109TH CONGRESS  
1ST SESSION  

H. R. 1587

To match willing United States workers with employers, to increase and fairly apportion H–2B visas, and to ensure that H–2B visas serve their intended purpose.

IN THE HOUSE OF REPRESENTATIVES  

APRIL 13, 2005  

Mr. TANCREDO (for himself, Mr. JONES of North Carolina, Mr. COBLE, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To match willing United States workers with employers, to increase and fairly apportion H–2B visas, and to ensure that H–2B visas serve their intended purpose.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. MATCHING WILLING UNITED STATES WORKERS WITH EMPLOYERS.

(a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesignating the subsection (t) added by section 1(b)(2) of Public Law 108–449 (118 Stat. 3470) as subsection (u); and
(2) by adding at the end the following:

“(v)(1) No alien may be admitted or provided status as a nonimmigrant under section 101(a)(15)(H)(ii)(b) unless the employer, in addition to meeting all other requirements specified in this Act, has filed with the Secretary of Homeland Security and the Secretary of Labor the following:

“(A) A signed attestation stating that the employer, prior to filing the attestation, advertised each position for which the employer seeks such a nonimmigrant on the Internet-based job database provided jointly by the Department of Labor and State employment security agencies and known as ‘America’s Job Bank’ for at least 14 consecutive days.

“(B) Documentation from the employer’s account on such database showing the number of jobs posted by the employer and the number of resumes the employer received in response to each job posting.

“(2)(A) The Secretary of Labor, in consultation with the Secretary of Homeland Security, shall establish procedures to verify the accuracy and veracity of the documentation required under paragraph (1)(B).

“(B) An employer found to have submitted false or inaccurate documentation shall be ineligible to file a peti-
tion under section 214(c)(1) with respect to any non-
immigrant under section 101(a)(15)(H)(ii)(b)—

“(i) for a period of 3 years in the case of a first
violation; and

“(ii) for a period of 10 years in the case of a
second or subsequent violation.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect 180 days after the date
of the enactment of this Act.

SEC. 2. MATCHING NONIMMIGRANT WORKERS WITH EM-
PLOYERS.

(a) IN GENERAL.—Section 214(g)(1) of the Immi-
gration and Nationality Act (8 U.S.C. 1184(g)(1)(B)) is
amended to read as follows:

“(B) under section 101(a)(15)(H)(ii)(b) may
not exceed 131,000, of which not more than 65,500
aliens shall be issued visas or otherwise provided
nonimmigrant status during the first 6 months of
such fiscal year.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the first day of the first
fiscal year beginning after the date of the enactment of
this Act.
SEC. 3. ENSURING THAT H-2B WORKERS RETURN HOME.

(a) DISCOURAGING COMMUNITY TIES.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended, in the matter following clause (iii), by striking “this paragraph if accompanying” and inserting “this subparagraph, except any alien described in section 101(a)(15)(H)(ii)(b), if accompanying”.

(b) ESTABLISHING REALISTIC EXPECTATIONS.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended—

(1) by striking “(b)” and inserting “(b)(1)”;

and

(2) by adding at the end the following:

“(2) In order to overcome the presumption described in paragraph (1), an alien seeking the nonimmigrant status described in section 101(a)(15)(H)(ii)(b), at the time of application for a nonimmigrant visa, shall be required to execute as a contract an affidavit—

“(A) stating that the alien understands the terms of such nonimmigrant status, including the prohibition on accompanying family members and the requirement that the alien depart the United States before the alien’s period of authorized stay expires;

“(B) stating that the alien agrees—
“(i) to depart the United States in full compliance with the requirements of the entry and exit data system (as defined in section 7208(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(b))), once such requirements are implemented at the port of departure from which the alien intends to departs; and

“(ii) to appear in person before an immigration inspector immediately prior to departure from the United States so that the inspector can record the alien’s departure until such time as such requirements are implemented; and

“(C) affirming that the alien understands that the alien will be permanently ineligible for any immigrant or nonimmigrant visa should the alien fail to depart the United States in the manner described in subparagraph (B).

“(3) At each port of departure where the exit procedures of the system referred to in paragraph (2)(B)(i) have not been implemented or are not functional at all times the port is open, the Secretary of Homeland Security shall designate at least one inspector during each shift
SEC. 4. MANDATORY PARTICIPATION IN BASIC PILOT PROGRAM.

Section 402(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

“(3) EMPLOYERS OF H–2B NONIMMIGRANTS.—Beginning January 1, 2006, any employer who employs one or more aliens described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) shall participate in, and comply with the terms of, the basic pilot program described in section 403(a) with respect to all hiring, recruitment, or referral conducted by the employer. In addition to the consequences described in paragraph (4), failure to comply with the preceding sentence shall result in permanent revocation by the Secretary of Homeland Security of the authority of the employer to employ aliens described in such section 101(a)(15)(H)(ii)(b).”.
SEC. 5. OFFSETS FOR THE INCREASE IN H-2B CAP.

(a) Elimination of Diversity Immigrant Program.—

(1) Worldwide level of diversity immigrants.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(A) in subsection (a)—

(i) by inserting “and” at the end of paragraph (1);

(ii) by striking “; and” at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3); and

(B) by striking subsection (e).

(2) Allocation of diversity immigrant visas.—Section 203 of such Act (8 U.S.C. 1153) is amended—

(A) by striking subsection (c);

(B) in subsection (d), by striking “(a), (b), or (c),” and inserting “(a) or (b),”;

(C) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(D) in subsection (f), by striking “(a), (b), or (c)” and inserting “(a) or (b)”; and

(E) in subsection (g), by striking “(a), (b), and (c)” and inserting “(a) and (b)”.

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(3) **Procedure for Granting Immigrant Status.**—Section 204 of such Act (8 U.S.C. 1154) is amended—

(A) by striking subsection (a)(1)(I); and

(B) in subsection (e), by striking “(a), (b), or (c)” and inserting “(a) or (b)”.

(b) **Elimination of “Other Workers” Classification.**—

(1) **Worldwide Level of Employment-Based Immigrants.**—Section 201(d)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(d)(1) (A)) is amended by striking “140,000,” and inserting “130,000,”.

(2) **Preference Allocation for Employment-Based Immigrants.**—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(A) in paragraph (1), by striking “28.6” and inserting “30.8”;

(B) in paragraph (2), by striking “28.6” and inserting “30.8”;

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking “28.6” and inserting “23.1”; and
(II) by striking clause (iii);
(ii) by striking subparagraph (B); and
(iii) by redesignating subparagraph (C) as subparagraph (B);
(D) in paragraph (4), by striking “7.1” and inserting “7.65”; and
(E) in paragraph (5), by striking “7.1” and inserting “7.65”.

(e) Modifications to “NACARA” Temporary Reductions.—Section 203 of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1101 note) is amended—

(1) by amending the subsection heading of subsection (d) to read as follows: “Temporary Reduction in Visas for Brothers and Sisters of Citizens.—”;
(2) in paragraph (1) of subsection (d), by striking “section 201(e)” and all that follows through the period and inserting “section 203(a)(4) of the Immigration and Nationality Act shall be reduced by 10,000 from the number of visas otherwise available under such section for such fiscal year.”;
(3) by striking subsection (e); and
(4) by redesignating subsection (f) as subsection (e).
(d) Effective Date.—The amendments made by this section shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.