## 108TH CONGRESS 1ST SESSION

## H. R. 2702

To amend the Immigration and Nationality Act with respect to the admission of L-1 intra-company transferee nonimmigrants.

## IN THE HOUSE OF REPRESENTATIVES

July 10, 2003

Ms. Delauro (for herself, Mr. Shays, Mr. George Miller of California, Mr. Tierney, Mr. McGovern, Mr. Sanders, Mr. Owens, Mr. Frank of Massachusetts, and Mr. Green of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

To amend the Immigration and Nationality Act with respect to the admission of L-1 intra-company transferee nonimmigrants.

- 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.
- 4 This Act may be cited as the "L-1 Nonimmigrant
- 5 Reform Act".
- 6 SEC. 2. REVISION OF L-1 NONIMMIGRANT PROGRAM.
- 7 (a) In General.—Section 214 of the Immigration
- 8 and Nationality Act (8 U.S.C. 1184) is amended—

1	(1) by redesignating the second subsection (p)
2	as subsection (s); and
3	(2) by adding at the end the following new sub-
4	section:
5	"(t)(1) No alien may be admitted or provided status
6	as an L-1 nonimmigrant in an occupational classification
7	unless the employer has filed with the Secretary of Labor
8	an application stating the following:
9	"(A) The employer—
10	"(i) is offering and will offer during the
11	period of authorized employment to aliens ad-
12	mitted or provided status as an L-1 non-
13	immigrant wages that are at least—
14	"(I) the locally determined prevailing
15	wage level for the occupational classifica-
16	tion in the area of employment,
17	"(II) the median average wage for all
18	workers in the occupational classification
19	in the area of employment,
20	"(III) the median wage for skill level
21	two in the occupational classification found
22	in the most recent Occupation Employ-
23	ment Statistics survey,

1	whichever is greatest, based on the best infor-
2	mation available as of the time of filing the ap-
3	plication, and
4	"(ii) will provide working conditions for
5	such a nonimmigrant that will not adversely af-
6	fect the working conditions of workers similarly
7	employed.
8	The wage determination methodology used under
9	clause (i) shall be submitted with the application.
10	"(B) There is not a strike or lockout in the
11	course of a labor dispute in the occupational classi-
12	fication at the place of employment.
13	"(C) The employer, at the time of filing the ap-
14	plication—
15	"(i) has provided notice of the filing under
16	this paragraph to the bargaining representative
17	(if any) of the employer's employees in the oc-
18	cupational classification and area for which
19	aliens are sought, or
20	"(ii) if there is no such bargaining rep-
21	resentative, has provided notice of filing in the
22	occupational classification through such meth-
23	ods as physical posting in conspicuous locations
24	at the place of employment or electronic notifi-

cation to employees in the occupational classi-

25

- 1 fication for which L-1 nonimmigrants are 2 sought.
- "(D) The application shall contain a specifica-3 4 tion of the occupational classification in which the 5 worker will be employed and wage rate and condi-6 tions under which the worker will be employed.
- 7 "(E) The employer did not displace and will not 8 displace a United States worker (as defined in para-9 graph (4)) employed by the employer within the pe-10 riod beginning 180 days before and ending 180 days after the date of filing of any visa petition supported 12 by the application.
- 13 "(F) The employer may not out-source, lease, 14 or otherwise contract for the placement of a worker 15 with another firm.
- The employer shall make available for public examination, 16
- within one working day after the date on which an applica-17
- tion under this paragraph is filed, at the employer's prin-18
- 19 cipal place of business or worksite, a copy of each such
- 20 application (and such accompanying documents as are
- 21 necessary). The Secretary shall compile, on a current
- basis, a list (by employer and by occupational classifica-
- 23 tion) of the applications filed under this subsection. Such
- list shall include the wage rate, number of aliens sought,
- their country of origin, period of intended employment,

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- 1 and date of need. The Secretary shall make such list avail-
- 2 able for public examination in Washington, D.C.
- 3 "(2)(A) Subject to paragraph (5)(A), the Secretary
- 4 shall establish a process for the receipt, investigation, and
- 5 disposition of complaints respecting a petitioner's failure
- 6 to meet a condition specified in an application submitted
- 7 under paragraph (1) or a petitioner's misrepresentation
- 8 of material facts in such an application. Complaints may
- 9 be filed by any aggrieved person or organization (including
- 10 bargaining representatives). No investigation or hearing
- 11 shall be conducted on a complaint concerning such a fail-
- 12 ure or misrepresentation unless the complaint was filed
- 13 not later than 12 months after the date of the failure or
- 14 misrepresentation, respectively. The Secretary shall con-
- 15 duct an investigation under this paragraph if there is rea-
- 16 sonable cause to believe that such a failure or misrepresen-
- 17 tation has occurred. In addition, the Secretary may con-
- 18 duct surveys of the level of compliance by employers with
- 19 the provisions and requirements of this subsection and
- 20 may conduct annual compliance audits in the case of em-
- 21 ployers that employ L-1 nonimmigrants.
- 22 "(B) Under such process, the Secretary shall provide,
- 23 within 30 days after the date such a complaint is filed,
- 24 for a determination as to whether or not a reasonable
- 25 basis exists to make a finding described in subparagraph

- 1 (C). If the Secretary determines that such a reasonable
- 2 basis exists, the Secretary shall provide for notice of such
- 3 determination to the interested parties and an opportunity
- 4 for a hearing on the complaint, in accordance with section
- 5 556 of title 5, United States Code, within 60 days after
- 6 the date of the determination. If such a hearing is re-
- 7 quested, the Secretary shall make a finding concerning the
- 8 matter by not later than 60 days after the date of the
- 9 hearing. In the case of similar complaints respecting the
- 10 same applicant, the Secretary may consolidate the hear-
- 11 ings under this subparagraph on such complaints.
- 12 "(C)(i) If the Secretary finds, after notice and oppor-
- 13 tunity for a hearing, a failure to meet a condition of para-
- 14 graph (1)(B), (1)(E), or (1)(F), a substantial failure to
- 15 meet a condition of paragraph (1)(C), (1)(D), or
- 16 (1)(G)(i)(I), or a misrepresentation of material fact in an
- 17 application—
- 18 "(I) the Secretary shall notify the Secretary of
- 19 Homeland Security of such finding and may, in ad-
- 20 dition, impose such other administrative remedies
- 21 (including civil monetary penalties in an amount not
- to exceed \$1,000 per violation) as the Secretary de-
- 23 termines to be appropriate; and
- 24 "(II) the Secretary of Homeland Security shall
- 25 not approve petitions filed with respect to that em-

- 1 ployer under section 204 or 214(c) during a period
- 2 of at least 1 year for aliens to be employed by the
- 3 employer.
- 4 "(ii) If the Secretary finds, after notice and oppor-
- 5 tunity for a hearing, a willful failure to meet a condition
- 6 of paragraph (1), a willful misrepresentation of material
- 7 fact in an application, or a violation of clause (iv)—
- 8 "(I) the Secretary shall notify the Secretary of
- 9 Homeland Security of such finding and may, in ad-
- dition, impose such other administrative remedies
- 11 (including civil monetary penalties in an amount not
- to exceed \$5,000 per violation) as the Secretary de-
- termines to be appropriate; and
- "(II) the Secretary of Homeland Security shall
- not approve petitions filed with respect to that em-
- ployer under section 204 or 214(c) during a period
- of at least 2 years for aliens to be employed by the
- 18 employer.
- 19 "(iii) If the Secretary finds, after notice and oppor-
- 20 tunity for a hearing, a willful failure to meet a condition
- 21 of paragraph (1) or a willful misrepresentation of material
- 22 fact in an application, in the course of which failure or
- 23 misrepresentation the employer displaced a United States
- 24 worker employed by the employer within the period begin-
- 25 ning 180 days before and ending 180 days after the date

- 1 of filing of any visa petition supported by the applica-
- 2 tion—
- 3 "(I) the Secretary shall notify the Secretary of
- 4 Homeland Security of such finding and may, in ad-
- 5 dition, impose such other administrative remedies
- 6 (including civil monetary penalties in an amount not
- 7 to exceed \$35,000 per violation) as the Secretary de-
- 8 termines to be appropriate; and
- 9 "(II) the Secretary of Homeland Security shall
- 10 not approve petitions filed with respect to that em-
- 11 ployer under section 204 or 214(c) during a period
- of at least 3 years for aliens to be employed by the
- employer.
- 14 "(iv) It is a violation of this clause for an employer
- 15 who has filed an application under this subsection to in-
- 16 timidate, threaten, restrain, coerce, blacklist, discharge, or
- 17 in any other manner discriminate against an employee
- 18 (which term, for purposes of this clause, includes a former
- 19 employee and an applicant for employment) because the
- 20 employee has disclosed information to the employer, or to
- 21 any other person, that the employee reasonably believes
- 22 evidences a violation of this subsection, or any rule or reg-
- 23 ulation pertaining to this subsection, or because the em-
- 24 ployee cooperates or seeks to cooperate in an investigation
- 25 or other proceeding concerning the employer's compliance

- 1 with the requirements of this subsection or any rule or
- 2 regulation pertaining to this subsection.
- 3 "(v) The Secretary of Labor and the Secretary of
- 4 Homeland Security shall devise a process under which an
- 5 L-1 nonimmigrant who files a complaint regarding a vio-
- 6 lation of clause (iv) and is otherwise eligible to remain and
- 7 work in the United States may be allowed to seek other
- 8 appropriate employment in the United States for a period
- 9 not to exceed the maximum period of stay authorized for
- 10 such nonimmigrant classification.
- 11 "(vi)(I) It is a violation of this clause for an employer
- 12 who has filed an application under this subsection to re-
- 13 quire an L-1 nonimmigrant to pay a penalty for ceasing
- 14 employment with the employer prior to a date agreed to
- 15 by the nonimmigrant and the employer. The Secretary
- 16 shall determine whether a required payment is a penalty
- 17 (and not liquidated damages) pursuant to relevant State
- 18 law.
- 19 "(II) It is a violation of this clause for an employer
- 20 who has filed an application under this subsection to re-
- 21 quire an alien who is the subject of a petition filed under
- 22 section 214(c)(1), for which a fee is imposed under section
- 23 214(c)(9), to reimburse, or otherwise compensate, the em-
- 24 ployer for part or all of the cost of such fee. It is a viola-
- 25 tion of this clause for such an employer otherwise to ac-

- 1 cept such reimbursement or compensation from such an
- 2 alien.
- 3 "(III) If the Secretary finds, after notice and oppor-
- 4 tunity for a hearing, that an employer has committed a
- 5 violation of this clause, the Secretary may impose a civil
- 6 monetary penalty of \$1,000 for each such violation (or
- 7 \$5,000 in the case of a second such violation by an em-
- 8 ployer or \$10,000 for any subsequent such violation by
- 9 the employer) and issue an administrative order requiring
- 10 the return to the nonimmigrant of any amount paid in
- 11 violation of this clause, or, if the nonimmigrant cannot be
- 12 located, requiring payment of any such amount to the gen-
- 13 eral fund of the Treasury.
- 14 "(vii) It is a failure to meet a condition of paragraph
- 15 (1)(A) for an employer, who has filed an application under
- 16 this subsection and who places an L-1 nonimmigrant des-
- 17 ignated as a full-time employee on the petition filed under
- 18 section 214(c)(1) by the employer with respect to the non-
- 19 immigrant, after the nonimmigrant has entered into em-
- 20 ployment with the employer, in nonproductive or part-time
- 21 status due to a decision by the employer (based on factors
- 22 such as lack of work), or due to the nonimmigrant's lack
- 23 of a permit or license, to fail to pay the nonimmigrant
- 24 full-time wages in accordance with paragraph (1)(A) for
- 25 all such nonproductive time.

- 1 "(III) In the case of an L-1 nonimmigrant who has
- 2 not yet entered into employment with an employer who
- 3 has had approved an application under this subsection,
- 4 and a petition under section 214(c)(1), with respect to the
- 5 nonimmigrant, the provisions of subclauses (I) and (II)
- 6 shall apply to the employer beginning 30 days after the
- 7 date the nonimmigrant first is admitted into the United
- 8 States pursuant to the petition, or 60 days after the date
- 9 the nonimmigrant becomes eligible to work for the em-
- 10 ployer (in the case of a nonimmigrant who is present in
- 11 the United States on the date of the approval of the peti-
- 12 tion).
- 13 "(IV) This clause does not apply to a failure to pay
- 14 wages to an L-1 nonimmigrant for nonproductive time
- 15 due to non-work-related factors, such as the voluntary re-
- 16 quest of the nonimmigrant for an absence or cir-
- 17 cumstances rendering the nonimmigrant unable to work.
- 18 "(V) This clause shall not be construed as prohibiting
- 19 an employer that is a school or other educational institu-
- 20 tion from applying to an L-1 nonimmigrant an established
- 21 salary practice of the employer, under which the employer
- 22 pays to L-1 nonimmigrants and United States workers
- 23 in the same occupational classification an annual salary
- 24 in disbursements over fewer than 12 months, if—

- 1 "(aa) the nonimmigrant agrees to the com-
- 2 pressed annual salary payments prior to the com-
- 3 mencement of the employment; and
- 4 "(bb) the application of the salary practice to
- 5 the nonimmigrant does not otherwise cause the non-
- 6 immigrant to violate any condition of the non-
- 7 immigrant's authorization under this Act to remain
- 8 in the United States.
- 9 "(VI) This clause shall not be construed as super-
- 10 seding clause (viii).
- 11 "(viii) It is a failure to meet a condition of paragraph
- 12 (1)(A) for an employer who has filed an application under
- 13 this subsection to fail to offer to an L-1 nonimmigrant,
- 14 during the nonimmigrant's period of authorized employ-
- 15 ment, benefits and eligibility for benefits (including the op-
- 16 portunity to participate in health, life, disability, and other
- 17 insurance plans; the opportunity to participate in retire-
- 18 ment and savings plans; and cash bonuses and noncash
- 19 compensation, such as stock options (whether or not based
- 20 on performance)) on the same basis, and in accordance
- 21 with the same criteria, as the employer offers to United
- 22 States workers.
- 23 "(D)(i) If the Secretary finds, after notice and oppor-
- 24 tunity for a hearing, that an employer has willfully not
- 25 paid wages at the wage level specified under the applica-

- 1 tion and required under paragraph (1), the Secretary shall
- 2 order the employer to provide for payment of such
- 3 amounts of double back pay as may be required to comply
- 4 with the requirements of paragraph (1), whether or not
- 5 a penalty under subparagraph (C) has been imposed.
- 6 "(ii) If the Secretary finds, after notice and oppor-
- 7 tunity for a hearing, that an employer willfully lays off
- 8 a worker in violation of the terms of the application and
- 9 this section, the Secretary shall order the employer to pro-
- 10 vide for payment of such amounts of double back pay for
- 11 the workers so laid off.
- 12 "(E) The Secretary may, on a case-by-case basis,
- 13 subject an employer to random investigations for a period
- 14 of up to 5 years, beginning on the date (on or after the
- 15 date of the enactment of the L-1 Nonimmigrant Reform
- 16 Act) when the employer is found by the Secretary to have
- 17 committed a willful failure to meet a condition of para-
- 18 graph (1) (or has been found under paragraph (5) to have
- 19 committed a willful failure to meet the condition of para-
- 20 graph (1)(F)(i)(II)) or to have made a willful misrepresen-
- 21 tation of material fact in an application. The authority
- 22 of the Secretary under this subparagraph shall not be con-
- 23 strued to be subject to, or limited by, the requirements
- 24 of subparagraph (A).

- 1 "(F)(i) If the Secretary receives specific credible in-
- 2 formation from a source, who is likely to have knowledge
- 3 of an employer's practices or employment conditions, or
- 4 an employer's compliance with the employer's labor condi-
- 5 tion application under paragraph (1), and whose identity
- 6 is known to the Secretary, and such information provides
- 7 reasonable cause to believe that the employer has com-
- 8 mitted a willful failure to meet a condition of paragraph
- 9 (1)(A), (1)(B), (1)(E), or (1)(F)(i)(I), has engaged in a
- 10 pattern or practice of failures to meet such a condition,
- 11 or has committed a substantial failure to meet such a con-
- 12 dition that affects multiple employees, the Secretary may
- 13 conduct a 30-day investigation into the alleged failure or
- 14 failures. The Secretary (or the Acting Secretary in the
- 15 case of the Secretary's absence or disability) shall person-
- 16 ally certify that the requirements for conducting such an
- 17 investigation have been met and shall approve commence-
- 18 ment of the investigation. The Secretary may withhold the
- 19 identity of the source from the employer, and the source's
- 20 identity shall not be subject to disclosure under section
- 21 552 of title 5, United States Code.
- 22 "(ii) The Secretary shall establish a procedure for
- 23 any person, desiring to provide to the Secretary informa-
- 24 tion described in clause (i) that may be used, in whole
- 25 or in part, as the basis for commencement of an investiga-

- 1 tion described in such clause, to provide the information
- 2 in writing on a form developed and provided by the Sec-
- 3 retary and completed by or on behalf of the person.
- 4 "(iii) Any investigation initiated or approved by the
- 5 Secretary under clause (i) shall be based on information
- 6 that satisfies the requirements of such clause.
- 7 "(iv) No investigation described in clause (i) (or hear-
- 8 ing described in clause (vi)) may be conducted with respect
- 9 to information about a failure to meet a condition de-
- 10 scribed in clause (i), unless the Secretary receives the in-
- 11 formation not later than 12 months after the date of the
- 12 alleged failure.
- 13 "(v) The Secretary shall provide notice to an em-
- 14 ployer with respect to whom the Secretary has received
- 15 information described in clause (i), prior to the commence-
- 16 ment of an investigation under such clause, of the receipt
- 17 of the information and of the potential for an investiga-
- 18 tion.
- 19 "(vi) If the Secretary determines under this subpara-
- 20 graph that a reasonable basis exists to make a finding that
- 21 a failure described in clause (i) has occurred, the Secretary
- 22 shall provide for notice of such determination to the inter-
- 23 ested parties and an opportunity for a hearing, in accord-
- 24 ance with section 556 of title 5, United States Code, with-
- 25 in 60 days after the date of the determination. If such

- 1 a hearing is requested, the Secretary shall make a finding
- 2 concerning the matter by not later than 60 days after the
- 3 date of the hearing.
- 4 "(G) The Secretary of Homeland Security and the
- 5 Secretary of Labor shall jointly submit to Congress an an-
- 6 nual report on the use of L-1 workers. Such report shall
- 7 include the following:
- 8 "(i) Information on violations of conditions of
- 9 entry of such workers by their employers, including
- information on complaints of such violations and
- their disposition, the imposition of civil penalties and
- disbarments, back pay awards, and other remedies
- obtained.
- "(ii) Information on the list compiled under
- paragraph (1) on applications under this subsection.
- 16 "(H) Nothing in this subsection shall be construed
- 17 as superseding or preempting any other enforcement-re-
- 18 lated authority under this Act (such as the authorities
- 19 under section 274B), or any other Act.
- 20 "(3) For purposes of this subsection:
- 21 "(A) The term 'area of employment' means the
- area within normal commuting distance of the work-
- site or physical location where the work of the L-
- 1 nonimmigrant is or will be performed. If such
- worksite or location is within a Metropolitan Statis-

tical Area, any place within such area is deemed tobe within the area of employment.

"(B) In the case of an application with respect to one or more L-1 nonimmigrants by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the nonimmigrant or non-immigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

- "(C) The term 'L-1 nonimmigrant' means an alien admitted or provided status as a principal non-immigrant described in section 101(a)(15)(L)(i).
- "(D)(i) The term 'lays off', with respect to a worker—

"(I) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or con-

1	tract (other than a temporary employment con-
2	tract entered into in order to evade a condition
3	described in subparagraph (E) of paragraph
4	(1));
5	"(II) includes a significant change or dimi-
6	nution of duties of employment; but
7	"(III) does not include any situation in
8	which the worker is offered, as an alternative to
9	such loss of employment, a similar employment
10	opportunity with no significant change or dimi-
11	nution of duties with the same employer at
12	equivalent or higher compensation and benefits
13	than the position from which the employee was
14	discharged, regardless of whether or not the
15	employee accepts the offer.
16	"(ii) Nothing in this subparagraph is intended
17	to limit an employee's rights under a collective bar-
18	gaining agreement or other employment contract.
19	"(E) The term 'United States worker' means
20	an employee who—
21	"(i) is a citizen or national of the United
22	States; or
23	"(ii) is an alien who is lawfully admitted
24	for permanent residence, is admitted as a ref-
25	ugee under section 207, is granted asylum

- 1 under section 208, or is an immigrant otherwise
- 2 authorized, by this Act or by the Secretary of
- 3 Homeland Security, to be employed.
- 4 "(4)(A) This paragraph shall apply instead of sub-
- 5 paragraphs (A) through (E) of paragraph (2) in the case
- 6 of a violation described in subparagraph (B), but shall not
- 7 be construed to limit or affect the authority of the Sec-
- 8 retary or the Secretary of Homeland Security with respect
- 9 to any other violation.
- 10 "(B) The Secretary of Homeland Security shall es-
- 11 tablish a process for the receipt, initial review, and disposi-
- 12 tion in accordance with this paragraph of complaints re-
- 13 specting an employer's failure to meet the condition of
- 14 paragraph (1)(F)(i)(II) or a petitioner's misrepresentation
- 15 of material facts with respect to such condition. Com-
- 16 plaints may be filed by an aggrieved individual who has
- 17 submitted a résumé or otherwise applied in a reasonable
- 18 manner for the job that is the subject of the condition.
- 19 No proceeding shall be conducted under this paragraph
- 20 on a complaint concerning such a failure or misrepresenta-
- 21 tion unless the Secretary of Homeland Security deter-
- 22 mines that the complaint was filed not later than 12
- 23 months after the date of the failure or misrepresentation,
- 24 respectively.".

(b) LIABILITY FOR COSTS OF RETURN.—Section 1 214(c)(5)(A) of such Act (8 U.S.C. 1184(c)(5)(A)) is "or 101(a)(15)(L)" 3 amended by inserting after "101(a)(15)(H)(ii)(b)". 5 (c) APPLICATION OF FEE.— 6 (1) Imposition of fee.—Section 214(c)(9) of 7 such Act (8 U.S.C. 1184(c)(9)) is amended by add-8 ing at the end the following new subparagraph: 9 "(D) The previous provisions of this paragraph shall 10 apply to a nonimmigrant status described in section 11 101(a)(15)(L) in the same manner as it applies to a 12 nonimigrant status described in section 101(a)(15)(H)(i), except that fees so collected shall be deposited in the 13 14 Treasury in accordance with section 286(v).". 15 (2) Deposit and use of fees.—Section 286 16 of such Act (8 U.S.C. 1356) is amended— 17 (A) in subsection (s)(1), by inserting 18 "(other than under subparagraph (D) thereof)" 19 after "214(c)(9)"; and 20 (B) by adding at the end the following new 21 subsection: 22 "(v) L-1B Nonimmigrant PETITIONER Ac-23 COUNT.— 24 "(1) IN GENERAL.—There is established in the 25 general fund of the Treasury a separate account,

- 1 which shall be known as the 'L-1 Nonimmigrant Pe-
- 2 titioner Account'. Notwithstanding any other section
- of this title, there shall be deposited as offsetting re-
- 4 ceipts into the account all fees collected under sec-
- 5 tion 214(c)(9)(D).
- 6 "(2) Use of fees for data processing.—30
- 7 percent of amounts deposited into the L-1 Non-
- 8 immigrant Petitioner Account shall remain available
- 9 to the Bureau of Citizenship and Immigration Serv-
- ices in the Department of Homeland Security for
- 11 processing and data collection.
- 12 "(3) Use of fees for labor enforce-
- 13 MENT.—40 percent of amounts deposited into the
- 14 L-1 Nonimmigrant Petitioner Account shall remain
- available to the Secretary of Labor for enforcement
- activities.
- 17 "(4) Use of fees for training and edu-
- 18 CATION OF US WORKERS.—30 percent of amounts
- deposited into the L-1 Nonimmigrant Petitioner Ac-
- count shall remain available to the Secretary of
- 21 Labor for training and education of United States
- workers.".
- 23 (d) Application of annual cap.—Section 214 of
- 24 such Act (8 U.S.C. 1184) is amended by adding at the
- 25 end the following new subsection:

- 1 "(q)(1) The total number of aliens who may be issued
- 2 visas or otherwise provided nonimmigrant status during
- 3 any fiscal year (beginning with fiscal year 2004) under
- 4 section 101(a)(15)(L, may not exceed 35,000.
- 5 "(2) The numerical limitations of paragraph (1) shall
- 6 only apply to principal aliens and not to the spouses or
- 7 children of such aliens.
- 8 "(3) In the case of a nonimmigrant described in sec-
- 9 tion 101(a)(15)(H)(i)(b), the period of authorized admis-
- 10 sion as such a nonimmigrant may not exceed 3 years.
- 11 "(4) The numerical limitations contained in para-
- 12 graph (1)(A) shall not apply to any nonimmigrant alien
- 13 issued a visa or otherwise provided status under section
- 14 101(a)(15)(L) who is employed (or has received an offer
- 15 of employment) at—
- 16 "(A) an institution of higher education (as de-
- fined in section 101(a) of the Higher Education Act
- 18 of 1965 (20 U.S.C. 1001(a))), or a related or affili-
- 19 ated nonprofit entity; or
- 20 "(B) a nonprofit research organization or a
- 21 governmental research organization.".
- 22 (e) Corporate Restructuring.—Section
- 23 214(c)(10) of such Act (8 U.S.C. 1184(c)(10)) is amended
- 24 by inserting "or L-1 petition" after "H-1B petition".

- 1 (f) Striking out Blanket Visas.—Section
- 2 214(c)(2) of such Act (8 U.S.C. 1184(c)(2)) is amended
- 3 by amending subparagraph (A) to read as follows:
- 4 "(2)(A) The Secretary of Homeland Security shall
- 5 not permit the use of blanket petitions to import aliens
- 6 as nonimmigrants under section 101(a)(15)(L).".
- 7 (g) QUALIFICATIONS.—Section 214(c)(2)(B) of such
- 8 Act (8 U.S.C. 1184(c)(2)(B)) is amended by striking the
- 9 period at the end and inserting the following: "and has
- 10 attained a bachelor's or higher degress in the area of spe-
- 11 cial knowledge. For purposes of this subparagraph, the
- 12 term 'bachelor's degree (or higher degree)' includes a for-
- 13 eign degree that is a recognized foreign equivalent of a
- 14 bachelor's degree (or higher degree). In the case of an
- 15 alien obtaining a foreign degree, any determination with
- 16 respect to the equivalence of that degree to a degree ob-
- 17 tained in the United States shall be made by the Secretary
- 18 of State. In carrying out the preceding sentence, the Sec-
- 19 retary of State shall verify the authenticity of any foreign
- 20 educational credential proffered by an alien.".
- 21 (h) Prior Employment Requirement.—Section
- 22 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is
- 23 amended—
- 24 (1) by striking "within 3 years" and inserting
- 25 "during 2 of the past 3 years"; and

1	(2) by striking "has been employed continu-
2	ously for one year by a firm or corporation" and in-
3	serting "has been employed continuously on a full-
4	time basis for 2 years by the firm or corporation".
5	(i) Effective Date.—Except as otherwise pro-
6	vided, the amendments made by this section shall apply
7	to applications for nonimmigrant status filed on or after
8	the first day of the first fiscal year beginning after the
9	date of the enactment of this Act.

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