



**USINPAC  
RESEARCH BRIEF**

**Immigration: H1-B Visas, L-1 Visas & Green Card Processing**

**(April 2011)**

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## Executive Summary

A comprehensive research of legislations relating to legal immigration policies regarding H1-B, L1 and Green Card process in the US Congress over the last five congresses was conducted. It was found that majority of all U.S. congressmen that have sponsored and co-sponsored relevant legislation pertaining to this specific issue have been primarily opposed to shifting the narrative from comprehensive immigration reform- that which is predominantly concerned with the illegal aspect- to one that distinctly deals with H-1B/L-1 visa processing and its often hackneyed application procedures.

## Purpose

This brief seeks to examine the stance of US Congressmen on legal immigration policies regarding the H1-B, L1 and Green Card process. It will seek to interpret from a myriad of congressional sources to determine whether any proposed or passed legislature is favorable to the interests of the Indian-American community and Indo-US relations as a whole.

The methodology adopted in the research was of a qualitative nature- assimilating and analyzing various legislative bills that pertain directly to H1-B/L-1 visas or Green Card processing. Conversely, there have also been quantitative figures (vote breakdowns for example) analyzed and later presented in the conclusion in order to give the reader a tangible idea of congressmen's stances from the empirical data that has been processed thus far.

### **An index of all the bills that were examined during the 107<sup>th</sup>-111<sup>th</sup> congress terms (2001-2010):**

<b>Term</b>	<b>Bills (Senate)</b>	<b>Bills (House)</b>
<i>111<sup>th</sup></i>	S.3932, S.3901, S.3077, S.3029, S.2804, S.577, S.887, S.628, S.9	H.R. 5397, H.R. 246, H.R.1, H.R. 1791, H.R. 4321, H.R. 5658, H.R. 6080, H.R. 847
<i>110<sup>th</sup></i>	S.2839, S.1083, S.1397, S.1035, S.1351, S.31	H.R. 7184, H.R. 5726, H.R. 5630, H.R. 5642, H.R. 2538, H.R. 1758, H.R. 147, H.R. 2504, H.R. 1930

109 <sup>th</sup>	S.2611, S.2691	H.R. 4378, H.R. 3322, H.R. 5744, H.R. 3381
108 <sup>th</sup>	S.1452, S.1635	H.R. 5413, H.R. 2849, H.R. 4166, H.R. 2702
107 <sup>th</sup>	S.1518, S.3051	H.R. 2984, H.R. 2809

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## Review of Senate Bills

\* 111<sup>th</sup> Congress Term \*

\*S.3932 - Comprehensive Immigration Reform Act of 2010

*Introduced 09/29/10, Referred to Committee*

Referencing:

**Chapter 3:** Reforms to Specific Employment-Based Visa Categories

Subchapter A. Reforms to the EB-5 Program

**Section 437:**

Incentives for Physicians to Practice in Medically Underserved Communities: This section states that **medical physicians who practice in medically underserved community are not subject to temporary visa limitations (H-1B caps and 6 year status limitation) if a state agency submits a request for exemption and the Secretary of State recommends that the alien be exempted.** Allows for an increase in numbers for the Conrad 30 program based on high usage.

## **Chapter 5: H-1B and L-1 Visa Reforms**

### **Subchapter A. H-1B Employer Application Requirements**

#### **Section 451:**

Application Requirements:

Modification of application requirements: Subsection (a) amends INA 212(n)(1)(C) to add a requirement that employers who intend to file H-1B visa petitions must first advertise the job opening online for 30 days. The job description must include the wages, terms of employment, minimum requirements, and application process. Additionally, a petitioning employer cannot place an H-1B visa holder at another employer's website unless the worker is primarily supervised by the petitioning employer and the placement is not a labor-for-hire arrangement.

New Application Requirements: Subsection (b) prohibits petitioning employers from recruiting only potential H-1B non-immigrants for job positions. The employer must include on its application that it did not advertise that the position was available only to H-1B non-immigrants or that such immigrants would receive priority. If the employer has 50 or more employees, no more than 50% can be H-1B workers who are not applying for permanent residency. If the employer has more than 1 H-1B worker, it must submit a W-2 for that worker to the IRS.

### **Subchapter C: Other Protections**

#### **Section 453:**

H-1B Government Authority and Requirements:

Immigration Documents: Subsection (a) This amends INA Section 204 to require employers to provide employees and beneficiaries, upon written request, with the original or certified copy of all petitions, notices, and correspondence with the Labor Department, DHS, or any other federal agency related to either an immigrant or nonimmigrant petition for that individual. Additionally, it mandates that the

Comptroller General produce a report on the accuracy and effectiveness of the Labor Secretary's current job classification and wage determination system.

**Section 454:**

H-1B and L-1 Visa Requirements:

This section states that numerical limitations on H-1B visas will not apply to individuals who have been awarded a medical specialty certification based on postdoctoral training and experience in the U.S. It requires that when H-1B and L-1 visa holders are issued their visas, DHS will provide them with a brochure outlining their rights and their employers' obligations under federal law, the contact information for relevant federal agencies, and a copy of the application submitted for them. Also, numerical limits do not apply to nonprofit as opposed to nonprofit research institutions.

**Section 456:**

L-1 Employer Petition Requirements:

Employment at New Offices: If an L-1 nonimmigrant visa holder will be working at a new office, the L-1 petition may be approved for up to 12 months if the alien has not been the beneficiary of 2 or more such petitions in the past 2 years and if the employer has an adequate business plan, sufficient physical premises, and the financial ability to begin business immediately. This section also outlines the requirements for any extension requests and submission of information about the new office's business, staffing, and financial status.

Wage Rate and Working Conditions for L-1 Nonimmigrants: Subsection (d) employers of one or more L-1 visa holders to file a W-2 to the IRS for such employees. Additionally, it prohibits employers from requiring L-1 visa holders to pay a penalty for quitting or from failing to offer L-1 visa holders the same benefits and opportunity for benefits that it offers U.S. workers.

**\*S.3901- Strengthening Our Commitment to Legal Immigration and America's Security Act**

***Introduced 09/29/10, Referred to Committee***

A bill to promote enforcement of immigration laws as well as visa reform.

**\*S.3077- A Bill To Authorize The Secretary of Homeland Security And The Secretary of State To Refuse Or Revoke Visas To Aliens If In The Security Or Foreign Policy Interests Of The United States, To Require The Secretary of Homeland Security To Review Visa Applications Before Adjudication, And To Provide For The Immediate Dissemination Of Visa Revocation Information.**

***Introduced 03/04/10, Referred to Committee***

Amends the Homeland Security Act to grant the Secretary of Homeland Security (DHS) (Secretary), except for the Secretary of State's authority with respect to diplomatic- and international organization-related visas, exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (INA) and all other immigration or nationality laws relating to U.S. consular officer visa functions. **Authorizes the Secretary to refuse or revoke any visa to an alien or class of aliens if necessary or advisable for U.S. security interests. Prohibits judicial review of such determinations. Provides that any such visa revocation shall become effective immediately and cancel any other visa in an alien's possession. Authorizes the Secretary of State to direct a consular officer to refuse or revoke a visa if necessary or advisable for U.S. foreign policy interests. Prohibits a decision by the Secretary of State to approve a visa from overriding a revocation or refusal determination by the Secretary. Directs the Secretary to review on-site all visa applications and supporting documentation before adjudication at visa-issuing posts in** Algeria, Canada, China, Colombia, Egypt, Germany, Hong Kong, **India**, Indonesia, Iraq, Jerusalem and Tel Aviv in Israel, Jordan, Kuala Lumpur in Malaysia, Kuwait, Lebanon, Mexico, Morocco, Nigeria, Pakistan, the Philippines, Saudi Arabia, South Africa, Syria, Turkey, United Arab Emirates, the United Kingdom, Venezuela, and Yemen. Authorizes the Secretary to assign DHS employees to such posts. States that if the Secretary or the Secretary of State revokes a visa:

(1) the relevant consular, law enforcement, and terrorist screening databases shall be immediately updated; and

(2) look-out notices shall be posted to all DHS port inspectors and Department of State consular officers. Amends INA to eliminate the exception permitting judicial review of a visa revocation where such revocation is the sole ground for a deportation process based upon an alien's unlawful presence in the United States.

**\*S.3029- Startup Visa Act of 2010**

*Introduced 02/24/10, Referred to Committee.*

A bill to establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

**\*S.2804- Employ America Act**

*Introduced 11/19/09, Referred to Committee.*

A bill to require employers to certify that they have not and will not lay off a large number of employees before they are allowed to employ foreign workers in the United States.

**\*S.577- Immigration Fraud Prevention Act of 2009**

*Introduced 03/12/09, Referred to Committee.*

A bill to amend title 18 of the United States Code, to provide penalties for individuals who engage in schemes to defraud aliens.

**\*S.887- H-1B and L-1 Visa Reform Act of 2009**

***Introduced 04/23/09, Referred to Committee.***

A bill to amend the Immigration and Nationality Act to reform and reduce fraud and abuse in certain visa programs for aliens working temporarily in the United States.

Referencing:

**TITLE I. H-1B VISA FRAUD AND ABUSE PROTECTIONS**

**Subtitle A. H-1B Employer Application Requirements**

**SEC. 101. MODIFICATION OF APPLICATION REQUIREMENTS**

(a) General Application Requirements- Subparagraph (A) of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended to read as follows:

(A) The employer-

(i) is offering and will offer to H-1B nonimmigrants, during the period of authorized employment for each H-1B nonimmigrant, wages that are determined based on the best information available at the time the application is filed and which are not less than the highest of-

(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

(II) the median average wage for all workers in the occupational classification in the area of employment; and

(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

(ii) will provide working conditions for such H-1B nonimmigrant that will not adversely affect the working conditions of other workers similarly employed.

**SEC. 102. NEW APPLICATION REQUIREMENTS**

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

(H)(i) The employer has not advertised any available position specified in the application in an advertisement that states or indicates that-

(I) such position is only available to an individual who is or will be an H-1B nonimmigrant; or

(II) an individual who is or will be an H-1B nonimmigrant shall receive priority or a preference in the hiring process for such position.

(ii) The employer has not solely recruited individuals who are or who will be H-1B nonimmigrants to fill such position.

(I) If the employer employs 50 or more employees in the United States, the sum of the number of such employees who are H-1B nonimmigrants plus the number of such employees who are nonimmigrants described in section 101(a)(15)(L) may not exceed 50 percent of the total number of employees.

(J) If the employer, in such previous period as the Secretary shall specify, employed 1 or more H-1B nonimmigrants, the employer shall submit to the Secretary the Internal Revenue Service Form W-2 Wage and Tax Statement filed by the employer with respect to the H-1B non-immigrants for such period.

### **SEC. 123. REQUIREMENTS FOR INFORMATION FOR H-1B AND L-1 NONIMMIGRANTS**

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

(s) Requirements for Information for H-1B and L-1 Non-immigrants-

(1) IN GENERAL- Upon issuing a visa to an applicant for nonimmigrant status pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is outside the United States, the issuing office shall provide the applicant with-

(A) a brochure outlining the obligations of the applicant's employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections;

(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations and rights; and

(C) a copy of the application submitted for the nonimmigrant under section 212(n) or the petition submitted for the nonimmigrant under subsection (c)(2)(A), as appropriate.

(2) Upon the issuance of a visa to an applicant referred to in paragraph (1) who is inside the United States, the issuing officer of the Department of Homeland Security shall provide the applicant with the material described in clauses (i), (ii), and (iii) of subparagraph (A).

**\*S.628- Conrad State 30 Improvement Act**

***Introduced 03/18/09, Referred to Committee.***

Amends the Immigration and Nationality Technical Corrections Act of 1994 to make the J-1 visa waiver (Conrad state 30/medical services in underserved areas) program permanent. Amends the Immigration and Nationality Act to: (1) revise entry provisions for H-1B visa foreign medical graduates and provide for an increase under specified conditions in the annual per-state cap of 30 foreign doctors; and (2) exempt from worldwide immigration numerical limitations alien physicians who have completed service requirements of a state waiver or exemption, including alien physicians who completed such service before the date of enactment of this Act.

**\*S.9- Stronger Economy, Stronger Borders Act of 2009**

***Introduced 01/06/09, Referred to Committee.***

Expresses the sense of Congress that Congress should enact, and the President should sign, legislation to strengthen the economy, recognize the heritage of the United States as a nation of immigrants, and amend the Immigration and Nationality Act by: (1) providing more effective border and employment enforcement; (2)

preventing illegal immigration; and (3) reforming and rationalizing avenues for legal immigration.

**\* 110<sup>th</sup> Congress Term \***

**\*S.2839- Global Competitiveness Act of 2008**

***Introduced 04/10/08, Referred to Committee.***

Amends the Immigration and Nationality Act to extend the annual cap exemption for returning H-2B aliens (temporary nonagricultural workers). Revises H-1B nonimmigrant visa (specialty occupation) provisions regarding: (1) recapture of unused visas (including a recapture fee); (2) visa increases and increases for exemptions from numerical limitations for aliens with higher education degrees; (3) increased employer petition fees; (4) employer restrictions on outsourcing, advertising, and hiring; and (5) enforcement, information sharing, and labor application penalty increases. Amends the American Competitiveness in the Twenty-first Century Act of 2000 regarding: (1) recapture of unused employment-based immigrant visas and redistribution to specified employment categories, including nurses and physical therapists; and (2) a recapture fee (with an exemption for certain health care facilities). Increases the annual limit for National Science Foundation low-income scholarships. Revises L-visa (intracompany transfer) provisions regarding: (1) Department of Homeland Security (DHS) authority to investigate employer fraud; (2) whistleblower protections; and (3) limitations on approval of start-up company petitions. Authorizes (with a supplemental fee) early status adjustment filing for certain employment-based immigrants.

**\*S.1083- SKILL Act of 2007**

***Introduced 04/10/07, Referred to Committee.***

Amends the Immigration and Nationality Act to exempt from the annual H-1B visa cap an alien who has: (1) earned a master's or higher degree from an accredited U.S.

university; or (2) been awarded a medical specialty certification based on post-doctoral training and experience in the United States. Increases the annual H-1B cap, with a 20% increase for the following year if the previous year's quota is reached. Exempts from worldwide immigration caps an alien who: (1) has earned a master's or higher degree from an accredited U.S. university; (2) has been awarded medical specialty certification based on postdoctoral training and experience in the United States; (3) will work in shortage occupations; (4) has earned a master's degree or higher in science, technology, engineering, or math and has been working in a related field in the United States during the three-year period preceding his or her immigrant visa application; (5) has extraordinary ability or received a national interest waiver; or (6) is the spouse or minor child of an employment-based immigrant. Increases the annual immigrant visa cap. Revises student visa provisions. Authorizes an L-1 (intracompany transfer) visa extension beyond the fifth or seventh year if the individual has a immigrant application pending. Permits an alien with an approved labor certification to apply for permanent resident status adjustment if there is no visa immediately available by paying a \$500 supplemental fee. Directs the Secretary of Homeland Security to establish a pre-certification procedure for employers who file multiple employment petitions. Revises certain labor certification provisions. Prohibits immigration application approval until background and security checks have been completed and any fraud allegations have been resolved. Authorizes temporary workers (E, H, I, L O, or P visas) who have not violated their status to renew their same category visa from within the United States.

**\*S.1397- Skilled Worker Immigration and Fairness Act**

***Introduced 05/15/07, Referred to Committee.***

Amends the Immigration and Nationality Act to exempt from the annual H-1B visa cap an alien who has: (1) earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States; or (2) been awarded a medical specialty certification based on post-doctoral training and experience in the United States. Sets H-1B annual limits at: (1) 115,000 for FY2007; and (2) for each subsequent fiscal year, the greater of 115,000

or a market-based calculation. Exempts from numerical limitations on employment-based immigrants: (1) aliens who have earned advanced degrees in science, technology, engineering, or math and have been working in their fields in the United States under a nonimmigrant visa in the three years prior to filing for adjustment; (2) recipients of national interest waivers; and (3) immediate relatives of employment-based immigrants. Permits an alien (and dependents) to file for adjustment of status whether or not an employment-based immigrant visa is immediately available if: (1) a petition on behalf of the alien has been approved; or (2) adjudication of such petition is pending. Revises H-1B provisions with respect to: (1) application fraud and misrepresentation; (2) employer penalties; (3) Department of Labor investigations; (4) Department of Labor and Department of Homeland Security (DHS) information sharing; (5) information provided to an H-1B nonimmigrant upon visa issuance; (6) prohibiting H-1B-exclusive employment advertising; and (7) prohibiting an employer of fewer than 50 employees in the United States from having more than 50% H-1B nonimmigrant employees.

**\*S.1035- H-1B and L-1 Visa Fraud and Abuse Prevention Act of 2007 *Introduced 03/29/07, Referred to Committee.***

Amends the Immigration and Nationality Act to revise employer and government requirements with respect to H-1B and L-1 nonimmigrant aliens.

Revises H-1B provisions to: (1) subject all H-1B employers (currently H-1B dependent employers) to such provisions; (2) lengthen U.S. worker displacement protection; (3) authorize the Secretary of Labor to initiate an H-1B employer investigation; and (4) increase employer penalties. Sets forth employer petition requirements for an L-1 alien coming to the United States to open, or be employed in, a new facility. Prohibits blanket L-1 petitions. Authorizes the Secretary of Homeland Security to initiate an L-1 employer investigation. Sets forth L-1 employer penalty provisions. Provides H-1B and L-1 alien whistleblower protections. Authorizes the Secretary of Labor to hire 200 additional employees to administer H-1B programs.

**\*S.1351- H-1B Visa Program Modernization Act of 2007**

***Introduced 05/10/07, Referred to Committee.***

Amends the Immigration and Nationality Act to **increase the annual H-1B nonimmigrant visa cap, with a 20% increase for the following year if the previous year's quota is reached.** Revises H-1B provisions with respect to: (1) application fraud and misrepresentation; (2) employer penalties; (3) Department of Labor investigations; (4) Department of Labor and Department of Homeland Security (DHS) information sharing; (5) information provided to an H-1B nonimmigrant upon visa issuance; (6) employment advertising; and (7) prohibiting an employer of fewer than 50 employees in the United States from having more than 50% H-1B nonimmigrant employees.

**\*S.31- H-1B Visa Fraud Prevention Act of 2007**

***Introduced 05/22/07, Referred to Committee.***

Amends the Immigration and Nationality Act **to revise employer and government requirements with respect to H-1B nonimmigrant aliens. Increases labor condition application penalties. Provides H-1B alien whistleblower protections.** Requires the Director of United States Citizenship and Immigration Services to submit to Congress a fraud risk assessment of the H-1B visa program.

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**\* 109<sup>th</sup> Congress Term \***

**\*S.2611- Comprehensive Immigration Reform Act of 2006**

***Introduced 04/07/06; Passed Senate w/ amendments by Yea-Nay vote 62-36 on 05/25/06***

**Referencing:** [Title V - Backlog Reduction]

**Section 508:**

Exempts from numerical limitations on employment-based immigrants: (1) aliens who have earned advanced degrees in science, technology, engineering, or math and have been working in their fields in the United States under a nonimmigrant visa in the three years prior to filing for adjustment; (2) recipients of national interest waivers; and (3) spouses and minor children of employment-based immigrants. Waives the labor certification recruitment requirement for those with advanced U.S. degrees in the sciences, technology, engineering, or math. Sets annual limits for H-1B visas at: (1) 65,000 for each of FY2004-FY2006 (currently, 65,000 for each fiscal year after FY2003); (2) 115,000 for the first fiscal year beginning after enactment of this provision; and (3) a market-based calculation for each subsequent fiscal year, with a 20% increase for the following year if the previous year's quota is reached. Exempts an alien with an advanced degree in science, technology, engineering, or math from H-1B limitations. Includes immigrants with advanced degrees in the diversity immigrant category. Establishes the annual worldwide limit for such immigrants at 18,333 for diversity immigrants, and 36,667 for advanced degree immigrants. Provides that immigrants with advanced degrees in science, technology, engineering, or math shall have a separate limitation equal to that for advanced degree immigrants, which shall include economic and workforce considerations.

**Section 526:**

Authorizes an L-1 visa extension beyond the 5<sup>th</sup> or 7<sup>th</sup> year if the individual has an immigrant application or labor certification that has been pending for at least 365 days.

**VOTE BREAKDOWN FOR S.2611:**

<b><u>Yea</u></b>	<b><u>Nay</u></b>
Murkowski, Lisa [R-AK]	Sessions, Jefferson [R-AL]
McCain, John [R-AZ]	Shelby, Richard [R-AL]
Lincoln, Blanche [D-AR]	Kyl, Jon [R-AZ]
Pryor, Mark [D-AR]	Chambliss, Saxby [R-GA]
Boxer, Barbara [D-CA]	Isakson, John [R-GA]
Feinstein, Dianne [D-CA]	Crapo, Michael [R-ID]
Dodd, Christopher [D-CT]	Grassley, Charles [R-IA]
Lieberman, Joseph [I-CT]	Roberts, Pat [R-KS]
Carper, Thomas [D-DE]	Bunning, Jim [R-KY]
Nelson, Bill [D-FL]	Vitter, David [R-LA]
Akaka, Daniel [D-HI]	Stabenow, Debbie Ann [D-MI]
Inouye, Daniel [D-HI]	Cochran, Thad [R-MS]
Durbin, Richard [D-IL]	Bond, Christopher [R-MO]
Bayh, Evan [D-IN]	Nelson, Ben [D-NE]
Lugar, Richard [R-IN]	Ensign, John [R-NV]
Harkin, Thomas [D-IA]	Burr, Richard [R-NC]
Brownback, Sam [R-KS]	Coburn, Thomas [R-OK]
McConnell, Mitch [R-KY]	Inhofe, James [R-OK]
Landrieu, Mary [D-LA]	DeMint, Jim [R-SC]
Collins, Susan [R-ME]	Thune, John [R-SD]
Snowe, Olympia [R-ME]	Alexander, Lamar [R-TN]
Mikulski, Barbara [D-MD]	Cornyn, John [R-TX]
Kerry, John [D-MA]	Hutchison, Kay [R-TX]
Levin, Carl [D-MI]	Hatch, Orrin [R-UT]
Baucus, Max [D-MT]	Enzi, Michael [R-WY]
Reid, Harry [D-NV]	
Gregg, Judd [R-NH]	
Lautenberg, Frank [D-NJ]	
Menendez, Robert [D-NJ]	
Bingaman, Jeff [D-NM]	
Schumer, Charles [D-NY]	
Conrad, Kent [D-ND]	
Voinovich, George [R-OH]	
Wyden, Ron [D-OR]	
Specter, Arlen [D-PA]	
Reed, John [D-RI]	
Graham, Lindsey [R-SC]	
Johnson, Tim [D-SD]	
Bennett, Robert [R-UT]	

Leahy, Patrick [D-VT] Cantwell, Maria [D-WA] Murray, Patty [D-WA] Feingold, Russell [D-WI] Kohl, Herbert [D-WI]	
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**\*S.2691- Securing Knowledge, Innovation, and Leadership Act of 2006** *Introduced 05/02/06, Referred to Committee.*

A bill to amend the Immigration and Nationality Act to increase competitiveness in the United States. (See S.1083)

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**\* 108<sup>th</sup> Congress Term \***

**\*S.1452- USA Jobs Protection Act of 2003**  
*Introduced 07/24/03, Referred to Committee.*

Amends the Immigration and Nationality Act to revise L-1 nonimmigrant visa provisions. **Prohibits the admission of an L-1 worker unless the employer files an application with the Secretary of Labor stating that the employer will: (1) not place the worker with another employer; (2) make the L-1 application available for public examination and compilation by the Secretary; (3) provide wage comparability; and (4) not displace U.S. workers during the period of 180 days before and after the L-1 hiring.** Requires an employer, prior to petitioning for admission of a specialized knowledge L-1 worker, to file an application with the Secretary stating that good faith steps have been taken to recruit U.S. workers for the job for which the L-1 worker is sought. Directs the Secretary of Homeland Security to consult annually with the Secretary respecting the use and effect of blanket L-1 petitions. Increases the L-1 prior employment abroad requirement. Reduces the period of L-1 admission. Establishes an L-1 employer petition fee. Authorizes the Secretary of Labor to initiate an L-1 employer investigation. **Revises H-1B nonimmigrant visa provisions to: (1) subject all H-1B employers (currently H-1B dependent employers) to such provisions;**

(2) lengthen U.S. worker displacement protection; and (3) authorize the Secretary of Labor to initiate an H-1B employer investigation. Directs the General Accounting Office to investigate the implementation and impact of amendments made by this Act.

**\*S.1635- L-1 Visa Reform Act of 2004**

*Introduced 09/17/03, Reported by Committee 09/30/04.*

A bill to amend the Immigration and Nationality Act to ensure the integrity of the L-1 visa for intra-company (L-1) transferees.

Referencing:

**SEC. 2. FINDINGS**

Congress finds the following:

- (1) A key purpose of the visa issued to non-immigrants described in section 101(a)(15)(L) of the Immigration and Nationality Act is to provide multinational companies with a means to transfer into the United States, foreign workers whose presence is necessary because of the specialized knowledge those workers have gained with respect to the products, processes, or procedures of their employer.
- (2) The L-1 visa plays an important role in the economy of the United States by bringing the most talented and essential persons to work on United States projects and keeping United States businesses competitive throughout the world.
- (3) The L-1 visa facilitates foreign investment in the United States to build factories and open offices, to employ United States workers at those facilities, and to contribute tax revenue to State budgets.
- (4) The L-1 visa brings persons essential to product research and development to the United States which permits operations to remain in this country rather than moving offshore.
- (5) Due to the very nature of the L-1 visa as Congress intended it and as properly used, employees in this classification do not displace United States workers, and

they should not be regarded as new hires since they, instead, are transferees within a company.

(6) In certain circumstances, however, misuse of the L-1 visa has resulted in the displacement of United States workers.

(7) Misuse of the L-1 visa classification has involved only certain employees who were admitted on the basis of specialized knowledge and were working offsite, not those working at the site of the petitioning employer or its affiliate, subsidiary, or parent.

(8) Misuse has occurred when the foreign worker has been principally controlled and supervised by an unaffiliated company.

(9) Misuse has occurred where the placement of the L-1 employee is part of an arrangement to simply provide labor in a context that does not require specialized knowledge particular to the petitioning employer.

### **SEC. 3. NON-IMMIGRANT L-1 VISA CATEGORY**

(a) IN GENERAL- Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

(F) An alien who will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 101(a)(15)(L) and will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent shall not be eligible for classification under section 101(a)(15)(L) if-

(i) the alien will be controlled and supervised principally by such unaffiliated employer; or

(ii) the placement of the alien at the worksite of the unaffiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.

**\*S.1518- Visa Integrity and Security Act of 2001**

***Introduced 10/09/01, Reported by Committee 09/30/04.***

A bill to improve procedures with respect to the admission to, and departure from, the United States of aliens.

Amends the Immigration and Nationality Act to: (1) direct the Attorney General and the Federal Bureau of Investigation to provide the Department of State with access to specified criminal history records in order to determine whether or not a visa or admissions applicant has a criminal history; and (2) include specified passport-related requirements as part of the visa waiver pilot program.

Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to expand the foreign student tracking system to: (1) include "other approved educational institutions" (including flight and language schools); and (2) require university reporting of student failure to commence studies.

Requires an employer who terminates the employment of specified aliens (H-1b visa) to so notify the Attorney General.

**\*S.3051- A bill to extend H-1B status for aliens with lengthy adjudications**

***Introduced 10/03/02, Reported by Committee 09/30/04.***

Amends the American Competitiveness in the Twenty-first Century Act of 2000 to extend H-1B visa status in one-year increments for an alien who has waited 365 days or longer since the filing of: (1) an application for labor certification; or (2) a petition for immigrant status.

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## **Review of House Bills**

**\* 111<sup>th</sup> Congress Term \***

**\*H.R.5397 - H-1B and L-1 Visa Reform Act of 2010**

***Introduced 05/25/10, Referred to Committee***

To amend the Immigration and Nationality Act to reform and reduce fraud and abuse in certain visa programs for aliens working temporarily in the United States.

Referencing:

**Subtitle A- H-1B Employer Application Requirements**

**SEC. 101. MODIFICATION OF APPLICATION REQUIREMENTS**

(a) General Application Requirements- Subparagraph (A) of section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended to read as follows:

‘(A) The employer-

‘(i) is offering and will offer to H-1B nonimmigrants, during the period of authorized employment for each H-1B nonimmigrant, wages that are determined based on the best information available at the time the application is filed and which are not less than the highest of-

‘(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

‘(II) the median average wage for all workers in the occupational classification in the area of employment; and

‘(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

‘(ii) will provide working conditions for such H-1B nonimmigrant that will not adversely affect the working conditions of other workers similarly employed.’.

(d) Application of Requirements to All Employers-

(2) RECRUITMENT- Subparagraph (G)(i) of such section 212(n)(1) is amended by striking ‘In the case of an application described in subparagraph (E)(ii), subject’ and inserting ‘Subject’.

(e) Requirement for Waiver- Subparagraph (F) of such section 212(n)(1) is amended to read as follows:

‘(F) The employer shall not place, outsource, lease, or otherwise contract for the services or placement of H-1B nonimmigrants with another employer unless the employer of the alien has been granted a waiver under paragraph (2)(E).’

## **SEC. 102. NEW APPLICATION REQUIREMENTS**

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

‘(H)(i) The employer has not advertised any available position specified in the application in an advertisement that states or indicates that-

‘(I) such position is only available to an individual who is or will be an H-1B nonimmigrant; or

‘(II) an individual who is or will be an H-1B nonimmigrant shall receive priority or a preference in the hiring process for such position.

‘(ii) The employer has not solely recruited individuals who are or who will be H-1B nonimmigrants to fill such position.

‘(I) If the employer employs 50 or more employees in the United States, the sum of the number of such employees who are H-1B nonimmigrants plus the number of such employees who are nonimmigrants described in section 101(a)(15)(L) may not exceed 50 percent of the total number of employees.

‘(J) If the employer, in such previous period as the Secretary shall specify, employed 1 or more H-1B nonimmigrants, the employer shall submit to the Secretary the Internal Revenue Service Form W-2 Wage and Tax Statement filed by the employer with respect to the H-1B nonimmigrants for such period.’

### **Subtitle C- Other Protections**

## **SEC. 123. REQUIREMENTS FOR INFORMATION FOR H-1B AND L-1 NONIMMIGRANTS**

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

‘(s) Requirements for Information for H-1B and L-1 Nonimmigrants-

'(1) IN GENERAL- Upon issuing a visa to an applicant for nonimmigrant status pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is outside the United States, the issuing office shall provide the applicant with-

'(A) a brochure outlining the obligations of the applicant's employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections;

'(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations and rights; and

'(C) a copy of the application submitted for the nonimmigrant under section 212(n) or the petition submitted for the nonimmigrant under subsection (c)(2)(A), as appropriate.

'(2) Upon the issuance of a visa to an applicant referred to in paragraph (1) who is inside the United States, the issuing officer of the Department of Homeland Security shall provide the applicant with the material described in clauses (i), (ii), and (iii) of subparagraph (A).'

**\*H.R. 246**

***Introduced 01/07/09, Referred to Committee***

To amend the Immigration and Nationality Act to exempt elementary and secondary schools from the fee imposed on employers filing petitions with respect to non-immigration workers under the H-1B program.

Referencing:

**SECTION 1. EXEMPTION FROM FILING FEES FOR SCHOOLS**

(a) In General- Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A)) is amended by inserting 'an employer that is a public or private elementary or secondary school and' after 'excluding'.

(b) Applicability- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to petitions filed under section

214(c)(1) of the Immigration and Nationality Act on or after such date and before October 1, 2001.

**\*H.R. 1- American Recovery and Reinvestment Act of 2009**

***Introduced 01/26/09, Amendments (485 proposed), Passed House 01/28/09 (244-188), Passed Senate 02/10/09 (61-37), Signed by President Obama 02/17/09 (Public Law 111-5).***

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009.

Referencing:

**Title XVI - General Provisions**

**Section 1611-**

Employ American Workers Act - **Makes it unlawful for any recipient of Troubled Asset Relief Program (TARP) funding under the Emergency Economic Stabilization Act of 2008 or under the Federal Reserve Act to hire any nonimmigrant with an H-1B visa unless the recipient is in compliance with the requirements for an H-1B dependent employer.**

**\*H.R.1791 - STAPLE Act**

***Introduced 03/30/09, Referred to Committee***

To amend the Immigration and Nationality Act to authorize certain aliens who have earned a Ph.D. degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent

residence and to be exempted from the numerical limitations on H-1B non-immigrants.

Referencing:

**SEC. 3. EXEMPTION FROM H-1B NUMERICAL LIMITATION FOR CERTAIN UNITED STATES EDUCATED NONIMMIGRANTS**

Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)) is amended-

(1) in subparagraph (B), by striking 'or';

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

'(D) has earned a Ph.D. degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in a field of science, technology, engineering, or mathematics and with respect to whom the petitioning employer requires such education as a condition for the employment.'

**\*H.R.4321 – Comprehensive Immigration Reform for America's Security and Prosperity Act of 2009**

*Introduced 12/15/09, Referred to Committee*

Referencing:

**CHAPTER 1- H-1B VISA FRAUD AND ABUSE PROTECTIONS**

**Subchapter A- H-1B Employer Application Requirements**

**SEC. 532. NEW APPLICATION REQUIREMENTS**

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

'(H)(i) The employer has not advertised any available position specified in the application in an advertisement that states or indicates that-

‘(I) such position is only available to an individual who is or will be an H-1B non-immigrant; or

‘(II) an individual who is or will be an H-1B non-immigrant shall receive priority or a preference in the hiring process for such position.

‘(ii) The employer has not solely recruited individuals who are or who will be H-1B non-immigrants to fill such position.

‘(I) If the employer employs 50 or more employees in the United States, the sum of the number of such employees who are H-1B non-immigrants plus the number of such employees who are non-immigrants described in section 101(a)(15)(L) may not exceed 50 percent of the total number of employees.

‘(J) If the employer, in such previous period as the Secretary shall specify, employed 1 or more H-1B non-immigrants, the employer shall submit to the Secretary the Internal Revenue Service Form W-2 Wage and Tax Statement filed by the employer with respect to the H-1B non-immigrants for such period.’

#### **SEC. 543. WAIVER REQUIREMENTS**

(a) In General- Subparagraph (E) of section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended to read as follows:

‘(E)(i) The Secretary of Labor may waive the prohibition in paragraph (1)(F) if the Secretary determines that the employer seeking the waiver has established that-

‘(I) the employer with whom the H-1B non-immigrant would be placed has not displaced, and does not intend to displace, a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the non-immigrant with the employer;

‘(II) the H-1B nonimmigrant will not be controlled and supervised principally by the employer with whom the H-1B non-immigrant would be placed; and

‘(III) the placement of the H-1B non-immigrant is not essentially an arrangement to provide labor for hire for the employer with whom the H-1B non-immigrant will be placed.

‘(ii) The Secretary shall grant or deny a waiver under this subparagraph not later than 7 days after the Secretary receives the application for such waiver.’

## **Subchapter C- Other H-1B Provisions**

### **SEC. 551. POSTING AVAILABLE H-1B POSITIONS THROUGH THE DEPARTMENT OF LABOR**

(a) Department of Labor Website- Paragraph (3) of section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended to read as follows:

‘(3)(A) Not later than 90 days after the date of the enactment of the H-1B and L-1 Visa Reform Act of 2009, the Secretary of Labor shall establish a searchable Internet website for posting positions as required by paragraph (1)(C). Such website shall be available to the public without charge.

‘(B) The Secretary may work with private companies or nonprofit organizations to develop and operate the Internet website described in subparagraph (A).

‘(C) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.’

(b) Requirement for Publication- The Secretary of Labor shall submit to Congress and publish in the Federal Register and other appropriate media a notice of the date that the Internet website required by paragraph (3) of section 212(n) of such Act, as amended by subsection (a), will be operational.

(c) Application- The amendments made by subsection (a) shall apply to an application filed on or after the date that is 30 days after the date described in subsection (b).

## **CHAPTER 2- L-1 NONIMMIGRANTS**

### **SEC. 561. PROHIBITION ON OUTPLACEMENT OF L-1 NONIMMIGRANTS**

(a) In General- Subparagraph (F) of section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended to read as follows:

‘(F)(i) Unless an employer receives a waiver under clause (ii), an employer may not employ an alien, for a cumulative period of more than 1 year, who-

‘(I) will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 101(a)(15)(L); and

‘(II) will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent, including pursuant to an outsourcing, leasing, or other contracting agreement.

‘(ii) The Secretary of Homeland Security may grant a waiver of the requirements of clause (i) for an employer if the Secretary determines that the employer has established that-

‘(I) the employer with whom the alien referred to in clause (i) would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days after the date of the placement of such alien with the employer;

‘(II) such alien will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

‘(III) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for an unaffiliated employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.

‘(iii) The Secretary shall grant or deny a waiver under clause (ii) not later than 7 days after the date that the Secretary receives the application for the waiver.’.

(b) Regulations- The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver under subparagraph (F)(ii) of section 214(c)(2), as added by subsection (a).

## **SEC. 562. L-1 EMPLOYER PETITION REQUIREMENTS FOR EMPLOYMENT AT NEW OFFICES**

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

‘(G)(i) If the beneficiary of a petition under this paragraph is coming to the United States to open, or be employed in, a new office, the petition may be approved for up to 12 months only if-

'(I) the alien has not been the beneficiary of 2 or more petitions under this subparagraph during the immediately preceding 2 years; and

'(II) the employer operating the new office has--

'(aa) an adequate business plan;

'(bb) sufficient physical premises to carry out the proposed business activities; and

'(cc) the financial ability to commence doing business immediately upon the approval of the petition.

'(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains-

'(I) evidence that the importing employer meets the requirements of this subsection;

'(II) evidence that the beneficiary of the petition is eligible for nonimmigrant status under section 101(a)(15)(L);

'(III) a statement summarizing the original petition;

'(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

'(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

'(VI) evidence that the importing employer, for the entire period beginning on the date on which the petition was approved under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods and services;

'(VII) a statement of the duties the beneficiary has performed at the new office during the approval period under clause (i) and the duties the beneficiary will perform at the new office during the extension period granted under this clause;

'(VIII) a statement describing the staffing at the new office, including the number of employees and the types of positions held by such employees;

'(IX) evidence of wages paid to employees;

'(X) evidence of the financial status of the new office; and

'(XI) any other evidence or data prescribed by the Secretary.

**SEC. 572. REQUIREMENTS FOR INFORMATION FOR H-1B AND L-1 NONIMMIGRANTS**

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

‘(s) Requirements For Information For H-1B And L-1 Non-immigrants-

‘(1) IN GENERAL- Upon issuing a visa to an applicant for nonimmigrant status pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is outside the United States, the issuing office shall provide the applicant with-

‘(A) a brochure outlining the obligations of the applicant’s employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections;

‘(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations and rights; and

‘(C) a copy of the application submitted for the nonimmigrant under section 212(n) or the petition submitted for the nonimmigrant under subsection (c)(2)(A), as appropriate.

‘(2) Upon the issuance of a visa to an applicant referred to in paragraph (1) who is inside the United States, the issuing officer of the Department of Homeland Security shall provide the applicant with the material described in clauses (i), (ii), and (iii) of subparagraph (A).’

**\*H.R.5658 - To amend the Immigration and Nationality Act to increase competitiveness in the United States**

***Introduced 07/01/10, Referred to Committee***

Referencing:

**TITLE I- ACCESS TO HIGH SKILLED FOREIGN WORKERS**

**SEC. 101. H-1B VISA HOLDERS**

(a) In General- Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)) is amended-

(1) in subparagraph (B)-

(A) by striking 'nonprofit research' and inserting 'nonprofit';

(B) by inserting 'Federal, State, or local' before 'governmental'; and

(C) by striking 'or' at the end;

(2) in subparagraph (C)-

(A) by striking 'a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))),' and inserting 'an institution of higher education in a foreign country,'; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end, the following new subparagraphs:

'(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))); or

'(E) has been awarded medical specialty certification based on post-doctoral training and experience in the United States.'

(b) Applicability- The amendments made by subsection (a) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

## **SEC. 204. L-1 VISA HOLDERS SUBJECT TO VISA BACKLOG**

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following new subparagraph:

'(G) The limitations contained in subparagraph (D) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(L) on whose behalf a petition under section 204(b) to accord the alien immigrant status under section 203(b), or an application for labor certification (if such certification is required for the alien to obtain status under such section 203(b)) has been filed, if 365 days or more have elapsed since such filing. The Secretary of Homeland Security

shall extend the stay of an alien who qualifies for an exemption under this subparagraph until such time as a final decision is made on the alien's lawful permanent residence.'

**\*H.R. 6080- Making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes.**

***Introduced 08/09/10, Passed House 08/10/10, Passed Senate 08/12/10, Signed by President Obama 08/13/10 (Public Law 111-230).***

Referencing:

#### **TITLE IV: GENERAL PROVISIONS**

Sec. 401. Each amount appropriated or otherwise made available under this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Sec. 402. (a) Notwithstanding any other provision of this Act or any other provision of law, during the period beginning on the date of the enactment of this Act and ending on September 30, 2014, the filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)) shall be increased by \$2,250 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are non-immigrants admitted pursuant to section 101(a)(15)(H)(i)(b) of such Act or section 101(a)(15)(L) of such Act.

(b) Notwithstanding any other provision of this Act or any other provision of law, during the period beginning on the date of the enactment of this Act and ending on September 30, 2014, the filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section

101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) shall be increased by \$2,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are such non-immigrants or non-immigrants described in section 101(a)(15)(L) of such Act.

(c) During the period beginning on the date of the enactment of this Act and ending on September 30, 2014, all amounts collected pursuant to the fee increases authorized under this section shall be deposited in the General Fund of the Treasury.

**\*H.R. 847- James Zadroga 9/11 Health and Compensation Act of 2010**

***Introduced 02/04/09, Passed House 09/29/10 (268-160), Passed Senate 12/22/10, Signed by President Obama 01/02/11 (Public Law 111-347).***

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

Referencing:

SEC. 302. RENEWAL OF FEES FOR VISA-DEPENDENT EMPLOYERS

Subsections (a), (b), and (c) of section 402 of Public Law 111-230 are amended by striking '2014' each place that such appears and inserting '2015'.

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**\* 110<sup>th</sup> Congress Term \***

**\*H.R.7184 - STAPLE Act**

***Introduced 09/27/08, Referred to Committee***

To amend the Immigration and Nationality Act to authorize certain aliens who have earned a Ph.D. degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent

residence and to be exempted from the numerical limitations on H-1B non-immigrants.

Referencing:

**SEC. 3. EXEMPTION FROM H-1B NUMERICAL LIMITATION FOR CERTAIN UNITED STATES EDUCATED NON-IMMIGRANTS**

Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)) is amended-

(1) in subparagraph (B), by striking 'or';

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

D) has earned a Ph.D. degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in a field of science, technology, engineering, or mathematics and with respect to whom the petitioning employer requires such education as a condition for the employment.'

**\*H.R.5726 Introduced 04/08/08, Referred to Committee**

To amend the Immigration and Nationality Act to require prospective employers of H-1B non-immigrants to participate in an educational, training, or mentorship program for United States workers.

Referencing:

**SECTION 1. H-1B VISA APPLICATIONS & CERTIFICATIONS**

(a) Programs To Train United States Workers- Section 212(n)(1) of the Immigration and Nationality Act is amended by inserting after subparagraph (G) the following:

(H)(i) The employer is directly participating in, or will be directly participating in, an educational, training, or mentoring program to train United States workers in the

local community in science, math, engineering, or technology related to the position for which an H-1B nonimmigrant is sought.

(ii) The involvement of the employer in a program described in clause (i) shall be commensurate with the size of the employer and the total number of H-1B non-immigrants already employed by the employer at the time the employment of a new H-1B nonimmigrant is sought.'

(b) Effective Date- The amendment made by subsection (a) shall take effect, and apply to an employer who is seeking to employ a nonimmigrant described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), on and after the first day of the first fiscal year that begins after the date on which the numerical limitation in section 214(g)(1)(A) of such Act (8 U.S.C. 1184(g)(1)(A)) for such fiscal year is increased above 65,000.

**\*H.R.5630 - Innovation Employment Act**

***Introduced 03/13/08, Referred to Committee***

Amends the Immigration and Nationality Act to increase the annual H-1B nonimmigrant visa (specialty occupation) cap from 65,000 to 130,000 starting in FY2008. Provides that for FY2010-FY2015 if the cap has been reached in the prior year the current cap would increase to the greater of 180,000 and the limitation applicable for the previous year increased by 20% percent. Exempts from H-1B caps an alien who has earned a master's or higher degree from a U.S. institution of higher education in science, technology, engineering, or mathematics and with respect to whom the petitioning employer requires such education as a condition for employment. Establishes a 20,000 annual cap for aliens who earned a master's or higher degree from an institution of higher education outside of the United States in science, technology, engineering, or mathematics and with respect to whom the petitioning employer requires such education as a condition for employment.

Revises H-1B provisions to:

(1) require an employer to provide specified job information in the employment advertisement;

- (2) authorize the Secretary of Labor to initiate an H-1B employer investigation;
- (3) increase employer penalties; and
- (4) provide whistleblower protections.

**\*H.R.5642 - SUSTAIN Act**

***Introduced 03/14/08, Referred to Committee***

Strengthening United States Technology And Innovation Now Act or the SUSTAIN Act  
- Amends the Immigration and Nationality Act to provide that the total number of aliens who may be issued H-1B nonimmigrant visas (specialty occupation) or otherwise acquire such status shall be 195,000 for FY2008 and FY2009.

**\*H.R.2538 - Defend the American Dream Act of 2007**

***Introduced 05/24/07, Referred to Committee***

Amends the Immigration and Nationality Act to require employers of H-1B (specialty occupations) non-immigrants to use one of three specified methods (whichever results in the highest wages) to determine wages for purposes of required wage attestations. Requires such employers who previously employed one or more H-1B non-immigrants to submit with their labor condition application (LCA) a copy of the W-2 Wage and Tax Statement filed with respect to those non-immigrants. Extends to 180 days the period during which certain H-1B employers must show non-displacement of U.S. workers. Requires such employers to actively engage in recruitment efforts. Prohibits such employers from outsourcing or otherwise contracting for the placement of an H-1B nonimmigrant with another employer, regardless of whether the other employer is H-1B dependent employer.

Revises H-1B employer requirements with respect to:

- (1) job advertising on a free Department of Labor website (as required under this Act);
- (2) information sharing;
- (3) prohibiting H-1B-exclusive employment advertising; and

(4) prohibiting an employer of not less than 50 employees in the United States from having more than 50% H-1B nonimmigrant employees. Eliminates the exemption from H-1B numerical admission limitations for certain aliens with a US master's or higher degree.

-Revises the H-1B definition of "specialty occupation."

-Requires the Secretary of Labor to be responsible for investigations of wage complaints and allegations of fraud in the filing of LCAs. Increases monetary penalties for LCA violations.

-Applies the non-displacement requirement to all H-1B employers.

-Provides H-1B alien whistleblower protections.

**\*H.R.1758 Introduced 03/29/07, Referred to Committee**

Amends the Immigration and Nationality Act to authorize the Secretary of Homeland Security to provide (H-1B visa) non-immigrant status for a specified number of aliens during each of FY2008-FY2012 with a master's or Ph.D. degree whose employers make qualified scholarship payments to institutions of higher education for undergraduate and postgraduate study. (Gives scholarship priority to citizens and permanent resident aliens.)

Referencing:

**Sec. 218A.** (a) H-1B Status- Notwithstanding section 214(g)(1)(A) and subject to subsection (c), during the period beginning on the date of the enactment of this Act and ending on September 30, 2012, the Secretary of Homeland Security may provide non-immigrant status under section 101(a)(15)(H)(i)(b) to an alien who meets the requirements under subsection (b), if the employer petitioning under section 214(c) for the provision of such status makes a qualified scholarship payment for each year in which such status is held.

(b) Eligibility- An alien shall be eligible for a visa or the provision of H-1B nonimmigrant status under this section if the alien-

(1) disregarding section 214(g)(1)(A), meets all the requirements for an H-1B nonimmigrant; and

(2) possesses a master's or Ph.D. degree from an institution of higher education in the United States (or an equivalent degree from an educational institution in a foreign country).

(c) Numerical Limitation- The total number of aliens who may be issued a visa or otherwise provided non-immigrant status under this section may not exceed 65,000 during any fiscal year (beginning with fiscal year 2008 and ending with fiscal year 2012). Aliens issued a visa or otherwise provided non-immigrant status under this section shall not be counted in applying the numerical limitations under section 214(g)(1)(A).

**\*H.R.147 – (See H.R. 246, 111<sup>th</sup> congress)**

***Introduced 01/04/07, Referred to Committee***

Amends the Immigration and Nationality Act to exempt elementary and secondary schools from the fee imposed on employers filing petitions for temporary nonimmigrant workers under the H-1B visa program.

**\*H.R.2504 - L-1 Non-immigrant Reform Act**

***Introduced 05/24/07, Referred to Committee***

Amends the Immigration and Nationality Act to revise L-1 non-immigrant visa provisions. Prohibits entry of an L-1 worker unless the employer has filed a labor condition application with the Secretary of Labor which shall attest that: (1) wage and working condition comparability exists; (2) no strike or lockout exists in the occupational classification at the employment site; (3) the employer has notified the bargaining representative or the employees about the prospective L-1 hiring; (4) the L-1 application contains occupational classification and wage and working condition information; and (5) there has not been nor will there be any lay-off of U.S. workers 180 days before or after the L-1 hiring. Directs the Secretary and the Secretary of

Homeland Security to: (1) establish processes for receipt, investigation, and disposition of violation claims; (2) establish a process to permit an L-1 alien who files a complaint to work for another employer; and (3) report annually on the use of L-1 workers. Sets forth employer violation provisions. Makes an employer liable for the return transportation costs of an L-1 worker dismissed from employment prior to the end of the authorized admission. **Imposes a fee on an L-1 employer.** Establishes in the Treasury the L-1 Nonimmigrant Petitioner Account, which shall be used for data processing, labor enforcement, and training and education of U.S. workers. **Establishes an annual 35,000 L-1 visa limit. Eliminates L-1 blanket visa authority. Requires: (1) an L-1 worker to have a bachelor's degree or higher in his or her area of special knowledge; and (2) verification by the Secretary of State. Increases the prior foreign employment requirement.**

**\*H.R.1930 – SKIL Act of 2007**

***Introduced 04/18/07, Referred to Committee***

Amends the Immigration and Nationality Act **to exempt from the annual H-1B visa cap an alien who has: (1) earned a master's or higher degree from an accredited U.S. university; or (2) been awarded a medical specialty certification based on post-doctoral training and experience in the United States. Increases the annual H-1B cap, with a 20% increase for the following year if the previous year's quota is reached. Exempts from worldwide immigration caps an alien who: (1) has earned a master's or higher degree from an accredited U.S. university; (2) has been awarded medical specialty certification based on postdoctoral training and experience in the United States; (3) will work in shortage occupations; (4) has earned a master's degree or higher in science, technology, engineering, or math and has been working in a related field in the United States during the three-year period preceding his or her immigrant visa application; (5) has extraordinary ability or received a national interest waiver; or (6) is the spouse or minor child of an employment-based immigrant. Increases the annual immigrant visa cap. Revises student visa provisions. Authorizes an L-1 (intracompany transfer) visa extension beyond the fifth or seventh**

year if the individual has a immigrant application pending. Permits an alien with an approved labor certification to apply for permanent resident status adjustment if there is no visa immediately available by paying a \$500 supplemental fee. Directs the Secretary of Homeland Security to establish a pre-certification procedure for employers who file multiple employment petitions. Revises certain labor certification provisions. Prohibits immigration application approval until background and security checks have been completed and any fraud allegations have been resolved. Authorizes temporary workers (E, H, I, L O, or P visas) who have not violated their status to renew their same category visa from within the United States.

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**\* 109<sup>th</sup> Congress Term \***

**\*H.R.4378 - Defend the American Dream Act of 2005 (see H.R. 2538)**

***Introduced 11/17/05, Referred to Committee***

To amend the Immigration and Nationality Act to provide greater protections to domestic and foreign workers under the H-1B nonimmigrant worker program.

**\*H.R.3322 - USA Jobs Protection Act of 2005**

***Introduced 07/18/05, Referred to Committee***

Amends the Immigration and Nationality Act to revise L-1 visa provisions. **Prohibits the admission of an L-1 worker unless the employer files an application with the Secretary of Labor stating that the employer will: (1) make the L-1 application available for public examination and compilation by the Secretary; (2) provide wage comparability; and (3) not displace U.S. workers during the period of 180 days before and after the L-1 hiring. Requires an employer, prior to petitioning for admission of a specialized knowledge L-1 worker, to file an application with the Secretary stating that good faith steps have been taken to recruit U.S. workers for the job for which the L-1 worker is sought.** Directs the Secretary of Homeland Security to consult annually with the Secretary respecting the use and effect of blanket L-1 petitions.

Increases the L-1 prior employment abroad requirement. Reduces the period of L-1 admission. Establishes an L-1 employer petition fee. Authorizes the Secretary of Labor to initiate an L-1 employer investigation.

Revises H-1B non-immigrant visa provisions to: (1) subject all H-1B employers (currently H-1B dependent employers) to such provisions; (2) lengthen U.S. worker displacement protection; and (3) authorize the Secretary of Labor to initiate an H-1B employer investigation. Directs the Government Accountability Office (GAO) to investigate the implementation and impact of amendments made by this Act.

**\*H.R.5744 - SKIL Act of 2006 (see H.R. 1930)**

***Introduced 06/29/06, Referred to Committee***

To amend the Immigration and Nationality Act to increase competitiveness in the United States, and for other purposes.

**\*H.R.3381 - L-1 Non-immigrant Reform Act (see H.R. 2504)**

***Introduced 07/21/05, Referred to Committee***

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

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**\* 108<sup>th</sup> Congress Term \***

**\*H.R.5413 - *Introduced 11/19/04, Referred to Committee***

Amends the Immigration and Nationality Act to require employers of H-1B non-immigrants to use one of three specified methods (whichever results in the highest wages) to determine wages for purposes of required wage attestations. **Requires such employers who previously employed one or more H-1B non-immigrants to submit with their labor condition application (LCA) a copy of the W-2 Wage and Tax**

Statement filed with respect to those non-immigrants. Extends from 90 to 180 days the period during which certain employers of H-1B non-immigrants must show non-displacement of U.S. workers. Requires such employers to actively engage in recruitment efforts. Prohibits such employers from placing, outsourcing, leasing, or otherwise contracting for the placement of an H-1B non-immigrant with another employer, regardless of whether the other employer is H-1B dependent. Requires the Secretary of Labor to be responsible for investigations of wage complaints and allegations of fraud in the filing of LCAs. Authorizes the Secretary to: (1) conduct surveys of employer compliance with labor condition requirements; and (2) conduct annual compliance audits of employers employing H-1B non-immigrants. Requires annual compliance audits in cases where H-1B non-immigrants comprise 15 percent or more of an employer's total number of employees. Makes permanent the employer fee applicable to H-1B petitions. Creates a private right of action for persons harmed by an employer's violation of labor condition requirements.

**\*H.R.2849 - USA Jobs Protection Act of 2003 (see H.R. 3322)**

***Introduced 07/24/03, Referred to Committee***

To amend the Immigration and Nationality Act with respect to the H-1B and L-1 visa programs to prevent unintended United States job losses, to increase the monitoring and enforcement authority of the Secretary of Labor over such programs.

**\*H.R.4166 - American Workforce Improvement and Jobs Protection Act**

***Introduced 04/02/04, Referred to Committee***

Amends the Immigration and Nationality Act to exempt up to 20,000 aliens holding a master's or higher degree from the numerical limitation on H-1B non-immigrants in any fiscal year. Makes permanent: (1) the attestation requirement concerning non-displacement of U.S. workers applicable to H-1B-dependent employers and willful violators; (2) the filing fee applicable to H-1B petitioners; and (3) the Secretary of Labor's authority under the American Competitiveness and Workforce Improvement Act to investigate an employer's alleged failure to meet specified labor attestation

conditions (by repealing a sunset provision in that Act). Requires the Secretary of Homeland Security to impose a fraud prevention and detection fee on H-1B or L petitioners for use in combating fraud and carrying out labor attestation enforcement activities. Establishes an H-1B and L Fraud Prevention and Detection Account for the deposit of such fees. Renders ineligible for L visa status those aliens who will serve in a capacity involving specialized knowledge at the worksite of an employer other than the petitioning employer or its affiliate if: (1) the alien will be controlled principally by the unaffiliated employer; or (2) the placement with the unaffiliated employer is part of an arrangement merely to provide labor rather than to use the alien's specialized knowledge. Eliminates the current reduction in the continuous employment requirement for aliens seeking L visa status pursuant to an employer's blanket petition. Requires the Secretary of Homeland Security to maintain statistics regarding L visa petitions.

**\*H.R.2702 - L-1 Nonimmigrant Reform Act (see H.R. 2504)**

***Introduced 07/10/03, Referred to Committee***

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

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**\* 107<sup>th</sup> Congress Term \***

**\*H.R.2984 - *Introduced 10/02/01, Referred to Committee***

To amend the Immigration and Nationality Act to ensure that aliens provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of that Act are counted, for purposes of determining whether the numerical limitation on the provision of such status has been reached, in a manner that is accurate, fair, and takes into account only those aliens who actually commence employment as such a nonimmigrant.

Referencing:

**(8) ENSURING THAT NUMERICAL LIMITATION COMPUTATION ACCURATELY REFLECTS NUMBER OF H-1B NONIMMIGRANTS EMPLOYED-**

(A) IN GENERAL- The Attorney General shall take such steps as may be necessary to ensure that all numerical limitations applicable to the issuance of visas, or the provision of nonimmigrant status, under section 101(a)(15)(H)(i)(b) are applied in a manner that-

(i) accurately reflects the actual number of aliens who commence employment in the United States as such a nonimmigrant in each fiscal year; and

(ii) does not count against any such numerical limitation-

(I) any visa issued to an alien based on a petition filed by an employer that is not used by the alien as the basis for admission into the United States and commencement of employment with such employer within a reasonable period of time subsequent to its issuance any visa (including any visa in excess of one, in cases in which multiple visas are issued to a single alien based on petitions filed by multiple prospective employers and the alien accepts employment with only one of those employers);

(II) any change of nonimmigrant classification or status authorized for an alien based on a petition filed by an employer that is not used by the alien to commence employment with such employer within a reasonable period of time subsequent to such authorization (including any authorization in excess of one, in cases in which multiple authorizations are provided to a single alien based on petitions filed by multiple prospective employers and the alien accepts employment with only one of those employers); and

(III) any visa (or authorization to change nonimmigrant classification or status) in excess of one, in cases in which multiple visas (or authorizations) are issued to a single alien in order to permit employment with more than one employer in the United States during identical or concurrent periods of time.

**\*H.R.2809 - Introduced 10/02/01, Referred to Committee**

To increase the total number of nonimmigrant visas that may be issued to nurses under section 101(a)(15)(H)(i)(c) of the Immigration and Nationality Act in each fiscal

year, to increase the number of such visas that may be allocated for employment in States with larger populations, and to exempt locally-owned hospitals in health professional shortage areas from certain requirements applicable to employment of physicians and nurses admitted under section 101(a)(15)(H)(i)(b) of such Act.

Referencing:

**SEC. 2. EXEMPTIONS FROM CERTAIN H-1B PROGRAM REQUIREMENTS FOR LOCALLY-OWNED HOSPITALS IN HEALTH PROFESSIONAL SHORTAGE AREAS**

(a) Exemption From Numerical Limitations on Grants of H-1B Status- Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)) is amended-

(1) in subparagraph (A), by striking `or' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting `; or'; and

(3) by adding at the end the following:

(C) a hospital owned by a unit of local government and located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)), if the alien is employed (or is offered employment) as a physician, registered nurse, or licensed practical nurse.'

(b) EXEMPTION FROM FEES- Section 214(c)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)(A)) is amended by striking `or a governmental research organization)' and inserting `a governmental research organization, or a hospital described in subsection (g)(5)(C) with respect to the employment of an alien described in such subsection).

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**SUMMARY OF RECENT DEVELOPMENTS**

Of all the legislation proposed and/or passed, there are a couple of key recent bills and/or events that have transpired with regard to H-1B visa issues that need to be further analyzed in some detail in order to provide a closer look into specific parameters congressmen have taken into account when considering their present stance on the issue when supporting appropriate legislation.

→ **H-1B & L-1 Visa Reform Act of 2009 (S.887)**

This legislation, introduced by Sen. Bernie Sanders (I-VT) and Sen. Charles Grassley (R-IO), potentially affects a broad swath of tech firms that have laid-off large numbers of workers but continue hiring. The high-tech industry overall has laid-off more than 345,000 workers since August 2008, according to the two senators in the unveiling of what they called the Employ America Act.

Grassley stated: "With the unemployment rate over 10%, companies that undertake mass layoffs shouldn't need to hire foreign guest workers when there are plenty of qualified Americans looking for jobs".

In February 2009, Grassley and Sanders moved to prohibit any financial services firm that received money from the Troubled Assets Relief Program (TARP) from hiring H-1B holders. That blanket restriction on hiring wasn't adopted, but Congress did agree to automatically make any firm receiving TARP funds 'H-1B dependent'. A company is considered H-1B dependent if more than 15% of their workers are on the H-1B visa, but the TARP restriction applies regardless of the percent of visa holders on the payroll. Companies that are H-1B dependent must, among the things, make good faith efforts to hire U.S. workers first. Grassley and U.S. Sen. Dick Durbin (D-IL) introduced the H-1B and L-1 Visa Reform Act of 2009 (S.887) that would set a number of restrictions on H-1B use, including the so-called 50-50 provision that would prohibit any firm with more than 50 workers from having more than half workforce on H-1B or L-1 visas. That provision is distinctly aimed at Indian outsourcing firms, and the legislation also sets higher salary standards for visa workers as well as anti-fraud provisions.

→ **Zadroga Bill (H.R. 847)**

Ignoring India's concerns and veiled warning that it would in likelihood drag the US to the WTO, President Barack Obama signed into law on a bill that would provide free health care to the first responders of the twin-tower terrorist attack in New York in September 2001. The bill provides for a fund of \$ 4.2 billion for the free

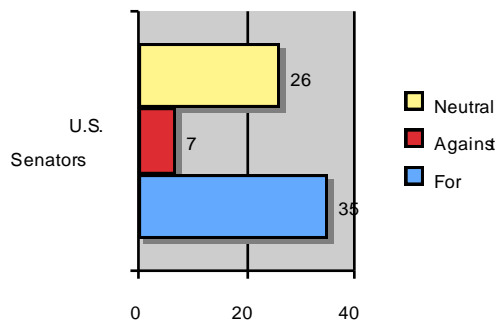
health care to 9/11 responders, a portion of which is being raised by extending an increase in some categories of the H-1B visa fee that would mainly affect Indian IT companies. India has vehemently objected to such an increase almost immediately, and Indian Commerce Minister Anand Sharma had termed it as a retrograde step for greater trade engagement with the US. It also imposes a 2% levy on goods and services the US imports from certain developing countries, including India. An extension in increase in H-1B visa fee is estimated to cost Indian companies \$ 200 million.

The bill is named after James Zadroga, an NYPD detective who died of 9/11-related illnesses. "After a long, arduous path with several near-defeats, this bill is finally law," said Senator Charles Schumer, one of the key sponsors of the bill in the Senate and who was primarily responsible for adding H-1B visa fee extension clause in the bill, which was passed in the lame duck session of the 111<sup>th</sup> Congress in 2010. Officials in the Indian Commerce Ministry say that they are consulting with Law Ministry to present a string case before the WTO against the United States on this issue. "The bill is a violation in spirit of the joint communiqué signed by President Obama and Prime Minister Manmohan Singh," said Som Mittal, President of the National Association of Software and Services Companies (NASSCOM). In August last year, President Obama had signed into law the Mexico Border Protection Bill that had hiked the H1B and L1 visa fees till 2014. The Zadroga act now extends the hikes by an additional year.

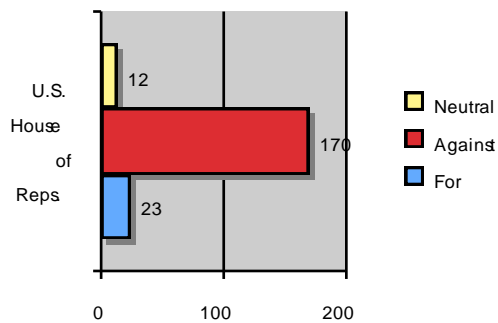
## Final Analysis

As the Senate & House bills which relate to the topic of legal immigration policy and its various avenues (H-1B, L-1, and Green Card processing) over the past 5 congress sessions have shown- along with figures A & B below- the majority of all U.S. congressmen that have sponsored and co-sponsored relevant legislation pertaining to this specific issue have been primarily opposed to shifting the narrative from comprehensive immigration reform- that which is predominantly concerned with the illegal aspect- to one that distinctly deals with H-1B/L-1 visa processing and its often hackneyed application procedures.

**Figure A**



**Figure B**



A considerable amount of congressmen, particularly since the 9/11 and more so following the throes of the global recession, seem to be now leaning towards being fervently opposed to any sort of increase in the annual cap of H-1B eligible workers (currently at 65,000) despite the glaring need to boost productivity and cut costs amongst companies; that are heavily reliant on foreign expertise for the simple fact that the pool of similar graduates in the U.S. for IT/Science/Math/Engineering-related positions are dismally thin. If anything, legislature that is being proposed to bailout businesses and corporate America should not be punishing those who receive bailouts from the stimulus package by rescinding their choice to hire H-1B workers- (see H.R. 1) this is an indication of early stages of protectionism which seems economically irrational. A weak company that now needs assistance all of a sudden is denied access to cheaper labor that would help it compete on a greater scale, thus making it tougher for both parties to benefit equally. Of course the idea is to make sure that no job is taken away from equally qualified American workers, but the fact of the matter is that many companies (specifically in the IT sector) have constantly implored the government to raise the cap on H-1B workers from 65,000 (which was in set back in 1991) in order to keep up with the present competitive times where the US faces a plethora of persistent challenges in areas such as innovation and cheaper production markets. More telling is the 150,000 plus H-1B applications that are received annually on the first day that filing begins. Clearly there is a glaring need for more qualified foreign workers that the market makes clear (and of the 65,000 visas that are issued annually, 70% are to Indians).

Congress has taken the immigration issue to be a very essential part of its agenda which needs top-down reforming in the country, and especially now during the financial crisis- where loss of local jobs and outsourcing are very much loathed through the eyes of the average American. The hike in H-1B fees just goes to enforce the suggestion that such immigration programs are becoming ideal targets for politicians to target during these increasingly austere times. There needs to be a reasonable discourse however, regarding legal avenues of immigration and it is integral that there needs to be tepid, if not forced, restructuring within the present skilled-worker format before we can truly see any favorable progress for those H-1B

Indian migrant workers in the near future as well as the entire foundation of U.S. immigration policy moving forward.

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## **APPENDIX**

### **→ USINPAC Press Releases**

#### **“USINPAC urges US Congress to reconsider provision to hike H1-B visa fees” (08/11/2010)**

Expressed support for the recent efforts by the US Senate to beef up border security operations but expressed concern at the measure by the US Senate to increase H1-B and L-1 visa fees to fund these operations. The legislation proposes an increase of fees by \$2,000 per visa per person to fund the \$600 million emergency security package. USINPAC believes that the fee increase is a regressive move that would permanently move these jobs out of the US to off shore destinations and negatively impact the US economy.

Firstly the proposed measure will increase the migration of jobs moving permanently off shore; secondly the measure seems to target Indian IT companies which will have

negative implications for US exports which have found a receptive market in the fast growing Indian economy. Finally, some of the highly skilled and educated immigrants who came to the US under the H1b program end up staying in the US and creating businesses, jobs and innovative products. This measure has the potential to stop that.

Sanjay Puri, Chairman of USINPAC criticized the move and said, "While the security of the US borders and the protection of American jobs are of prime importance, it should not be done to score points during a heated political climate. The proposed move by the US Congress could permanently export jobs outside the United States and deprive the US of the next Google or Intel. We urge the Congress to consider the potential damage the bill would cause and reconsider the provision."

**Source:**

[http://www.usinpac.com/index.php?option=com\\_content&view=article&id=107:usinpac-urges-us-congress-to-reconsider-provision-to-hike-h1-b-visa-fees&catid=34:latest-news&Itemid=78](http://www.usinpac.com/index.php?option=com_content&view=article&id=107:usinpac-urges-us-congress-to-reconsider-provision-to-hike-h1-b-visa-fees&catid=34:latest-news&Itemid=78)

**“USINPAC urges President Obama to reconsider enacting the H1-B visa fee hike”  
(08/13/2010)**

The US India Political Action Committee (USINPAC) strongly urges President Obama to reconsider the enactment of the H1-B and L-1 visa fee hike provision in the border security bill. The US Senate today passed the Bill, which would increase visa fees for H1-B and L-1 by \$2,000 per visa per person. USINPAC had earlier alerted the Senate to the potential damage the provision would cause to the US economy by permanently moving such jobs out of the country and negatively impacting US-India trade relations.

While USINPAC supports the efforts to beef up border security operations, it is concerned that the visa fee hike to fund the \$600 million package would seriously damage US exports to the rapidly growing Indian market. Navin Goel, USINPAC Leadership Committee member expressed concern over the passage of the Bill in the

Senate and said, "It is necessary to see beyond gaining electoral brownie points and understand the ramifications of the visa fee hike on American jobs and exports. Though the Senate has passed the Bill, we strongly urge President Obama to reconsider the visa fee hike provision before signing it into law.

Sanjay Puri, Chairman of USINPAC, said "President Obama has made doubling of US Exports in five years a key aspect of his trade policy. By picking on and what is arguably one of the most prominent symbols of India's resurgence we have not created a very positive environment for US exports in India which happens to be one of the fastest growing economies in the world."

**Source:**

[http://www.usinpac.com/index.php?option=com\\_content&view=article&id=106:usinpac-urges-president-obama-to-reconsider-enacting-the-h1-b-visa-fee-hike&catid=34:latest-news&Itemid=78](http://www.usinpac.com/index.php?option=com_content&view=article&id=106:usinpac-urges-president-obama-to-reconsider-enacting-the-h1-b-visa-fee-hike&catid=34:latest-news&Itemid=78)

**“USINPAC to Law Makers: Reverse restrictions to the H1B Visa holder Program”  
(03/30/2009)**

Washington, D.C. February 12. US India Political Action Committee (USINPAC) urged lawmakers to reverse amendment passed by the U.S. Senate Friday that severely restricts the nation's H1B visa holder program.

The amendment introduced to the nation's economic stimulus package requires employers to seek U.S. workers for job openings and it forbids them from displacing their American employees with an H1B hire for a period of three months before and after applying for a visa.

USINPAC said that, rather than protect American workers, the proposed measure by Senators Charles Grassley (R-Iowa) and Bernie Sanders (I-Vt), would drain U.S. companies of badly needed foreign talent.

"We encourage the Senators to rethink the amendment clause," said Sanjay Puri, Chairman, USINPAC. "In a global economy, such restrictions will only lead to moving jobs overseas rather than keeping them in America where they will contribute to the tax base and support economic expansion."

The original proposal had called for an amendment prohibiting firms from hiring H1B employees all together. This new proposal, which would last for two years, is considered softer than Senator Grassley's previous amendment, which would have remained in effect for a year.

Still, companies receiving money through the Troubled Assets Relief Program will have much lower access to skilled foreign workers when they need to supplement their staff.

The objective of this amendment, according to the two Senators, is to save jobs for American workers.

However, USINPAC argues that such an amendment would have the opposite effect.

US companies have reported opening offices outside of the US because of difficulties they were having getting visas for their workers. USINPAC points out that the amendment would also erase support jobs in this country: those positions would move overseas with the H1B professionals.

USINPAC also cited a National Foundation for American Policy study, reporting 74 percent of respondents as saying that a lack of H1B visas has severely impaired their competitiveness in international markets.

**Source:**

[http://www.usinpac.com/index.php?option=com\\_content&view=article&id=157%3A-usinpac-to-law-makers-reverse-restrictions-to-the-h1b-visa-holder-program&Itemid=148](http://www.usinpac.com/index.php?option=com_content&view=article&id=157%3A-usinpac-to-law-makers-reverse-restrictions-to-the-h1b-visa-holder-program&Itemid=148)

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