITIONS.**

14 In this title:

15 (1) BACKLOG.—The term “backlog” means,
16 with respect to an immigration benefit application,
17 the period of time in excess of 180 days that such
18 application has been pending before the Immigration
19 and Naturalization Service.

20 (2) IMMIGRATION BENEFIT APPLICATION.—The
21 term “immigration benefit application” means any
22 application or petition to confer, certify, change, ad-
23 just, or extend any status granted under the Immi-
24 gration and Nationality Act.

1 **SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE**
2 **IMPROVEMENT ACCOUNT.**

3 (a) **AUTHORITY OF THE ATTORNEY GENERAL.**—The
4 Attorney General shall take such measures as may be nec-
5 essary to—

6 (1) reduce the backlog in the processing of im-
7 migration benefit applications, with the objective of
8 the total elimination of the backlog not later than
9 one year after the date of enactment of this Act;

10 (2) make such other improvements in the proc-
11 essing of immigration benefit applications as may be
12 necessary to ensure that a backlog does not develop
13 after such date; and

14 (3) make such improvements in infrastructure
15 as may be necessary to effectively provide immigra-
16 tion services.

17 (b) **AUTHORIZATION OF APPROPRIATIONS.**—

18 (1) **IN GENERAL.**—There is authorized to be
19 appropriated to the Department of Justice from
20 time to time such sums as may be necessary for the
21 Attorney General to carry out subsection (a).

22 (2) **DESIGNATION OF ACCOUNT IN TREAS-**
23 **URY.**—Amounts appropriated pursuant to paragraph
24 (1) may be referred to as the “Immigration Services
25 and Infrastructure Improvements Account”.

1 (3) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated pursuant to paragraph (1) are authorized to
3 remain available until expended.

4 (4) LIMITATION ON EXPENDITURES.—None of
5 the funds appropriated pursuant to paragraph (1)
6 may be expended until the report described in sec-
7 tion 205(a) has been submitted to Congress.

8 **SEC. 205. REPORTS TO CONGRESS.**

9 (a) BACKLOG ELIMINATION PLAN.—

10 (1) REPORT REQUIRED.—Not later than 90
11 days after the date of enactment of this Act, the At-
12 torney General shall submit a report to the Commit-
13 tees on the Judiciary and Appropriations of the Sen-
14 ate and the House of Representatives concerning—

15 (A) the backlogs in immigration benefit ap-
16 plications in existence as of the date of enact-
17 ment of this title; and

18 (B) the Attorney General’s plan for elimi-
19 nating such backlogs.

20 (2) REPORT ELEMENTS.—The report shall
21 include—

22 (A) an assessment of the data systems
23 used in adjudicating and reporting on the sta-
24 tus of immigration benefit applications,
25 including—

1 (i) a description of the adequacy of
2 existing computer hardware, computer
3 software, and other mechanisms to comply
4 with the adjudications and reporting re-
5 quirements of this title; and

6 (ii) a plan for implementing improve-
7 ments to existing data systems to accom-
8 plish the purpose of this title, as described
9 in section 202(a);

10 (B) a description of the quality controls to
11 be put into force to ensure timely, fair, accu-
12 rate, and complete processing and adjudication
13 of such applications;

14 (C) the elements specified in subsection
15 (b)(2);

16 (D) an estimate of the amount of appro-
17 priated funds that would be necessary in order
18 to eliminate the backlogs in each category of
19 immigration benefit applications described in
20 subsection (b)(2); and

21 (E) a detailed plan on how the Attorney
22 General will use any funds in the Immigration
23 Services and Infrastructure Improvements Ac-
24 count to comply with the purposes of this title.

25 (b) ANNUAL REPORTS.—

1 (1) IN GENERAL.—Beginning 90 days after the
2 end of the first fiscal year for which any appropria-
3 tion authorized by section 204(b) is made, and 90
4 days after the end of each fiscal year thereafter, the
5 Attorney General shall submit a report to the Com-
6 mittees on the Judiciary and Appropriations of the
7 Senate and the House of Representatives concerning
8 the status of—

9 (A) the Immigration Services and Infra-
10 structure Improvements Account including any
11 unobligated balances of appropriations in the
12 Account; and

13 (B) the Attorney General’s efforts to elimi-
14 nate backlogs in any immigration benefit appli-
15 cation described in paragraph (2).

16 (2) REPORT ELEMENTS.—The report shall
17 include—

18 (A) State-by-State data on—

19 (i) the number of naturalization cases
20 adjudicated in each quarter of each fiscal
21 year;

22 (ii) the average processing time for
23 naturalization applications;

24 (iii) the number of naturalization ap-
25 plications pending for up to 6 months, 12

1 months, 18 months, 24 months, 36
2 months, and 48 months or more;

3 (iv) estimated processing times adjudicating newly submitted naturalization applications;
4
5

6 (v) an analysis of the appropriate processing times for naturalization applications; and
7
8

9 (vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;
10
11

12 (B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—
13
14
15

16 (i) the number of cases adjudicated in each quarter of each fiscal year;
17

18 (ii) the average processing time for such applications or petitions;
19

20 (iii) the number of applications or petitions pending for up to 6 months, 12
21 months, 18 months, 24 months, 36
22 months, and 48 months or more;
23

- 1 (iv) the estimated processing times
2 adjudicating newly submitted applications
3 or petitions;
- 4 (v) an analysis of the appropriate
5 processing times for applications or peti-
6 tions; and
- 7 (vi) a description of the additional re-
8 sources and process changes needed to
9 eliminate the backlog for such processing
10 and adjudications; and
- 11 (C) a status report on—
- 12 (i) applications for adjustments of sta-
13 tus to that of an alien lawfully admitted
14 for permanent residence;
- 15 (ii) petitions for nonimmigrant visas
16 under section 214 of the Immigration and
17 Nationality Act;
- 18 (iii) petitions filed under section 204
19 of such Act to classify aliens as immediate
20 relatives or preference immigrants under
21 section 203 of such Act;
- 22 (iv) applications for asylum under sec-
23 tion 208 of such Act;

1 (v) registrations for Temporary Pro-
2 tected Status under section 244 of such
3 Act; and

4 (vi) a description of the additional re-
5 sources and process changes needed to
6 eliminate the backlog for such processing
7 and adjudications.

8 (3) ABSENCE OF APPROPRIATED FUNDS.—In
9 the event that no funds are appropriated subject to
10 section 204(b) in the fiscal year in which this Act
11 is enacted, the Attorney General shall submit a re-
12 port to Congress not later than 90 days after the
13 end of such fiscal year, and each fiscal year there-
14 after, containing the elements described in para-
15 graph (2).

Passed the Senate October 3 (legislative day, Sep-
tember 22), 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 2045

AN ACT

To amend the Immigration and Nationality Act
with respect to H-1B nonimmigrant aliens.