

106TH CONGRESS
2^D SESSION

H. R. 4200

To amend the Immigration and Nationality Act with respect to H–1B non-immigrant aliens and to assure fair distribution of employment-based immigrant visas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2000

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act with respect to H–1B nonimmigrant aliens and to assure fair distribution of employment-based immigrant visas, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Worker Information Technology Skills Im-
6 provement Act of 2000 (AWITSLA)”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO H-1B NONIMMIGRANTS

Subtitle A—Provisions Relating to Numerical Limitations

Sec. 101. Temporary increase in number of aliens authorized to be granted H-1B nonimmigrant status; exception for high unemployment rate.

Sec. 102. Allocation of H-1B numbers for highly skilled professionals.

Sec. 103. Additional H-1B visas for fiscal year 1999.

Subtitle B—Provisions Relating to H-1B Nonimmigrant Petitioner Fees

Sec. 111. Collection and use of fees.

Sec. 112. Narrowing the digital divide.

Subtitle C—Information Technology Training

Sec. 121. Information technology training initiative.

Subtitle D—Obligations of Petitioning Employers

Sec. 131. Employer attestations.

Sec. 132. Surprise compliance investigations; subpoena power.

Sec. 133. Department of labor survey.

Sec. 134. Random reviews of recruitment efforts.

TITLE II—PROVISIONS RELATING TO EMPLOYMENT-BASED
 IMMIGRATION

Sec. 201. Assuring fair distribution of employment-based visas.

TITLE III—KIDS 2000

Sec. 301. After-school technology grants to the Boys and Girls Clubs of America.

Sec. 302. Applications.

Sec. 303. Grant awards.

TITLE IV—LEGAL AMNESTY RESTORATION ACT OF 2000

Sec. 401. Record of admission for permanent residence for certain aliens who entered prior to 1986.

TITLE V—CENTRAL AMERICAN AND HAITIAN ADJUSTMENT ACT

Sec. 501. Adjustment of status for certain nationals from El Salvador, Guatemala, Honduras, and Haiti.

Sec. 502. Applications pending under section 203 of the Nicaraguan Adjustment and Central American Relief Act.

Sec. 503. Applications pending under the Haitian Refugee Immigration Fairness Act of 1998.

Sec. 504. Technical amendments to the Nicaraguan Adjustment and Central American Relief Act.

Sec. 505. Technical amendments to the Haitian Immigration Fairness Act of 1998.

Sec. 506. Motions to reopen.

1 **TITLE I—PROVISIONS RELATING**
 2 **TO H-1B NONIMMIGRANTS**
 3 **Subtitle A—Provisions Relating to**
 4 **Numerical Limitations**

5 **SEC. 101. TEMPORARY INCREASE IN NUMBER OF ALIENS**
 6 **AUTHORIZED TO BE GRANTED H-1B NON-**
 7 **IMMIGRANT STATUS; EXCEPTION FOR HIGH**
 8 **UNEMPLOYMENT RATE**

9 (a) IN GENERAL.—Section 214(g)(1)(A) of the Im-
 10 migration and Nationality Act (8 U.S.C. 1184(g)(1)(A))
 11 is amended—

12 (1) in clause (iii), by striking “115,000” and
 13 inserting “225,000”;

14 (2) in clause (iv), by striking “107,500” and in-
 15 serting “225,000”; and

16 (3) in clause (v), by striking “65,000” and in-
 17 serting “225,000”.

18 (b) EXCEPTION.—Section 214(g) of the Immigration
 19 and Nationality Act (8 U.S.C. 1184(g)) is amended by
 20 adding at the end the following:

21 “(5) The numerical limitations contained in clauses
 22 (iii), (iv), and (v) of paragraph (1)(A) shall be reduced—

23 “(A) to 110,000 in a fiscal year, if in the prior
 24 fiscal year the 12-month unemployment rate (as de-

1 terminated by the Bureau of Labor Statistics of the
2 Department of Labor) exceeds 5 percent; and

3 “(B) to 65,000 in a fiscal year, if in the prior
4 fiscal year the 12-month unemployment rate (as de-
5 termined by the Bureau of Labor Statistics of the
6 Department of Labor) exceeds 6 percent.”.

7 **SEC. 102. ALLOCATION OF H-1B NUMBERS FOR HIGHLY**
8 **SKILLED PROFESSIONALS.**

9 Section 214(g) of the Immigration and Nationality
10 Act (8 U.S.C. 1184(g)), as amended by section 101, is
11 further amended by adding at the end the following:

12 “(6) Of the total number of aliens authorized to be
13 granted nonimmigrant status under section
14 101(a)(15)(H)(i)(b)—

15 “(A) 40 percent for fiscal year 2000, 50 per-
16 cent for fiscal year 2001, and 60 percent for fiscal
17 year 2002, are authorized for such status only if the
18 aliens have attained at least a master’s degree from
19 an institution of higher education (as defined in sec-
20 tion 101(a) of the Higher Education Act of 1965
21 (20 U.S.C. 1001(a))) in the United States or an
22 equivalent degree (as determined in a credential
23 evaluation performed by a private entity prior to fil-
24 ing a petition) from such an institution abroad; and

1 “(B) of the number reserved under subpara-
2 graph (A) for each of fiscal years 2000 through
3 2002, 10,000 are authorized only if the aliens have
4 attained at least a PhD degree from an institution
5 of higher education described in subparagraph (A)
6 or an equivalent degree (as determined in an evalua-
7 tion described in such subparagraph).”.

8 **SEC. 103. ADDITIONAL H-1B VISAS FOR FISCAL YEAR 1999.**

9 (a) **IN GENERAL.**—Notwithstanding section
10 214(g)(1)(A)(ii) of the Immigration and Nationality Act
11 (8 U.S.C. 1184(g)(1)(A)(ii)), the total number of aliens
12 who may be issued visas or otherwise provided non-
13 immigrant status under section 101(a)(15)(H)(i)(b) of
14 such Act in fiscal year 1999 is increased by a number
15 equal to the number of aliens—

16 (1) who are issued such a visa or provided such
17 status during the period beginning on the date on
18 which the numerical limitation in such section
19 214(g)(1)(A)(ii) is reached and ending on September
20 30, 1999; and

21 (2) with respect to whom the action described
22 in paragraph (1) is counted in determining whether
23 such numerical limitation has been reached.

24 (b) **MAINTENANCE OF STATUS.**—An alien issued a
25 visa or otherwise provided nonimmigrant status under sec-

1 tion 101(a)(15)(H)(i)(b) of the Immigration and Nation-
 2 ality Act in fiscal year 1999 may maintain that status
 3 without regard to whether it was provided in accordance
 4 with section 214(g)(1)(A)(ii) of such Act.

5 (c) EFFECTIVE DATE.—This section shall take effect
 6 as if included in the enactment of section 411 of the Amer-
 7 ican Competitiveness and Workforce Improvement Act of
 8 1998 (as contained in title IV of division C of the Omnibus
 9 Consolidated and Emergency Supplemental Appropria-
 10 tions Act, 1999; Public Law 105–277).

11 **Subtitle B—Provisions Relating to**
 12 **H1-B Nonimmigrant Petitioner**
 13 **Fees**

14 **SEC. 111. COLLECTION AND USE OF FEES.**

15 (a) ESTABLISHMENT OF FEES.—

16 (1) IN GENERAL.—Section 214(c)(9) of the Im-
 17 migration and Nationality Act (8 U.S.C. 1184(c)(9))
 18 is amended—

19 (A) in subparagraph (A), by striking “(ex-
 20 cluding” and all that follows through “2001)”
 21 and inserting “(excluding any employer that is
 22 a primary or secondary education institution,
 23 an institution of higher education (as defined in
 24 section 101(a) of the Higher Education Act of
 25 1965 (20 U.S.C. 1001(a)), a nonprofit research

1 organization, or government-related research in-
2 stitution) filing”; and

3 (B) by amending subparagraph (B) to read
4 as follows:

5 “(B) Except as provided in subparagraph (D), the
6 amount of the fee for each such petition shall be as fol-
7 lows:

8 “(i) For an employer employing not more than
9 150 employees, \$1,000.

10 “(ii) For an employer employing more than 150
11 employees, \$2,000.”.

12 (2) EXCEPTION.—Section 214(c)(9) of the Im-
13 migration and Nationality Act (8 U.S.C. 1184(c)(9))
14 is amended by adding at the end the following new
15 subparagraphs:

16 “(D) Any employer that has at least 51 full-time
17 equivalent employees who are employed in the United
18 States, and employs nonimmigrants described in section
19 101(a)(5)(H)(i)(b) in a number that is equal to at least
20 15 percent of the number of such full-time equivalent em-
21 ployees, shall pay \$3,000 per visa petition filed.

22 “(E) Any employer that is a public school district
23 shall only be required to pay for visa petitions in excess
24 of 5 in any fiscal year.”.

1 (b) USE OF FEES.—Section 286(s) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1356(s)) is amended—

3 (1) by amending paragraph (2) to read as fol-
4 lows:

5 “(2) USE OF FEES FOR INFORMATION TECH-
6 NOLOGY SKILLS TRAINING.—50 percent of amounts
7 deposited into the H–1B Nonimmigrant Petitioner
8 Account shall remain available to the Secretary of
9 Labor until expended to carry out the Information
10 Technology Training Initiative established by section
11 121 of the Information Technology Skills Improve-
12 ment Act of 2000.”;

13 (2) in paragraph (3), by striking “28.2 per-
14 cent” and inserting “30 percent”;

15 (3) by amending paragraph (5) to read as fol-
16 lows:

17 “(5) USE OF FEES FOR DUTIES RELATING TO
18 PETITIONS.—5 percent of the amounts deposited
19 into the H–1B Nonimmigrant Petitioner Account
20 shall remain available to the Attorney General until
21 expended to carry out duties under paragraphs (1)
22 and (9) of section 214(c) related to petitions made
23 for nonimmigrants described in section
24 101(a)(15)(H)(i)(b) and under paragraph (1) (C) or

1 (D) of section 204 related to petitions for immi-
2 grants described in section 203(b).”; and

3 (4) by amending paragraph (6) to read as fol-
4 lows:

5 “(6) USE OF FEES FOR APPLICATION, PROC-
6 ESSING, AND ENFORCEMENT.—Of the amounts de-
7 posited into the H–1B Nonimmigrant Petitioner Ac-
8 count, 6 percent of such amounts shall remain avail-
9 able to the Secretary of Labor until expended for de-
10 creasing the processing time for applications under
11 section 212(n)(1), for carrying out section
12 212(n)(2), and for carrying out section 203(b), to be
13 allocated as follows:

14 “(A) For the processing of applications
15 under section 212(n)(1), and for decreasing the
16 processing time of applications for visas under
17 section 203(b), 3 percent of the amounts depos-
18 ited into the H–1B Nonimmigrant Petitioner
19 Account. Any funds allocated under this sub-
20 paragraph that are unobligated as of September
21 30, 2002, may be used for the enforcement ac-
22 tions described in subparagraph (B).

23 “(B) For enforcement actions under sec-
24 tion 212(n)(2), 3 percent of the amounts depos-

1 ited into the H–1B Nonimmigrant Petitioner
2 Account.”.

3 (c) EXPANSION OF ELIGIBILITY FOR LOW-INCOME
4 SCHOLARSHIP PROGRAM.—Section 414(d) of the Amer-
5 ican Competitiveness and Workforce Improvement Act of
6 1998 (as contained in Public Law 105–277; 112 Stat.
7 2681–653) is amended in paragraph (2)(A)(i) by striking
8 “alien” and all that follows through “residence” and in-
9 serting the following: “an alien described in section 431
10 (b) or (c) of the Personal Responsibility and Work Oppor-
11 tunity Reconciliation Act of 1996 (8 U.S.C. 1641)”.

12 **SEC. 112. PROVIDING FUNDING FOR KIDS 2000 AND**
13 **NETPREPGYRLS.**

14 (a) AMENDMENT OF THE INA.—Section 286(s)(4) (8
15 U.S.C. 1356(s)(4)) of the Immigration and Nationality
16 Act is amended to read as follows:

17 “(4) USE OF FUNDS FOR KIDS 2000 AND
18 NETPREPGYRLS.—9 percent of the amounts depos-
19 ited into the H–1B Nonimmigrant Petitioner Ac-
20 count shall remain available until expended—

21 “(A) to make grants under title III of the
22 Information Technology Skills Improvement Act
23 of 2000 (relating to Kids 2000); and

24 “(B) to make grants to expand the pro-
25 gram known as the ‘NetPrepGyrls’ program

1 (which allows high school girls to focus their
2 technical education on computer networking,
3 leading to an industry-standard certification).”.

4 (b) CONFORMING AMENDMENT.—Section 414(d)(3)
5 of the American Competitiveness and Workforce Improve-
6 ment Act of 1998 (as contained in Public Law 105–277)
7 is amended by striking “, except that” and all that follows
8 through “year”.

9 **Subtitle C—Information** 10 **Technology Training**

11 **SEC. 121. INFORMATION TECHNOLOGY TRAINING INITIA-** 12 **TIVE.**

13 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
14 of Labor shall establish a program within the Department
15 of Labor which shall be known as the “Information Tech-
16 nology Training Initiative” (in this section referred to as
17 the “program”) for the purpose of providing training in
18 information technology skills to United States workers.

19 (b) GRANTS.—

20 (1) ELIGIBILITY.—To carry out the program,
21 the Secretary of Labor shall, subject to the avail-
22 ability of appropriations, award grants to local work-
23 force investment boards established under section
24 117 of the Workforce Investment Act of 1998 (29

1 U.S.C. 2832) or an approved labor management coa-
2 lition training initiative.

3 (2) PARTNERSHIPS.—Each workforce invest-
4 ment board receiving grant funds under paragraph
5 (1) shall represent a partnership consisting of at
6 least—

7 (A) one workforce investment board;

8 (B) one community-based organization or
9 higher education institution;

10 (C) one business or business-related non-
11 profit organization such as a trade association;
12 and

13 (D) one labor union.

14 (3) DESIGNATION OF RESPONSIBLE FISCAL
15 AGENTS.—Each partnership formed under para-
16 graph (1) shall designate a responsible fiscal agent
17 to receive and disburse grant funds under this sec-
18 tion.

19 (4) PRIORITY IN GRANT AWARDS.—Priority in
20 the awarding of grants shall be given to any regional
21 partnership that—

22 (A) involves and directly benefits more
23 than one small business (each consisting of 50
24 employees or less); or

1 (B) involves labor-management partner-
2 ships.

3 (c) START-UP FUNDS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), not more than 5 percent of any single
6 grant, or not to exceed \$75,000, whichever is lesser,
7 may be used toward the start-up costs of regional
8 partnerships or new training programs.

9 (2) EXCEPTION.—In the case of small busi-
10 nesses, not more than 10 percent of any single grant
11 awarded under the program, or \$150,000, whichever
12 is lesser, may be used toward the start-up costs of
13 regional partnerships or new training programs.

14 (3) DURATION OF START-UP PERIOD.—For
15 purposes of this section, a start-up period consists of
16 a period of not more than 2 months after the grant
17 award is announced, at which time training shall im-
18 mediately begin and no further Federal funds may
19 be used for start-up purposes.

20 (d) TRAINING.—

21 (1) IN GENERAL.—Training funded by the pro-
22 gram shall be relatively short-term training that may
23 result in skills of differing levels along a career lad-
24 der, not necessarily high skill levels that would ordi-
25 narily be expected of a 2- to 4-year degree program

1 or of a Master's degree holder or higher. Priority
2 shall be given to the use of grant funds to dem-
3 onstrate a significant ability to expand a training
4 program through such means as training more work-
5 ers and retraining current workers (particularly
6 older and retired workers) or offering more courses,
7 or to support small business or labor-management
8 training programs. All training shall be justified
9 with evidence of skill shortages as demonstrated
10 through reliable regional, State, or local data.

11 (2) ALLOCATION OF GRANTS.—The total
12 amount of grants awarded under the program shall
13 be allocated as follows:

14 (A) 80 percent of the grants shall be
15 awarded to programs that train employed and
16 unemployed workers in skills that are in short-
17 age in the high technology, information tech-
18 nology and biotechnology fields, including soft-
19 ware and communications services, tele-
20 communications, systems installation and inte-
21 gration, computers and communications hard-
22 ware, health care technology, biotechnology and
23 biomedical research and manufacturing, and in-
24 novation services.

1 (B) 20 percent of the grants shall be avail-
2 able for training programs that train employed
3 and unemployed workers for any skill shortage
4 related to an inability to hire or to retain H-
5 1B workers.

6 (3) H-1B WORKER DEFINED.—In paragraph
7 (2)(B), the term “H-1B worker” means a non-
8 immigrant alien under section 101(a)(15)(H)(i)(b)
9 of the Immigration and Nationality Act.

10 (e) TRAINING OUTCOMES.—

11 (1) PREFERENCE FOR CERTAIN PROGRAMS.—
12 Preference in the awarding of grants shall be given
13 to applicants that provide a specific, measurable
14 commitment upon successful completion of a train-
15 ing course, to—

16 (A) hire unemployed trainees (where appli-
17 cable);

18 (B) increase the wages or salary of incum-
19 bent workers (where applicable); and

20 (C) provide skill certifications to trainees
21 or link the training to industry-accepted occu-
22 pational skill standards, certificates, or licens-
23 ing requirements.

24 (2) REQUIREMENTS FOR GRANT APPLICA-
25 TIONS.—Applications for grants under the program

1 shall articulate the level of skills that workers will be
2 trained for and the manner by which attainment of
3 those skills will be measured.

4 (f) TARGET POPULATION.—Training programs eligi-
5 ble for grants under the program shall make efforts to
6 actively recruit and train those who traditionally are
7 under-represented in information technology occupations,
8 such as minorities, women, low-wage workers, workers re-
9 siding in Empowerment Zones/Enterprise Communities,
10 and people with disabilities.

11 (g) MATCHING FUNDS.—Each workforce investment
12 board receiving grant funds under the program shall dem-
13 onstrate the manner by which the partnership will provide
14 matching resources (cash, or in-kind contributions, or
15 both) equal to at least 50 percent of the total grant
16 amount awarded. Preference in the award of grants shall
17 be given to applicants that provide specific commitments
18 of resources from other public or private sources so as to
19 demonstrate the long-term sustainability of the training
20 program after the grant expires.

1 **Subtitle D—Obligations of**
2 **Petitioning Employers**

3 **SEC. 131. EMPLOYER ATTESTATIONS.**

4 Section 212(n)(1) of the Immigration and Nationality
5 Act (8 U.S.C. 1182(n)(1)) is amended by inserting after
6 subparagraph (G) the following:

7 “(H) In the case of an application filed by an
8 H–1B dependent employer, the employer—

9 “(i) did not displace and will not displace
10 a United States worker between the period of 6
11 months before and 6 months after the date of
12 filing of any visa petition supported by the
13 labor condition application; and

14 “(ii) is making efforts to continually train
15 and update the existing skills of incumbent em-
16 ployees, and to promote such employees where
17 possible.

18 “(I) The employer has not and will not require
19 any alien whose employment is sought pursuant to
20 the application, or any such nonimmigrant, to enter
21 into or comply with an employment contract provi-
22 sion that requires the alien to agree to a specific
23 term of employment or pay a penalty or damages to
24 the employer if employment is terminated before the
25 end of a specified period.

1 “(J) The employer certifies that the employer—

2 “(i) is taking steps to recruit qualified
3 United States workers who are members of
4 underrepresented minority groups, including—

5 “(I) recruiting at a wide geographical
6 distribution of institutions of higher edu-
7 cation, including historically black colleges
8 and universities, other minority institu-
9 tions, community colleges, and vocational
10 and technical colleges; and

11 “(II) advertising of jobs to publica-
12 tions reaching underrepresented groups of
13 United States workers, including workers
14 older than 35, minority groups, non-
15 English speakers, and disabled veterans;
16 and

17 “(ii) will submit to the Secretary of Labor
18 at the end of each fiscal year in which the em-
19 ployer employs an H-1B worker a report that
20 describes the steps so taken.

21 For purposes of this subparagraph, the term ‘minor-
22 ity’ includes individuals who are African-American,
23 Hispanic, Asian, and women.”.

1 **SEC. 132. SURPRISE COMPLIANCE INVESTIGATIONS; SUB-**
2 **POENA POWER**

3 Section 212(n)(2) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(n)(2)) is amended by adding at the
5 end the following:

6 “(I) Notwithstanding any other provision of this
7 paragraph, the Secretary is authorized to subject employ-
8 ers, without prior notice, to spot investigations to deter-
9 mine whether the conditions of paragraph (1) are being
10 satisfied and whether the employer made any misrepresen-
11 tations of material fact in the application under such para-
12 graph.

13 “(J) For the purpose of any hearing or investigation
14 provided for in this subsection, the provisions of sections
15 9 and 10 (relating to the attendance of witnesses and the
16 production of books, papers, and documents) of the Fed-
17 eral Trade Commission Act (15 U.S.C. 49 and 50) are
18 made applicable to the jurisdiction, powers, and duties of
19 the Secretary.”.

20 **SEC. 133. DEPARTMENT OF LABOR SURVEY.**

21 The Secretary of Labor is authorized to conduct an
22 ongoing survey of employers to determine the degree of
23 compliance with the provisions and requirements of sec-
24 tion 212(n) of the Immigration and Nationality Act (8
25 U.S.C. 1182(n)).

1 **SEC. 134. RANDOM REVIEWS OF RECRUITMENT EFFORTS.**

2 The Inspector General in the Department of Labor
3 shall perform periodic reviews of randomly selected appli-
4 cants under section 212(n) of the Immigration and Na-
5 tionality Act to determine whether employers filing appli-
6 cations under such section are making good faith efforts
7 to hire United States workers.

8 **TITLE II—PROVISIONS RELAT-**
9 **ING TO EMPLOYMENT-BASED**
10 **IMMIGRATION**

11 **SEC. 201. ASSURING FAIR DISTRIBUTION OF EMPLOYMENT-**
12 **BASED VISAS.**

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

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

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

21 “(A) CERTAIN EMPLOYMENT-BASED IMMI-
22 GRANTS NOT SUBJECT TO PER COUNTRY LIM-
23 TATION IF ADDITIONAL VISAS AVAILABLE.—If
24 the total number of visas available under para-
25 graph (1), (2), (3), (4), or (5) of section 203(b)
26 for a calendar quarter exceeds the number of

1 qualified immigrants who may otherwise be
2 issued such visas, the visas made available
3 under that respective paragraph shall be issued
4 without regard to the numerical limitation
5 under paragraph (2) of this subsection during
6 the remainder of the calendar quarter.

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

19 (2) CONFORMING AMENDMENTS.—

20 (A) PER COUNTRY LEVELS FOR EMPLOY-
21 MENT-BASED IMMIGRANTS.—Section 202(a)(2)
22 of such Act (8 U.S.C. 1152(a)(2)) is amended
23 by striking “paragraphs (3) and (4)” and in-
24 serting “paragraphs (3), (4), and (5)”.

1 (B) SPECIAL RULES FOR COUNTRIES AT
2 CEILING.—Section 202(e)(3) of such Act (8
3 U.S.C. 1152(e)(3)) is amended by striking “the
4 proportion of the visa numbers” and inserting
5 “except as provided in subsection (a)(5), the
6 proportion of the visa numbers”.

7 (3) ONE-TIME PROTECTION UNDER PER COUN-
8 TRY CEILING.—Notwithstanding section 214(g)(4) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1184(g)(4)), any alien who—

11 (A) is the beneficiary of a petition filed
12 under section 204(a) of such Act for a pref-
13 erence status under paragraph (1), (2), or (3)
14 of section 203(b) of such Act; and

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

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

1 (b) RECAPTURE OF UNUSED EMPLOYMENT-BASED
2 IMMIGRANT VISAS.—

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

13 (2) NUMBER AVAILABLE.—

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

21 (B) REDUCTION.—The number described
22 in subparagraph (A) shall be reduced, for each
23 fiscal year after fiscal year 2001, by the cumu-
24 lative number of immigrant visas made avail-

1 able under paragraph (1) for previous fiscal
2 years.

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

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

14 **TITLE III—KIDS 2000**

15 **SEC. 301. AFTER-SCHOOL TECHNOLOGY GRANTS TO THE** 16 **BOYS AND GIRLS CLUBS OF AMERICA.**

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

21 (1) constructive technology-focussed activities
22 that are part of a comprehensive program to provide
23 access to technology and technology training to
24 youth during after-school hours, weekends, and
25 school vacations;

1 (2) supervised activities in safe environments
2 for youth; and

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

5 (b) SUBAWARDS.—The Boys and Girls Clubs of
6 America shall make subawards to local boys and girls
7 clubs authorizing expenditures associated with providing
8 technology programs such as PowerUp, including the hir-
9 ing of teachers and other personnel, procurement of goods
10 and services, including computer equipment, or such other
11 purposes as are approved by the Attorney General.

12 **SEC. 302. APPLICATIONS.**

13 (a) ELIGIBILITY.—In order to be eligible to receive
14 a grant under this title, an applicant for a subaward (spec-
15 ified in section 301(b)) shall submit an application to the
16 Boys and Girls Clubs of America, in such form and con-
17 taining such information as the Attorney General may rea-
18 sonably require.

19 (b) APPLICATION REQUIREMENTS.—Each applica-
20 tion submitted in accordance with subsection (a) shall
21 include—

22 (1) a request for a subgrant to be used for the
23 purposes of this Act;

1 (2) a description of the communities to be
2 served by the grant, including the nature of juvenile
3 crime, violence, and drug use in the communities;

4 (3) written assurances that Federal funds re-
5 ceived under this Act will be used to supplement and
6 not supplant, non-Federal funds that would other-
7 wise be available for activities funded under this Act;

8 (4) written assurances that all activities funded
9 under this Act will be supervised by qualified adults;

10 (5) a plan for assuring that program activities
11 will take place in a secure environment that is free
12 of crime and drugs;

13 (6) a plan outlining the utilization of content-
14 based programs such as PowerUp, and the provision
15 of trained adult personnel to supervise the after-
16 school technology training; and

17 (7) any additional statistical or financial infor-
18 mation that the Boys and Girls Clubs of America
19 may reasonably require.

20 **SEC. 303. GRANT AWARDS.**

21 In awarding subgrants under this title, the Boys and
22 Girls Clubs of America shall consider—

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

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

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

7 **TITLE IV—LEGAL AMNESTY**
8 **RESTORATION ACT OF 2000**

9 **SEC. 401. RECORD OF ADMISSION FOR PERMANENT RESI-**
10 **DENCE FOR CERTAIN ALIENS WHO ENTERED**
11 **PRIOR TO 1986.**

12 (a) IN GENERAL.—Section 249 of the Immigration
13 and Nationality Act (8 U.S.C. 1259) is amended—

14 (1) in the section heading, by striking “1972”
15 and inserting “1986”; and

16 (2) in subsection (a), by striking “1972;” and
17 inserting “1986;”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for such Act is amended in the item relating to section
20 249 by striking “1972” and inserting “1986”.

1 **TITLE V—CENTRAL AMERICAN**
2 **AND HAITIAN ADJUSTMENT ACT**

3 **SEC. 501. ADJUSTMENT OF STATUS FOR CERTAIN NATION-**
4 **ALS FROM EL SALVADOR, GUATEMALA, HON-**
5 **DURAS, AND HAITI.**

6 (a) Section 202 of the Nicaraguan Adjustment and
7 Central American Relief Act is amended—

8 (1) in the section heading, by striking “**NICA-**
9 **RAGUANS AND CUBANS**” and inserting “**NICA-**
10 **RAGUANS, CUBANS, SALVADORANS, GUATE-**
11 **MALANS, HONDURANS, AND HAITIANS**”;

12 (2) in subparagraph (a)(1)(A), by striking
13 “2000” and inserting “2003”;

14 (3) in paragraph (b)(1), by striking “Nicaragua
15 or Cuba” and inserting “Nicaragua, Cuba, El Sal-
16 vador, Guatemala, Honduras, or Haiti”; and

17 (4) in subparagraph (d)(1)(E), by striking
18 “2000” and inserting “2003”.

19 (b) **EFFECTIVE DATE.**—The amendments made by
20 this section shall be effective upon the date of enactment
21 of this Act.

1 **SEC. 502. APPLICATIONS PENDING UNDER SECTION 203 OF**
2 **THE NICARAGUAN ADJUSTMENT AND CEN-**
3 **TRAL AMERICAN RELIEF ACT.**

4 An application for relief properly filed by a national
5 of Guatemala or El Salvador under section 203 of the Nic-
6 araguan Adjustment and Central American Relief Act
7 which was filed on or before the date of enactment of this
8 Act, and on which a final administrative determination has
9 not been made, may be converted by the applicant to an
10 application for adjustment of status under the provisions
11 of section 202 of the Nicaraguan Adjustment and Central
12 American Relief Act, as amended, upon the payment of
13 any fees, and in accordance with procedures, that the At-
14 torney General shall prescribe by regulation. The Attorney
15 General shall not be required to refund any fees paid in
16 connection with an application filed by a national of Gua-
17 temala or El Salvador under section 203 of the Nica-
18 ragan Adjustment and Central American Relief Act.

19 **SEC. 503. APPLICATIONS PENDING UNDER THE HAITIAN**
20 **REFUGEE IMMIGRATION FAIRNESS ACT OF**
21 **1998.**

22 An application for adjustment of status properly filed
23 by a national of Haiti under the Haitian Refugee Immi-
24 gration Fairness Act of 1998 which was filed on or before
25 the date of enactment of this Act, and on which a final
26 administrative determination has not been made, may be

1 considered by the Attorney General, in her unreviewable
2 discretion, to also constitute an application for adjustment
3 of status under the provisions of section 202 of the Nica-
4 raguean Adjustment and Central American Relief Act, as
5 amended.

6 **SEC. 504. TECHNICAL AMENDMENTS TO THE NICARAGUAN**
7 **ADJUSTMENT AND CENTRAL AMERICAN RE-**
8 **LIEF ACT.**

9 (a) Section 202 of the Nicaraguan Adjustment and
10 Central American Relief Act is amended—

11 (1) in subparagraph (a)(1)(B), by adding after
12 the word “apply”—“and the Attorney General may,
13 in her unreviewable discretion, waive the grounds of
14 inadmissibility specified in clause 212(a)(1)(A)(i)
15 and paragraph 212(a)(6)(C) of the Immigration and
16 Nationality Act for humanitarian purposes, to as-
17 sure family unity, or when it is otherwise in the pub-
18 lic interest”;

19 (2) in subsection (a), by redesignating para-
20 graph (2) as paragraph (3), and adding the fol-
21 lowing as paragraph (2)—

22 “(2) INAPPLICABILITY OF CERTAIN PROVI-
23 SIONS.—In determining the eligibility of an alien de-
24 scribed in subsections (b) or (d) for either adjust-
25 ment of status under this section or other relief nec-

1 essary to establish eligibility for such adjustment,
2 the provisions of section 241(a)(5) of the Immigra-
3 tion and Nationality Act shall not apply. In addition,
4 an alien who would otherwise be inadmissible pursu-
5 ant to sections 212(a)(9) (A) or (C) of the Immigra-
6 tion and Nationality Act may apply for the Attorney
7 General’s consent to reapply for admission without
8 regard to the requirement that the consent be grant-
9 ed prior to the date of the alien’s reembarkation at
10 a place outside the United States or attempt to be
11 admitted from foreign contiguous territory, in order
12 to qualify for the exception to those grounds of inad-
13 missibility set forth in sections 212(a)(9)(A)(iii) and
14 212(a)(9)(C)(ii) of the Immigration and Nationality
15 Act.”

16 (3) in subsection (a), by striking redesignated
17 paragraph (3), and inserting in its place—

18 “(3) RELATIONSHIP OF APPLICATION TO CER-
19 TAIN ORDERS.—An alien present in the United
20 States who has been ordered excluded, deported, or
21 removed, or ordered to depart voluntarily from the
22 United States under any provision of the Immigra-
23 tion and Nationality Act may, notwithstanding such
24 order, apply for adjustment of status under para-
25 graph (1). Such an alien may not be required, as a

1 condition of submitting or granting such application,
2 to file a separate motion to reopen, reconsider, or
3 vacate such order. Such an alien may be required to
4 seek a stay of such an order in accordance with sub-
5 section (e) to prevent the execution of that order
6 pending the adjudication of the application for ad-
7 justment of status. If the Attorney General denies a
8 stay of a final order of exclusion, deportation, or re-
9 moval, or if the Attorney General renders a final ad-
10 ministrative determination to deny the application
11 for adjustment of status, the order shall be effective
12 and enforceable to the same extent as if the applica-
13 tion had not been made. If the Attorney General
14 grants the application for adjustment of status, the
15 Attorney General shall cancel the order.”;

16 (4) in paragraph (b)(1), by adding at the end
17 the following—“However, subsection (a) shall not
18 apply to an alien lawfully admitted for permanent
19 residence, unless he or she is applying for such relief
20 in deportation or removal proceedings.”;

21 (5) in paragraph (c)(1), by adding at the end
22 the following—“Nothing in this Act shall require the
23 Attorney General to stay the removal of an alien
24 who is ineligible for adjustment of status under this
25 Act.”;

1 (6) in subsection (d)—

2 (A) by revising the subsection heading to
3 read “SPOUSES, CHILDREN, AND UNMARRIED
4 SONS AND DAUGHTERS.—”;

5 (B) in paragraph (1), by revising the hear-
6 ing to read “ADJUSTMENT OF STATUS.—”;

7 (C) by striking subparagraph (1)(A), and
8 replacing it with the following—

9 “(A) the alien entered the United
10 States on or before the date of enactment
11 of the Information Technology Skills Im-
12 provement Act of 2000;”;

13 (D) in subparagraph (1)(B), by inserting
14 the following after “except that”—“: (i) in the
15 case of such a spouse, stepchild, or unmarried
16 stepson or stepdaughter, the qualifying mar-
17 riage was entered into before the date of enact-
18 ment of the Information Technology Skills Im-
19 provement Act of 2000; and (ii)”;

20 (E) by creating a new paragraph (3) to
21 read as follows—

22 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
23 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

24 “(A) In accordance with regulations to be
25 promulgated by the attorney General and the

1 Secretary of State, upon approval of an applica-
2 tion for adjustment of status to that of an alien
3 lawfully admitted for permanent residence
4 under subsection (a), an alien who is the spouse
5 or child of the alien being granted such status
6 may be issued a visa for admission to the
7 United States as an immigrant following to join
8 the principal applicant, provided that the
9 spouse or child:

10 “(i) meets the requirements in sub-
11 paragraphs (1) (B) and (D); and

12 “(ii) applies for such a visa within a
13 time period to be established by regulation.

14 “(B) The Secretary of State may retain
15 fees to recover the cost of immigrant visa appli-
16 cation processing and issuance for certain
17 spouses and children of aliens whose applica-
18 tions for adjustment of status under subsection
19 (a) have been approved, provided that such
20 fees:

21 “(i) shall be deposited as an offsetting
22 collection to any Department of State ap-
23 propriation to recover the cost of such
24 processing and issuance; and

1 “(ii) shall be available until expended
2 for the same purposes of such appropria-
3 tion to support consular activities.”;

4 (7) in subsection (g), by inserting after “for
5 permanent residence” the following—“or an immi-
6 grant classification”; and

7 (8) by adding at the end the following
8 subsection—

9 “(i) ADMISSIONS.—Nothing in this
10 section shall be construed as authorizing
11 an alien to apply for admission to, be ad-
12 mitted to, be paroled into, or otherwise
13 lawfully return to the United States, to
14 apply for or to pursue an application for
15 adjustment of status under this section
16 without the express authorization of the
17 Attorney General.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsections (a)(3), (a)(4), and (a)(8) shall be effective as
20 if included in the enactment of the Nicaraguan and Cen-
21 tral American Relief Act. The amendments made by sub-
22 sections (a)(1), (a)(2), (a)(5), (a)(6), and (a)(7) shall ef-
23 fective as of the date of enactment of this Act.

1 **SEC. 505. TECHNICAL AMENDMENTS TO THE HAITIAN IMMI-**
2 **GRATION FAIRNESS ACT OF 1998.**

3 (a) Section 902 of the Haitian Refugee Immigration
4 Fairness Act of 1998 is amended—

5 (1) in subparagraph (a)(1)(B), by adding after
6 the word “apply”—“and the Attorney General may,
7 in her unreviewable discretion, waive the grounds of
8 inadmissibility specified in clause 212(a)(1)(A)(i)
9 and paragraph 212(a)(6)(C) of the Immigration and
10 Nationality Act for humanitarian purposes, to as-
11 sure family unity, or when it is otherwise in the pub-
12 lic interest”;

13 (2) in subsection (a), by redesignating para-
14 graph (2) as paragraph (3), and adding the fol-
15 lowing as paragraph (2)—

16 “(2) INAPPLICABILITY OF CERTAIN PROVI-
17 SIONS.—In determining the eligibility of an alien de-
18 scribed in subsections (b) or (d) for either adjust-
19 ment of status under this section or other relief nec-
20 essary to establish eligibility for such adjustment, or
21 for permission to reapply for admission to the
22 United States for the purpose of adjustment of sta-
23 tus under this section, the provisions of section
24 241(a)(5) of the Immigration and Nationality Act
25 shall not apply. In addition, an alien who would oth-
26 erwise be inadmissible pursuant to sections

1 212(a)(9)(A) or (C) of the Immigration and Nation-
2 ality Act may apply for the Attorney General’s con-
3 sent to reapply for admission without regard to the
4 requirement that the consent be granted prior to the
5 date of the alien’s reembarkation at a place outside
6 the United States or attempt to be admitted from
7 foreign contiguous territory, in order to qualify for
8 the exception to those grounds of inadmissibility set
9 forth in sections 212(a)(9)(A)(iii) and
10 212(a)(9)(C)(ii) of the Immigration and Nationality
11 Act.”;

12 (3) in subsection (a), by striking redesignated
13 paragraph (3), and inserting in its place—

14 “(3) RELATIONSHIP OF APPLICATION TO CER-
15 TAIN ORDERS.—An alien present in the United
16 States who has been ordered excluded, deported, or
17 removed, or ordered to depart voluntarily from the
18 United States under any provision of the Immigra-
19 tion and Nationality Act may, notwithstanding such
20 order, apply for adjustment of status under para-
21 graph (1). Such an alien may not be required, as a
22 condition of submitting or granting such application,
23 to file a separate motion to reopen, reconsider, or
24 vacate such order. Such an alien may be required to
25 seek a stay of such an order in accordance with sub-

1 section (c) to prevent the execution of that order
2 pending the adjudication of the application for ad-
3 justment of status. If the Attorney General denies a
4 stay of a final order of exclusion, deportation, or re-
5 moval, or if the Attorney General renders a final ad-
6 ministrative determination to deny the application
7 for adjustment of status, the order shall be effective
8 and enforceable to the same extent as if the applica-
9 tion had not been made. If the Attorney General
10 grants the application for adjustment of status, the
11 Attorney General shall cancel the order.”;

12 (4) in paragraph (b)(1), by adding at the end
13 the following—“However, subsection (a) shall not
14 apply to an alien lawfully admitted for permanent
15 residence, unless he or she is applying for such relief
16 in deportation or removal proceedings.”;

17 (5) in paragraph (c)(1), by adding at the end
18 the following—“Nothing in this Act shall require the
19 Attorney General to stay the removal of an alien
20 who is ineligible for adjustment of status under this
21 Act.”;

22 (6) in subsection (d)—

23 (A) by revising the subsection heading to
24 read “SPOUSES, CHILDREN, AND UNMARRIED
25 SONS AND DAUGHTERS.—”;

1 (B) in paragraph (1), by revising the head-
2 ing to read “ADJUSTMENT OF STATUS.—”;

3 (C) by striking subparagraph (1)(A), and
4 replacing it with the following—

5 “(A) the alien entered the United States
6 on or before the date of enactment of the Infor-
7 mation Technology Skills Improvement Act of
8 2000;”;

9 (D) in subparagraph (1)(B), by inserting
10 the following after “except that”—“: (i) in the
11 case of such a spouse, stepchild, or unmarried
12 stepson or stepdaughter, the qualifying mar-
13 riage was entered into before the date of enact-
14 ment of the Information Technology Skills Im-
15 provement Act of 2000; and (ii)”;

16 (E) in paragraph (1), by creating a new
17 subparagraph (E) as follows—

18 “(E) the alien applies for such adjustment
19 before April 3, 2003.”; and

20 (F) by creating a new paragraph (3) to
21 read as follows—

22 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
23 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

24 (A) In accordance with regulations to be
25 promulgated by the Attorney General and the

1 Secretary of State, upon approval of an applica-
2 tion for adjustment of status to that of an alien
3 lawfully admitted for permanent residence
4 under subsection (a), an alien who is the spouse
5 or child of the alien being granted such status
6 may be issued a visa for admission to the
7 United States as an immigrant following to join
8 the principal applicant, provided that the
9 spouse or child:

10 (i) meets the requirements in subpara-
11 graphs (1) (B) and (D); and

12 (ii) applies for such a visa within a
13 time period to be established by regulation.

14 (B) The Secretary of State may retain fees
15 to recover the cost of immigrant visa applica-
16 tion processing and issuance for certain spouses
17 and children of aliens whose applications for ad-
18 justment of status under subsection (a) have
19 been approved, provided that such fees:

20 (i) shall be deposited as an offsetting
21 collection to any Department of State ap-
22 propriation to recover the cost of such
23 processing and issuance; and

1 (ii) shall be available until expended
2 for the same purposes of such appropria-
3 tion to support consular activities.”;

4 (7) in subsection (g), by inserting after “for
5 permanent residence” the following—“or an immi-
6 grant classification”; and

7 (8) by redesignating subsections (i), (j), and (k)
8 as (j), (k), and (l) respectively, and adding as sub-
9 section (i) the following—

10 “(i) ADMISSIONS.—Nothing in this section shall be
11 construed as authorizing an alien to apply for admission
12 to, be admitted to, be paroled into, or otherwise lawfully
13 return to the United States, to apply for or to pursue an
14 application for adjustment of status under this section
15 without the express authorization of the Attorney Gen-
16 eral.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsections (a)(3), (a)(4), and (a)(8) of this Act shall be
19 effective as if included in the enactment of the Haitian
20 Refugee Immigration Fairness Act of 1998. The amend-
21 ments made by subsections (a)(1), (a)(2), (a)(5), (a)(6),
22 and (a)(7) shall be effective as of the date of enactment
23 of this Act.

1 **SEC. 506. MOTIONS TO REOPEN.**

2 (a) Notwithstanding any time and number limitations
3 imposed by law on motions to reopen, a national of Haiti
4 who, on the date of enactment of this Act, has a final
5 administrative denial of an application for adjustment of
6 status under the Haitian Refugee Immigration Fairness
7 Act of 1988, and is made eligible for adjustment of status
8 under that Act by the amendments made by this title, may
9 file one motion to reopen exclusion, deportation, or re-
10 moval proceedings to have the application considered
11 again. All such motions shall be filed within 180 days of
12 the date of enactment of this Act. The scope of any pro-
13 ceeding reopened on this basis shall be limited to a deter-
14 mination of the alien's eligibility for adjustment of status
15 under the Haitian Refugee Immigration Fairness Act of
16 1988.

17 (b) Notwithstanding any time and number limitations
18 imposed by law on motions to reopen, a national of Cuba
19 or Nicaragua who, on the date of enactment of the Act,
20 has a final administrative denial of an application for ad-
21 justment of status under the Nicaraguan Adjustment and
22 Central American Relief Act, and who is made eligible for
23 adjustment of status under that Act by the amendments
24 made by this title, may file one motion to reopen exclusion,
25 deportation, or removal proceedings to have the applica-
26 tion considered again. All such motions shall be filed with-

1 in 180 days of the date of enactment of this Act. The
2 scope of any proceeding reopened on this basis shall be
3 limited to a determination of the alien's eligibility for ad-
4 justment of status under the Nicaraguan Adjustment and
5 Central American Relief Act.

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