

106TH CONGRESS  
2D SESSION

# H. R. 5625

To amend the Immigration and Nationality Act to establish a pilot program under which an alien may be provided H-1B nonimmigrant status without regard to the numerical limitation applicable to that nonimmigrant category if the United States employer seeking the alien's entry makes a qualifying scholarship contribution to an institution of higher education in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2000

Mr. COX (for himself and Mr. WU) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to establish a pilot program under which an alien may be provided H-1B nonimmigrant status without regard to the numerical limitation applicable to that nonimmigrant category if the United States employer seeking the alien's entry makes a qualifying scholarship contribution to an institution of higher education in the United States.

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

1 **SECTION 1. ESTABLISHMENT OF “TECH SMART” PILOT**  
2 **PROGRAM.**

3 (a) IN GENERAL.—The Immigration and Nationality  
4 Act is amended by inserting after section 218 (8 U.S.C.  
5 1188) the following:

6 “‘TECH SMART’ PILOT PROGRAM

7 “SEC. 218A. (a) ESTABLISHMENT OF PILOT PRO-  
8 GRAM.—The Attorney General shall establish a pilot pro-  
9 gram (in this section referred to as the ‘Tech Smart pilot  
10 program’) under which 65,000 aliens may be issued a visa  
11 or otherwise provided nonimmigrant status under section  
12 101(a)(15)(H)(i)(b) in each of fiscal years 2001 through  
13 2003 without regard to the numerical limitations under  
14 section 214(g)(1)(A).

15 “(b) EMPLOYER REQUEST TO PARTICIPATE.—An  
16 employer may, concurrent with or subsequent to filing a  
17 petition under section 214(c) initially to grant an alien  
18 nonimmigrant status under section 101(a)(15)(H)(i)(b),  
19 file a request for the Attorney General to consider the peti-  
20 tion under the Tech Smart pilot program.

21 “(c) EMPLOYER CONTRIBUTION TO WORKFORCE DE-  
22 VELOPMENT.—

23 “(1) IN GENERAL.—As a condition of approval  
24 of the petition, an employer filing a request to par-  
25 ticipate in the Tech Smart pilot program shall agree  
26 to make an annual scholarship contribution to an in-

1       stitution of higher education in the United States se-  
2       lected by the employer.

3               “(2) ANNUAL CONTRIBUTION.—A scholarship  
4       contribution under paragraph (1) shall be made for  
5       the fiscal year in which the employer receives notice  
6       of approval of the employer’s petition under section  
7       214(c) initially to grant an alien nonimmigrant sta-  
8       tus under section 101(a)(15)(H)(i)(b) and for each  
9       subsequent fiscal year for which the alien who is the  
10      subject of the petition is an H–1B nonimmigrant.  
11      The maximum number of annual scholarship con-  
12      tributions that shall be due with respect to any sin-  
13      gle alien is 6.

14              “(3) AMOUNT.—The amount of the annual  
15      scholarship contribution shall be equal to the max-  
16      imum Pell Grant authorized under subpart 1 of part  
17      A of title IV of the Higher Education Act of 1965  
18      (20 U.S.C 1070a et seq.) for the fiscal year in which  
19      the contribution is due.

20              “(4) INITIAL CONTRIBUTION.—The initial an-  
21      nual scholarship contribution shall be made to the  
22      institution of higher education not later than 15  
23      days after the date on which the employer receives  
24      notice of approval of the employer’s petition under

1 section 214(c) to grant an alien nonimmigrant sta-  
2 tus under section 101(a)(15)(H)(i)(b).

3 “(5) SUBSEQUENT CONTRIBUTIONS.—

4 “(A) IN GENERAL.—Subsequent annual  
5 scholarship contributions shall be made to the  
6 institution of higher education not later than  
7 the anniversary of the deadline described in  
8 paragraph (4).

9 “(B) ASSUMPTION OF OBLIGATION BY  
10 SUBSEQUENT EMPLOYERS.—Any employer peti-  
11 tioning to obtain authorization for the alien to  
12 change employers shall agree, as a condition of  
13 obtaining approval of such petition, to assume  
14 the obligation to make these scholarship con-  
15 tributions until the final contribution has been  
16 received by the institution of higher education,  
17 the obligation has been assumed by another em-  
18 ployer, or the H-1B nonimmigrant status of  
19 the alien terminates, whichever occurs first.

20 “(6) VERIFICATION OF RECEIPT.—Not later  
21 than 15 days after receipt of any scholarship con-  
22 tribution under this section, an institution of higher  
23 education shall certify such receipt to the Attorney  
24 General.

1       “(d) SCHOLARSHIPS TO BUILD A TECH SMART  
2 WORKFORCE.—An institution of higher education shall  
3 use contributions received under the Tech Smart pilot pro-  
4 gram to provide scholarships to United States citizens or  
5 aliens lawfully admitted for permanent residence. Scholar-  
6 ship contributions may be provided to students enrolled  
7 full-time in programs for undergraduate or postgraduate  
8 study at that institution. An employer making a scholar-  
9 ship contribution may specify that the contribution be  
10 dedicated for scholarships for a student or students em-  
11 ployed by the employer, or for students enrolled in a par-  
12 ticular degree program or course of study.

13       “(e) EXPEDITED VISA PROCESSING.—In the case of  
14 an employer filing a request for the Attorney General to  
15 consider a petition to grant an alien nonimmigrant status  
16 under the Tech Smart pilot program, the Attorney Gen-  
17 eral shall approve or deny the petition not later than 30  
18 days after the date of such filing.

19       “(f) ENFORCEMENT OF CONTRIBUTION OBLIGA-  
20 TIONS.—If the Attorney General finds, after notice and  
21 opportunity for a hearing, that an employer has failed  
22 timely to make a scholarship contribution under this sec-  
23 tion that the employer is required to make, the Attorney  
24 General—

1           “(1) may impose a civil monetary penalty of not  
2           more than 3 times the amount of the delinquent  
3           contribution for each such violation;

4           “(2) may issue an administrative order requir-  
5           ing that the contribution be made;

6           “(3) may bar the employer from obtaining ap-  
7           proval of any petition under the Tech Smart pilot  
8           program; and

9           “(4) may terminate the H-1B nonimmigrant  
10          status of the alien with respect to whom the scholar-  
11          ship contribution was required to be made beginning  
12          90 days after the date on which the finding is en-  
13          tered.

14          “(g) NUMERICAL LIMITATION.—The total number of  
15          aliens who may be issued a visa or otherwise provided non-  
16          immigrant status under the Tech Smart pilot program in  
17          any fiscal year may not exceed 65,000. The provision of  
18          nonimmigrant status to any such alien shall not be consid-  
19          ered for purposes of computing the numerical limitations  
20          under section 214(g)(1)(A).

21          “(h) EXPIRATION OF PROGRAM.—

22                 “(1) IN GENERAL.—In fiscal years 2001  
23                 through 2003, the Attorney General may approve  
24                 petitions filed under section 214(c) initially to grant

1 an alien nonimmigrant status under section  
2 101(a)(15)(H)(i)(b) in accordance with this section.

3 “(2) CONTINUING EMPLOYER OBLIGATIONS.—  
4 Paragraph (1) shall not be construed to limit the ob-  
5 ligations of any employer to make scholarship con-  
6 tributions in accordance with this section until the  
7 employer satisfies the requirements imposed under  
8 this section.

9 “(3) EXTENSIONS OF STAY OR CHANGE IN EM-  
10 PLOYMENT.—Paragraph (1) shall not be construed  
11 to limit the authority of the Attorney General in fis-  
12 cal year 2004 and subsequent fiscal years to approve  
13 or deny a petition under section 214(c)—

14 “(A) to extend the stay of an alien initially  
15 granted status as an H-1B nonimmigrant  
16 under this section in accordance with section  
17 214(g)(4); or

18 “(B) to obtain authorization for such an  
19 alien to change employers.

20 “(i) DEFINITIONS.—For purposes of this section:

21 “(1) H-1B NONIMMIGRANT.—The term ‘H-1B  
22 nonimmigrant’ has the meaning given such term in  
23 section 212(n)(4).

24 “(2) INSTITUTION OF HIGHER EDUCATION.—  
25 The term ‘institution of higher education’ has the

1 meaning given such term in section 101(a) of the  
2 Higher Education Act of 1965 (20 U.S.C.  
3 1001(a)).”.

4 (b) CLERICAL AMENDMENT.—The table of contents  
5 of such Act is amended by inserting after the item relating  
6 to section 218 the following new item:

“Sec. 218A. ‘Tech Smart’ pilot program.”.

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