

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have two unanimous consents that have been agreed to on the other side. I will make them as expeditiously as I can.

AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000—Resumed

Mr. DOMENICI. Mr. President, on H-1B, I ask unanimous consent the Senate now resume S. 2045, the H-1B bill, and the managers' amendment be agreed to, which is at the desk, and all other provisions of the consent be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 4214, 4216 and 4217) were withdrawn.

The motion to recommit was withdrawn.

The amendment (No. 4275) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The amendment (No. 4177), as amended, was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 2045), as amended, was ordered to a third reading and was read the third time.

Mr. HATCH. Mr. President, let me highlight our intent about how the Immigration and Naturalization Service (INS) should implement this legislation with respect to physicians who seek H-1B visas. The INS currently requires that each applicant for an H-1B visa who wishes to work as a physician must have passed the three parts of the United States Medical Licensing Examination (USMLE) and, if required by the state in which he or she will be practicing, be licensed. Due to the increased number of physicians who may work in the U.S. under H-1B visas with the passage of this legislation, it is even more important that the INS confirm successful completion of all parts of the USMLE each time an individual physician applies for, or seeks renewal of, an H-1B visa.

Mr. KENNEDY. Mr. President, our Nation's economy is experiencing a time of unprecedented growth and prosperity. This strong economic growth can, in large measure, be traced to the vitality of the fast-growing high technology industry. Information technology, biotechnology and associated manufacturers have created more new jobs than any other part of the economy.

The rapid growth of the high-tech industry has made it the nation's third largest employer, with 4.8 million workers in high-tech related fields, working in jobs that pay 70 percent above average income. The Bureau of Labor Statistics projects that the number of core IT workers will grow to a remarkable 2.6 million by 2006—an increase of 1.1 million from 1996.

With such rapid change, the economy is stretched thin to support these new businesses and the growth opportunities they present. The constraint cited most often on future growth of the high-technology industry is the shortage of men and women with the skills and technical background needed for jobs in the industry. Several factors are contributing to this shortage, including an inaccurate, negative image of IT occupations as overly demanding, the under-representation of women and minorities in the IT workforce, and outdated academic curricula that often do not keep pace with industry needs.

All of us want to be responsive to the nation's need for high-tech workers. We know that unless we take steps now to address this growing workforce gap, America's technological and economic leadership will be jeopardized. The H-1B visa cap should be increased, but in a way that better addresses the fundamental needs of the economy. Raising the cap without seriously addressing our long-term labor needs would be a serious mistake.

The legislation before us today includes provisions that respond to what American workers, students and employers have been telling Congress: that any credible legislative proposal must begin with a significant expansion of career training and educational opportunities for our workers and students. Expanding the number of H-1B visas to meet short-term needs is no substitute for long-term solutions to fully develop the potential of our domestic workforce. It makes sense to ask that more of our workers be recruited and trained for these jobs.

I commend Senator LIEBERMAN, Senator CONRAD, and other colleagues for their valuable contributions to the proposed training provisions. The training provided will ensure that the H-1B program will provide our workers with the skills needed to benefit from this growing economy and to help our companies continue to grow.

A REASONABLE INCREASE IN THE H-1B VISA CAP IS JUSTIFIED, BUT IT MUST BE TEMPORARY AND SUFFICIENTLY TAILORED TO MEET EXISTING SHORT-TERM NEEDS

A temporary influx of foreign workers and students is needed in the short-term to help meet the demands by U.S. firms for high skilled workers. But we shouldn't count on foreign sources of labor as a long-term solution. It is unfair to U.S. workers, and the supply of foreign workers is limited.

It makes sense to insist that more of our domestic workers must be recruited into and placed in these jobs. Countless reports cite age and race discrimination as a major problem in the IT industry, along with the hiring of foreign workers and lay-off of domestic workers.

A Dallas Morning News article describes how Ken Schiffman of Texas received only one or two responses to his resume over a long period of time, until he deleted all direct and indirect references to his age. After that, he re-

ceived 26 messages in one day. A human resource executive at a trade association confirms that this problem is a constant issue. Employers often ask the age of an applicant and reject older applicants without ever interviewing them.

John Miano, head of the American Programmer's Guild, argues that once a worker is laid off, it is very difficult to find a new job, in contrast to younger workers. Companies often unfairly view older workers as "dirty linen." These and countless other experiences support the need for a more responsible approach to H-1B legislation. And similar problems face women and minorities who are under-represented in the IT workforce.

Although many new jobs are created in the IT industry each year, we also know that thousands of IT workers were laid off in 1999. For example 5,180 workers lost their jobs at Electronic Data Systems, 2,150 at Compaq, and 3,000 at NEC-Packard Bell.

We also know that some IT companies classify their workers as independent contractors or temporary workers, rather than as employees, to avoid paying them benefits. In fact, it has been said that "if all categories of contingent workers are included—temporary, part-time, self-employed, and contract workers—almost 40% of all employment in Silicon Valley are contingent workers." This mis-classification scheme also contributes to numerous positions being seemingly "unfilled," because official "employees" are not performing those functions. This practice perpetuates an artificially higher number of "open" positions than actually exist.

Although it makes sense to provide an increase in the H-1B cap through FY 2002, the unprecedented cap exemptions in the Hatch bill are unwarranted. Those exemptions would permit 40,000 workers above the 195,000 cap to receive an H-1B visa. The resulting figure is well above the number of visas that even the most ardent IT lobbyists claim are needed. Exempting all those with advanced credentials will result in a significant increase in the number of persons within the cap who have less specialized skills, and who are in occupations ranging from therapists to super models. This is not the direction in which the H-1B visa program should be moving. The bill should not focus solely on the number of visas available for foreign skilled workers. It should also emphasize employers' needs for as many workers with the highest professional credentials as possible, who possess specialized skills that cannot be easily and quickly reproduced domestically.

I am strongly in favor of supporting our institutions of higher education and research groups. But the two types of exemptions in the bill overlap and are unnecessarily complex. The first exemption addresses a genuine need of universities who face difficulty competing with the high tech industry for

visas. But universities and research organizations would be just as easily served by reserving for them 12,000 a year within the cap.

The second exemption is for students graduating in the U.S. with any advanced degree, as long as they apply within a certain time frame. But it should not matter when they graduated or where they graduated. The exemptions will cause administrative problems that we should not impose on INS.

Instead, we should ensure that workers with an advanced degree have priority for H-1B visas within the cap, and are subject to the same requirements as all other applications. No evidence exists that proves or even implies that there is a shortage of American advanced degree holders in all subject areas. Yet the bill ignores this point and specifically permits all foreign graduates to receive a visa.

The unprecedented exemptions contained in this bill will only add to the already troublesome task faced by INS to process visas. We should not make a bad situation for U.S. students and the INS even worse by passing this bill with the current exemptions.

The exemptions in the bill and the abundance of IT workers they would create are an irresponsible approach to increasing the cap, especially given the very real existing questions about the true extent of the IT skill shortage.

As we address the needs of the IT industry, in addition to raising the H-1B visa cap, we must place laid off workers in new jobs, enforce our labor laws, and recruit and train more women, minorities, and people with disabilities, so that the current IT workforce gets the pay, benefits, working conditions and job opportunities to which they are entitled.

EXPANDING JOB TRAINING FOR U.S. WORKERS IS CRITICAL AND PROVIDES THE ONLY LONG-TERM SOLUTION TO THIS LABOR SHORTAGE

When we expanded the number of H-1B visas in 1998, we created a modest training initiative funded by a modest visa fee in recognition of the need to train and update the skills of U.S. workers. Today, as we seek to nearly double the number of high tech workers available to American businesses, we must also ensure a significant expansion of career training and educational opportunities for American workers and students.

Now more than ever, the strong employer demand for high tech foreign workers shows that there is an even greater need to train American workers and prepare U.S. students for careers in information technology. Expanding the number of H-1B visas to meet short-term needs is no substitute for long-term solutions to fully develop the potential of our domestic workforce.

The magnitude of this need for training is increasing year after year. According to the Information Technology Association of America, roughly two-thirds of unfilled jobs requiring work-

ers with computer-related skills are for technical support staff, such as customer service and help desks, database administrators, web designers, and technical writers. According to the survey's own description of these occupational fields, these positions simply require entry-level and moderate-level skills. We clearly need to greatly accelerate training for all skill levels, not just the most advanced level.

Recent studies have also demonstrated the strong correlation between educational attainment and increases in worker productivity. A year of structured employer-directed training can also produce a substantial increase in productivity.

Congress must help fund such efforts. We cannot turn our backs on American workers and employers who need our help.

Many high-tech companies are investing significant resources in education, and to a limited extent, in training programs. In reviewing these examples, however, it is clear that the focus of their contributions is on education, not worker training.

This effort does not come close to meeting the nation-wide need for investment in training. Only when businesses address the shortage of highly skilled workers as a national problem with a national solution—rather than a company-by-company approach to worker training—will our workforce be able to meet the growing demand for high skills, so that our economy will continue to prosper. The federal government has an obligation to bridge the high tech skill gap which today separates millions of workers from the 21st century jobs they desire.

RAISING NECESSARY FUNDS FOR EDUCATION AND TRAINING

At a time when the IT industry is experiencing major growth and record profits, it is clear that even the smallest of businesses can afford to pay a higher fee in order to support needed investments in technology skills and education. The only effective way for Congress and industry to provide sufficient long-term solutions to the high-tech skills shortage is by increasing H-1B visa user fees. We should ensure that 55% of all revenues go to worker training and increased educational opportunities for U.S. students.

We must train at least 45,000 workers a year if we are to responsibly address the need for technological skills. Unfortunately, due to blue slip issues that would arise if the Senate were to propose an increase in H-1B fees, I will not be offering an amendment with such a provision.

However, the Senate should send to the House a request for a modest increase in the H-1B visa fees. An increase in H-1B funds collected is necessary to expand training and education programs. A modest increase in the user fee will generate approximately \$280 million each year compared to current law, which raises less than one-third of this amount. Reve-

nues can be reasonably and fairly obtained by charging \$1,000 per new visa, or visa extension, or request to change employers. As in current law, employers from educational institutions and non-profit and governmental research organizations should remain exempt from all fees.

This fee is fair. Immigrant families with very modest incomes were able to pay a \$1,000 fee to allow family members to obtain green cards. Certainly, high tech companies can afford to pay at least that amount during this prosperous economy.

PROVIDING STATE-OF-THE ART TRAINING FOR 46,000 U.S. WORKERS

With such a reasonable and fair fee structure, the training plan in this amendment will receive roughly \$154 million to substantially expand the existing program to provide state-of-the-art high tech training for 46,000 workers a year, primarily in high tech, information technology, and biotechnology skills.

It requires the Department of Labor, in consultation with the Department of Commerce; to provide grants to local workforce investment boards in areas with substantial shortages of high tech workers. Grants would be awarded on a competitive basis for innovative high tech training proposals developed by the workforce boards collaboratively with area employers, unions, and higher education institutions.

The training proposal builds on the priorities specified in current H-1B law. It will serve those who are currently employed and are seeking to enhance their skills, as well as those who are currently unemployed.

EDUCATIONAL OPPORTUNITIES FOR U.S. STUDENTS MUST BE INCREASED

As we enter the 21st century, careers increasingly require advanced degrees, especially in math, science, engineering, and computer sciences. Eight of the ten fastest growing jobs of the next decade will require college education or moderate to long-term training.

We must encourage students, including minority students, to pursue degrees in math, science, computers, and engineering. Scholarship opportunities must be expanded for talented minority and low-income students whose families cannot afford today's high college tuition costs. According to the National Action Council for Minorities in Engineering, minority retention rates tend to be higher at institutions with high average financial aid awards, and the financial aid is a significant predictor in retaining minority students.

With increased opportunities for scholarships, students completing two-year degrees will be provided with incentives to continue their education and obtain four-year degrees, and retention rates among four-year degree students will be higher.

CONCLUSION

In sum, it would be irresponsible of Congress to address the shortage of high tech workers solely by expanding the number of visas for foreign workers. Immigration is only a short-term

solution to the long range, national skill shortage problem.

The U.S. is currently not providing domestic workers with enough opportunities to upgrade their skills so that they can fully participate in the new economy. They deserve these opportunities, and American business needs their talents.

I commend Senators HATCH and ABRAHAM for agreeing to include these training provisions in the bill before us today, and for committing to help bridge the high tech skills gap.

CONGRESS MUST REJECT THE VIEW THAT THE ONLY PRO-IMMIGRANT AGENDA THIS SESSION IS AN H-1B AGENDA

Finally, Congress cannot continue to ignore other equally important immigration issues which are as critical to immigrants in our workforce as H-1B visas are to the information technology industry. Unfortunately, unlike the H-1B issue, these other equally important issues have been ignored by too many members of Congress.

Last year, a broad coalition of immigrant and faith-based groups launched the "Fix '96" campaign to repeal the harsh and excessive provisions in the 1996 immigration and welfare laws, to restore balance and fairness to current law, and to correct government errors which prevent certain immigrants from receiving the services Congress intended.

All of the issues raised in the "Fix '96" campaign are still outstanding. A number of bills, including the Latino and Immigrant Fairness Act, have been introduced proposing solutions to these problems. However, the Republican leadership continues to block action on these important proposals. These issues include parity legislation for Central Americans and Haitians, restoring protections to asylum seekers, restoring due process in detention and deportation policy, restoring public benefits to legal immigrants, and restoring protections to battered immigrant women and children.

The Latino and Immigrant Fairness Act provides us with an opportunity to end a series of unjust provisions in our current immigration laws, and build on the most noble aspects of our American immigrant tradition.

It restores fairness to the immigrant community and fairness in the nation's immigration laws. It is good for families and it is good for American business.

The immigrant community—particularly the Latino community—has waited far too long for the fundamental justice that this legislation will provide. These issues are not new to Congress. The immigrants who will benefit from this legislation should have received permanent status from the INS long ago.

Few days remain in this Congress, but my Democratic colleagues and I are committed to doing all we can to see that both the Latino and Immigrant Fairness Act and the H-1B high tech visa legislation become law this

year. I urge my colleagues to give equal priority to these basic immigration issues that affect so many immigrant families in our workforce. The time to act is now, and there is still ample time to act before Congress adjourns.

TRAINING AND EDUCATION PROGRAMS

Mr. KENNEDY. Mr. President, we in the Senate cannot originate a revenue measure to fund the new training and education program. But it would be a serious mistake to enact a final bill that does not call on employers to pay \$1,000 per visa for the training and education necessary to improve the skills of U.S. workers and students.

Mr. ABRAHAM. I, too, am committed to seeing to it that there is funding for these programs and a \$1,000 fee is appropriate and would accomplish this goal. As the Ranking Member knows, I believe that as far as the shortage of highly skilled workers is concerned, we have both a short term and long term problem, and I believe these programs are an integral part of addressing our long term problem. I very much appreciate your ongoing willingness to work on these important programs for training and educating Americans so that they will be ready to take these jobs, and the leadership you have shown on these matters. I pledge to work with you, the other Members of this body, the business community, and other affected outside interests to seek ways to help fund these programs consistent with the principle you articulated.

Mr. KENNEDY. In addition, I believe it is important to exclude from that fee any employer that is a primary or secondary education institution, an institution of higher education, as defined in the Higher Education Act of 1965, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization.

Mr. ABRAHAM. I agree with the Ranking Member, and I support his objectives. I will work with Senator KENNEDY to ensure that these institutions are excluded from the imposition of fees.

Mr. KENNEDY. In conclusion, I would simply like to thank Senator ABRAHAM for his ongoing willingness to work on these important programs for training and educating Americans so that they will be ready to take these jobs, and the leadership he has consistently shown on these issues.

Mr. DOMENICI. Mr. President, I further ask unanimous consent the Senate now lay aside S. 2045 until 9:30 a.m. on Tuesday.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

VISA WAIVER PERMANENT PROGRAM ACT

Mr. DOMENICI. I ask unanimous consent the Senate proceed to H.R.

3767, the visa waiver bill, and that the substitute amendment, on behalf of Senators ABRAHAM and KENNEDY, which is at the desk, be agreed to, no further amendments or motions be in order, the bill be advanced to third reading, and passage occur immediately following the passage vote on S. 2045.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ABRAHAM. Mr. President, I rise to support the passage of H.R. 3767, the Visa Waiver Permanent Program Act. This legislation, as amended, is important not only because it facilitates travel and tourism in the United States, thereby creating many American jobs, but also because it benefits American tourists who wish to travel abroad, since visa requirements are generally waived on a reciprocal basis.

The Visa Waiver Pilot Program authorizes the Attorney General to waive visa requirements for foreign nationals traveling from certain designated countries as temporary visitors for business or pleasure. Aliens from the participating countries complete an admission form prior to arrival and are admitted to stay for up to 90 days.

The criteria for being designated as a Visa Waiver country are as follows: First, the country must extend reciprocal visa-free travel for U.S. citizens. Second, they must have a nonimmigrant refusal rate for B-1/B-2 visitor visas at U.S. consulates that is low, averaging less than 2 percent the previous two full fiscal years, with the refusal rate less than 2.5 percent in either year, or less than 3 percent the previous full fiscal year. Third, the countries must have or be in the process of developing a machine-readable passport program. Finally, the Attorney General must conclude that entry into the Visa Waiver Pilot Program will not compromise U.S. law enforcement interests.

Countries are designated by the Attorney General in consultation with the Secretary of State. Nations currently designated as Visa Waiver participants are Andorra, Argentina, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, United Kingdom, and Uruguay. Greece has been proposed for participation in the program.

The Visa Waiver Pilot Program was established by law in 1986 and became effective in 1988, with 8 countries participating for a period of three years. The program has been considered successful and as such has been expanded to include 29 participating countries. Since 1986, Visa Waiver has been reauthorized on 6 different occasions for periods of one, two, or three years at a time.