

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.

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. MATCHING WILLING UNITED STATES WORKERS**
4 **WITH EMPLOYERS.**

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

7 (1) by redesignating the subsection (t) added by
8 section 1(b)(2) of Public Law 108–449 (118 Stat.
9 3470) as subsection (u); and

1 (2) by adding at the end the following:

2 “(v)(1) No alien may be admitted or provided status
3 as a nonimmigrant under section 101(a)(15)(H)(ii)(b) un-
4 less the employer, in addition to meeting all other require-
5 ments specified in this Act, has filed with the Secretary
6 of Homeland Security and the Secretary of Labor the fol-
7 lowing:

8 “(A) A signed attestation stating that the em-
9 ployer, prior to filing the attestation, advertised each
10 position for which the employer seeks such a non-
11 immigrant on the Internet-based job database pro-
12 vided jointly by the Department of Labor and State
13 employment security agencies and known as ‘Amer-
14 ica’s Job Bank’ for at least 14 consecutive days.

15 “(B) Documentation from the employer’s ac-
16 count on such database showing the number of jobs
17 posted by the employer and the number of resumes
18 the employer received in response to each job post-
19 ing.

20 “(2)(A) The Secretary of Labor, in consultation with
21 the Secretary of Homeland Security, shall establish proce-
22 dures to verify the accuracy and veracity of the docu-
23 mentation required under paragraph (1)(B).

24 “(B) An employer found to have submitted false or
25 inaccurate documentation shall be ineligible to file a peti-

1 tion under section 214(c)(1) with respect to any non-
 2 immigrant under section 101(a)(15)(H)(ii)(b)—

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

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

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

10 **SEC. 2. MATCHING NONIMMIGRANT WORKERS WITH EM-**
 11 **LOYERS.**

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

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

20 (b) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) shall take effect on the first day of the first
 22 fiscal year beginning after the date of the enactment of
 23 this Act.

1 **SEC. 3. ENSURING THAT H-2B WORKERS RETURN HOME.**

2 (a) DISCOURAGING COMMUNITY TIES.—Section
3 101(a)(15)(H) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(15)(H)) is amended, in the matter fol-
5 lowing clause (iii), by striking “this paragraph if accom-
6 panying” and inserting “this subparagraph, except any
7 alien described in section 101(a)(15)(H)(ii)(b), if accom-
8 panying”.

9 (b) ESTABLISHING REALISTIC EXPECTATIONS.—Sec-
10 tion 214(b) of the Immigration and Nationality Act (8
11 U.S.C. 1184(b)) is amended—

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

13 and

14 (2) by adding at the end the following:

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

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

26 “(B) stating that the alien agrees—

1 “(i) to depart the United States in full
2 compliance with the requirements of the entry
3 and exit data system (as defined in section
4 7208(b) of the Intelligence Reform and Ter-
5 rorism Prevention Act of 2004 (8 U.S.C.
6 1365b(b))), once such requirements are imple-
7 mented at the port of departure from which the
8 alien intends to depart; and

9 “(ii) to appear in person before an immi-
10 gration inspector immediately prior to depar-
11 ture from the United States so that the inspec-
12 tor can record the alien’s departure until such
13 time as such requirements are implemented;
14 and

15 “(C) affirming that the alien understands that
16 the alien will be permanently ineligible for any immi-
17 grant or nonimmigrant visa should the alien fail to
18 depart the United States in the manner described in
19 subparagraph (B).

20 “(3) At each port of departure where the exit proce-
21 dures of the system referred to in paragraph (2)(B)(i)
22 have not been implemented or are not functional at all
23 times the port is open, the Secretary of Homeland Secu-
24 rity shall designate at least one inspector during each shift

1 to record the departure of nonimmigrants described in sec-
2 tion 101(a)(15)(H)(ii)(b).”.

3 **SEC. 4. MANDATORY PARTICIPATION IN BASIC PILOT PRO-**
4 **GRAM.**

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

8 (1) by redesignating paragraph (3) as para-
9 graph (4); and

10 (2) by inserting after paragraph (2) the fol-
11 lowing:

12 “(3) EMPLOYERS OF H-2B NONIMMIGRANTS.—
13 Beginning January 1, 2006, any employer who em-
14 ploys one or more aliens described in section
15 101(a)(15)(H)(ii)(b) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) shall par-
17 ticipate in, and comply with the terms of, the basic
18 pilot program described in section 403(a) with re-
19 spect to all hiring, recruitment, or referral conducted
20 by the employer. In addition to the consequences de-
21 scribed in paragraph (4), failure to comply with the
22 preceding sentence shall result in permanent revoca-
23 tion by the Secretary of Homeland Security of the
24 authority of the employer to employ aliens described
25 in such section 101(a)(15)(H)(ii)(b).”.

1 **SEC. 5. OFFSETS FOR THE INCREASE IN H-2B CAP.**

2 (a) ELIMINATION OF DIVERSITY IMMIGRANT PRO-
3 GRAM.—

4 (1) WORLDWIDE LEVEL OF DIVERSITY IMMI-
5 GRANTS.—Section 201 of the Immigration and Na-
6 tionality Act (8 U.S.C. 1151) is amended—

7 (A) in subsection (a)—

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

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

12 (iii) by striking paragraph (3); and

13 (B) by striking subsection (e).

14 (2) ALLOCATION OF DIVERSITY IMMIGRANT
15 VISAS.—Section 203 of such Act (8 U.S.C. 1153) is
16 amended—

17 (A) by striking subsection (c);

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

20 (C) in subsection (e), by striking para-
21 graph (2) and redesignating paragraph (3) as
22 paragraph (2);

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

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

1 (3) PROCEDURE FOR GRANTING IMMIGRANT
2 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
3 is amended—

4 (A) by striking subsection (a)(1)(I); and
5 (B) in subsection (e), by striking “(a), (b),
6 or (c)” and inserting “(a) or (b)”.

7 (b) ELIMINATION OF “OTHER WORKERS” CLASSI-
8 FICATION.—

9 (1) WORLDWIDE LEVEL OF EMPLOYMENT-
10 BASED IMMIGRANTS.—Section 201(d)(1)(A) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1151(d)(1) (A)) is amended by striking “140,000,”
13 and inserting “130,000,”.

14 (2) PREFERENCE ALLOCATION FOR EMPLOY-
15 MENT-BASED IMMIGRANTS.—Section 203(b) of the
16 Immigration and Nationality Act (8 U.S.C. 1153(b))
17 is amended—

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

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

22 (C) in paragraph (3)—

23 (i) in subparagraph (A)—

24 (I) by striking “28.6” and insert-
25 ing “23.1”; and

- 1 (II) by striking clause (iii);
2 (ii) by striking subparagraph (B); and
3 (iii) by redesignating subparagraph
4 (C) as subparagraph (B);
5 (D) in paragraph (4), by striking “7.1”
6 and inserting “7.65”; and
7 (E) in paragraph (5), by striking “7.1”
8 and inserting “7.65”.

9 (c) MODIFICATIONS TO “NACARA” TEMPORARY RE-
10 Ductions.—Section 203 of the Nicaraguan Adjustment
11 and Central American Relief Act (8 U.S.C. 1101 note)
12 is amended—

13 (1) by amending the subsection heading of sub-
14 section (d) to read as follows: “TEMPORARY REDUC-
15 TION IN VISAS FOR BROTHERS AND SISTERS OF
16 CITIZENS.—”;

17 (2) in paragraph (1) of subsection (d), by strik-
18 ing “section 201(e)” and all that follows through the
19 period and inserting “section 203(a)(4) of the Immi-
20 gration and Nationality Act shall be reduced by
21 10,000 from the number of visas otherwise available
22 under such section for such fiscal year.”;

23 (3) by striking subsection (e); and

24 (4) by redesignating subsection (f) as sub-
25 section (e).

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the first day of the first
3 fiscal year that begins after the date of the enactment of
4 this Act.

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