I

115TH CONGRESS
1ST SESSION

H. R. 2233

To amend the Immigration and Nationality Act to improve the H–1B visa program, to repeal the diversity visa lottery program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2017

Mr. BROOKS of Alabama (for himself, Mr. JONES, and Mr. FRANCIS ROONEY of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Immigration and Nationality Act to improve the H–1B visa program, to repeal the diversity visa lottery program, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs First Act of 2017''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—H–1B VISA PROGRAM

SEC. 101. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) INADMISSIBLE ALIENS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended to read as follows:

''(n) LABOR CONDITION APPLICATION.—

''(1) IN GENERAL.—An alien may not be admitted or provided status as an H–1B nonimmigrant in an occupational classification unless the petitioner employer has filed with the Secretary of Labor an application stating the following:

''(A) The petitioner employer—

''(i) is offering an annual wage to the H–1B nonimmigrant that is the greater of—

''(I) the annual wage that was paid to the United States citizen or lawful permanent resident employee who did identical or similar work dur-

ing the 2 years before the petitioner employer filed such application; or

''(II) $110,000, if offered not later than 1 year after the date of the enactment of the American Jobs First Act of 2017, which amount shall be annually adjusted for inflation by July 1 of each year;

''(ii) will not require an H–1B nonimmigrant to pay a penalty for ceasing employment with the petitioner employer before the date agreed to by the H–1B nonimmigrant and the petitioner employer;

''(iii) will not—

''(I) require an alien who is the subject of a petition filed under paragraph (1) of section 214(c), for which a fee is imposed under paragraph (9) of such section, to reimburse, or otherwise to compensate, the petitioner employer for part or all of the cost of such fee;

''(II) accept reimbursement or compensation for the fee described in subclause (I) from an H–1B non-

immigrant, even if such reimbursement or compensation is alleged to have been voluntarily given by the H–1B nonimmigrant;

''(III) deduct such amounts from an H–1B nonimmigrant's pay before disbursal to such H–1B nonimmigrant for the purpose of covering the cost of such fee; or

''(IV) require an H–1B nonimmigrant to pay any other amounts or fees for housing, vehicle use or rental, equipment use or rental, or other goods or services, unless the requirement of the payment of such amounts or fees is identical to the payments that are required by United States citizen or lawful permanent resident employees; and

''(iv) will—

''(I) after the employer has filed an application under this subsection and placed an H–1B nonimmigrant designated as a full-time employee on the petition filed under section

214(c)(1) and the nonimmigrant has entered into employment with the petitioner employer (in nonproductive status due to a decision by the petitioner employer, based on factors such as lack of work or due to the nonimmigrant's lack of a permit or license), pay the nonimmigrant full-time wages in accordance with paragraph (1)(A) for all such nonproductive time;

''(II) after the employer has filed an application under this subsection and placed an H–1B nonimmigrant designated as a part-time employee on the petition filed under section 214(c)(1) and the nonimmigrant has entered into employment with the petitioner employer (in nonproductive status under circumstances described in subclause (I)), pay the nonimmigrant for such hours as are designated on such petition in accordance with the rate of pay identified on such petition; and

"(III) after the employer has filed an application under this subsection, offer to an H–1B nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States citizens or lawful permanent residents, benefits and eligibility for benefits, including—

"(aa) the opportunity to participate in health, life, disability, and other insurance plans;

"(bb) the opportunity to participate in retirement and savings plans; and

"(cc) cash bonuses and noncash compensation, such as stock options (whether or not such compensation is based on performance).

"(B) With respect to workplace conditions—

''(i) there has not been an employee-initiated strike at any point during the 2-year period ending on the date on which the petitioner employer files the visa application that sought redress for salary, wage, or benefit concerns;

''(ii) there has not been a petitioner employer-initiated lockout at any point during the 2-year period ending on the date on which the petitioner employer filed such visa application; and

''(iii) no employee in the same or substantially similar occupational classification for which the employer seeks H–1B nonimmigrants, has been displaced, furloughed, terminated without cause, or otherwise involuntarily separated without cause in any way at any point during the 2-year period ending on the date on which the petitioner employer filed such visa application.

''(C) The petitioner employer, at the time a visa application is filed—

''(i) has provided notice of the filing under this paragraph to the bargaining

representative of its employees in the occupational classification and area for which aliens are sought; or

''(ii) if such employees do not have a bargaining representative, has provided notice of filing in the occupational classification through methods such as—

''(I) physical posting in conspicuous locations at the place of employment; or

''(II) electronic notification to employees in the occupational classification for which H–1B nonimmigrants are sought.

''(D) The application contains—

''(i) the specific dollar value of the required wage, in accordance with subparagraph (A);

''(ii) the specific number of nonimmigrant employees sought; and

''(iii) the occupational classification in which the nonimmigrant employees will be employed.

''(E)(i) The petitioner employer—

''(I) will not replace a United States citizen or lawful permanent resident with one or more nonimmigrants;

''(II) will not contract with any third party to provide a nonimmigrant to replace any United States citizen or lawful permanent resident; and

''(III) has not displaced, furloughed, terminated without cause, or otherwise involuntarily separated, and will not displace, furlough, terminate without cause, or otherwise involuntarily separate a United States citizen or lawful permanent resident employed by the petitioner employer during the 4-year period beginning on the date that is 2 years before the date on which the petitioner employer filed any visa petition supported by the application.

''(ii) The 4-year period referred to in clause (i)(III) does not include any period of on-site, remote, teleconference-based, computer-based, or other virtual training of nonimmigrants by or with employees of the petitioner employer.

''(F) The petitioner employer will not place an H–1B nonimmigrant employee with another employer (unless the petitioner employer, after diligent inquiry of the other employer, has no knowledge that, during the 4-year period beginning 2 years before the date on which the employee was placed with the other employer, the other employer has displaced or intends to displace a United States citizen or lawful permanent resident employed by the other employer) if—

''(i) the employee performs duties, in whole or in part, at one or more worksites owned, operated, or controlled by such other employer; and

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer.

''(G) The petitioner employer, before filing an application under this paragraph—

''(i) has documented specific steps to recruit potential employees who are United States citizens or lawful permanent residents using mainstream and industry-focused media and online advertising cam-

paigns, and offering wages that are at least as high as the wage requirements established for nonimmigrants in subparagraph (A), in order to recruit such citizens and residents for the job or jobs for which the nonimmigrant or nonimmigrants is or are sought;

''(ii) has offered the job to any United States citizen or lawful permanent resident who applies and possesses the same or better qualifications for such jobs;

''(iii) despite the efforts specified in clauses (i) and (ii), has been unable to hire United States citizens or lawful permanent residents for any of such available jobs;

''(iv) has not intimidated, threatened, restrained, coerced, blacklisted, discharged, or in any other manner discriminated against an employee (including former employees and applicants for employment) because the employee—

''(I) has disclosed information to the petitioner employer, or to any other person or entity, that the employee reasonably believes evidences a

violation of this subsection, or any rule or regulation pertaining to this subsection; or

''(II) cooperated, or sought to cooperate, in an investigation or other proceeding concerning the petitioner employer's compliance or noncompliance with the requirements under this subsection or any rule or regulation pertaining to this subsection; and

''(v) has executed a sworn affidavit or other court-recognized statement that—

''(I) swears or affirms the truth of the information regarding such recruiting efforts; and

''(II) acknowledges that false statements made in such statement will subject the affiant to criminal prosecution under section 1621 of title 18, United States Code.

''(2) NOTIFICATION AND TRANSPARENCY REQUIREMENTS.—

''(A) IN GENERAL.—The petitioner employer shall make available for examination its materials relating to its application to the Sec-

retary of Labor in accordance with paragraph (1).

''(B) INTERNAL AND EXTERNAL PUBLICATION OF APPLICATION MATERIALS.—

''(i) ELECTRONIC PUBLICATION.—Not later than 1 business day after the date on which an application is filed in accordance with paragraph (1), the petitioner employer shall—

''(I) electronically mail a copy of such application and necessary accompanying documentation to all employees at all business locations and worksites to ensure employer-wide employee awareness of the application; and

''(II) post an electronic copy of the application and such accompanying documentation as are necessary on a publicly accessible website to ensure public awareness of the application.

''(ii) PHYSICAL POSTING.—Not later than 5 business days after the date on which an application is filed in accordance

with paragraph (1), the petitioner employer shall post copies of such application and necessary accompanying documentation in prominent places at all of its business locations and worksites to ensure that all of its employees are aware of the application.

''(C) FAILURE TO PROVIDE COMPLETE INTERNAL AND EXTERNAL PUBLICATION OF APPLICATION MATERIALS.—If the Secretary of Labor receives proof that a petitioner employer has failed to meet the publication requirements under subparagraph (B) of any application that is filed in accordance with paragraph (1), the Secretary shall—

''(i) deny such application; and

''(ii) prevent such petitioner employer from filing another such application during the 2-year period beginning on such date of denial.

''(D) SECRETARY OF LABOR APPLICATION TRANSPARENCY OBLIGATIONS.—The Secretary of Labor shall—

''(i) compile and publish on the Department of Labor website, on an ongoing basis—

''(I) the name of the petitioner employer that has filed an application under this subsection;

''(II) the date on which each such petitioner employer filed such application;

''(III) the number of H–1B visas that have been requested in such application;

''(IV) the sworn affidavit or other court-recognized statement required under paragraph (1)(G)(v); and

''(V) the name of the employee or employees who signed or executed the sworn affidavit or other court-recognized statement referred to in subclause (IV);

''(ii) not later than July 1 of each year, publish the information described in clause (i) for the preceding calendar year in the Federal Register; and

''(iii) not later than July 1 of each year, submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

''(I) the information described in clause (i);

''(II) information about any petitioner employers whose applications were denied under subparagraph (C);

''(III) information about any ongoing investigations of petitioner employers for potential or determined violations of use of the H–1B visa program;

''(IV) any referrals of potential violations of section 1621 of title 18, United States Code, to the Attorney General, as required under paragraph (3)(D)(i);

''(V) any assessments of civil penalties of petitioner employers, as required under clauses (ii) and (iii) of paragraph (3)(D); and

''(VI) any additional information that the Secretary of Labor believes may be relevant to future congressional evaluation of the H–1B visa program.

''(3) H–1B APPLICATION INVESTIGATIONS.—

''(A) IN GENERAL.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting—

''(i) a petitioner employer's failure to meet a condition specified in an application submitted under paragraph (1); and

''(ii) a petitioner employer's misrepresentation of material facts in such an application.

''(B) INVESTIGATION PROCEDURES.—

''(i) IN GENERAL.—The Secretary of Labor may conduct an investigation of any complaint alleged against a petitioner employer—

''(I) based on the independent judgment of the Secretary;

''(II) in response to a referral or complaint from the head of another Federal agency; or

''(III) through any other method that, in the Secretary's discretion, shows cause for such an investigation.

''(ii) COMPLAINANTS.—A complaint may be filed by any aggrieved party, including—

''(I) any United States citizen or lawful permanent resident who believes his or her job has been eliminated or could potentially be eliminated as the result of the petitioner employer hiring or seeking to hire a foreign national pursuant to a nonimmigrant visa;

''(II) any trade association or union that represents any person described in subclause (I); and

''(III) any foreign national hired for work in the United States pursuant to a nonimmigrant visa who believes he or she is subject to poten-

tially unlawful workplace conditions or requirements.

''(iii) PROCESS FOR FOREIGN NATIONAL COMPLAINANTS.—The Secretary of Labor and the Secretary of Homeland Security shall devise a process under which an H–1B nonimmigrant who files a complaint regarding a violation under this subsection and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(iv) PROGRAM PAUSE FOR INITIATION OF INVESTIGATION.—In any situation in which the Secretary of Labor commences an investigation of a petitioner employer under this paragraph, the Secretary of Labor may—

''(I) cease processing any application that is submitted under this subsection and filed by such petitioner

employer until the conclusion of such investigation; and

''(II) suspend such petitioner employer's usage of currently issued H–1B nonimmigrant visas, until the conclusion of such investigation.

''(C) INITIATION OF INVESTIGATION.—Not later than 30 days after the date on which a complaint is filed with the Department of Labor under this paragraph, the Secretary of Labor—

''(i) shall determine whether a reasonable basis exists to make a finding under subparagraph (D);

''(ii) not later than 30 days after the date of such determination, shall provide for notice of such determination to the interested parties and an opportunity for a hearing on such determination, in accordance with section 556 of title 5, United States Code;

''(iii) if such a hearing is requested and held, shall make a finding concerning the matter not later than 30 days after the date of such hearing; and

"(iv) in the case of similar complaints respecting the same petitioner employer, may consolidate the hearings under this subparagraph on such complaints.

"(D) PENALTIES.—

"(i) FINDING OF POSSIBLE CRIMINAL VIOLATION.—If the Secretary of Labor, after notice and opportunity for a hearing under subparagraph (C), finds that a petitioner employer made one or more false statements in a sworn affidavit or similar court-recognized statement, the Secretary shall refer such petitioner employer to the Attorney General for criminal prosecution.

"(ii) FINDING OF MATERIAL FAILURE WITHOUT DISPLACEMENT.—If the Secretary of Labor, after notice and opportunity for a hearing under subparagraph (C), finds that a petitioner employer materially failed to meet a condition required under paragraph (1), the Secretary may—

"(I) impose a fine against the petitioner employer that is not less than $50,000 and not greater than $100,000 per violation, which shall be

deposited into the general fund of the Treasury;

"(II) immediately revoke all issued H–1B visas currently being used by the petitioner employer; and

"(III) prohibit the petitioner employer from applying for additional H–1B visas for a period of not less than 5 years and not more than 10 years.

"(iii) FINDING OF MATERIAL FAILURE WITH DISPLACEMENT.—If the Secretary of Labor, after notice and opportunity for a hearing under subparagraph (C), finds that a petitioner employer materially failed to meet a condition under paragraph (1), and, in the course of, or as a result of, such material failure, the petitioner employer displaced a United States citizen or lawful permanent resident employed by the petitioner employer during the period beginning 2 years before the date on which any visa petition supported by the application was filed and ending 2 years after such date, the Secretary shall—

"(I) impose a fine against the petitioner employer that is not less than $100,000 and not greater than $500,000 per violation, which shall be deposited into the general fund of the Treasury;

"(II) immediately revoke all issued H–1B visas currently being used by the petitioner employer;

"(III) permanently bar the petitioner employer from applying for additional H–1B visas; and

"(IV) require the petitioner employer to provide retroactive compensation for any displaced United States citizen or lawful permanent resident employee.

"(E) SCOPE OF INVESTIGATIVE AUTHORITY.—

"(i) IN GENERAL.—The Secretary of Labor may initiate an investigation of any petitioner employer that employs nonimmigrants described in section 101(a)(15)(H)(i)(b) if the Secretary of Labor has reasonable cause to believe that

the petitioner employer is not in compliance with this subsection.

''(ii) CERTIFICATION.—The Secretary of Labor (or the acting Secretary in case of the absence or disability) shall personally certify that reasonable cause exists to initiate an investigation under this subparagraph. The investigation may be initiated for reasons other than completeness and obvious inaccuracies by the petitioner employer in complying with this subsection.

''(iii) USE OF INFORMATION.—If the Secretary of Labor receives specific credible information from a source who is likely to have knowledge of a petitioner employer's practices or employment conditions, or a petitioner employer's compliance with the petitioner employer's labor condition application under paragraph (1), and whose identity is known to the Secretary of Labor, and such information provides reasonable cause to believe that the petitioner employer has committed a willful failure to meet a condition under subparagraph (A),

(B), (C), (E), (F), or (G)(i), has engaged in a pattern or practice of failures to meet such a condition, or has committed a substantial failure to meet such a condition that affects multiple employees, the Secretary of Labor may—

''(I) conduct an investigation into the alleged failure or failures; and

''(II) withhold the identity of the source from the petitioner employer, which shall not be subject to disclosure under section 552 of title 5, United States Code.

''(iv) PROCEDURE.—The Secretary of Labor shall establish a procedure for any person desiring to provide information described in clause (iii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide such information in writing on a form developed and provided by the Secretary and completed by or on behalf of the person. Such person may not be an officer or employee of the Department of Labor unless the information sat-

isfies the requirement under clause (v)(II), although an officer or employee of the Department of Labor may complete the form on behalf of the person.

''(v) INFORMATION SOURCES.—Any investigation initiated or approved by the Secretary of Labor under this subparagraph shall be based on information that—

''(I) satisfies the requirements under clause (iii); and

''(II)(aa) originates from a source other than an officer or employee of the Department of Labor; or

''(bb) was lawfully obtained by the Secretary of Labor in the course of lawfully conducting another Department of Labor investigation.

''(vi) CLARIFICATION.—The receipt of information by the Secretary of Labor that was submitted by a petitioner employer to the Secretary of Homeland Security or the Secretary of Labor for purposes of securing the employment of a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall

not be considered a receipt of information under clause (iii).

''(vii) DEADLINE.—An investigation described in clause (iii) (or a hearing described in clause (ix) based on such investigation) may not be conducted with respect to information about a failure to meet a condition described in clause (iii) unless the Secretary of Labor receives the information not later than 1 year after the date of the alleged failure.

''(viii) NOTICE.—

''(I) IN GENERAL.—Before initiating an investigation of a petitioner employer under this subparagraph, the Secretary of Labor shall provide notice of the intent to conduct such an investigation to such employer in such a manner, and containing sufficient information, to permit the petitioner employer to respond to the allegations before the investigation is commenced.

''(II) EXCEPTION.—The Secretary of Labor is not required to

comply with subclause (I) if the Secretary determines that such compliance would interfere with an effort by the Secretary to secure compliance by the petitioner employer with the requirements under this subsection. There shall be no judicial review of a determination by the Secretary of Labor under this clause.

''(ix) TIMING.—An investigation under this subparagraph may be conducted for a period of up to 60 days. Not later than 120 days after the Secretary of Labor determines, through an investigation under this subparagraph, that a reasonable basis exists to determine that the petitioner employer has committed a willful failure to meet a condition under subparagraph (A), (B), (C), (E), (F), or (G)(i) of paragraph (1), has engaged in a pattern or practice of failures to meet such a condition, or has committed a substantial failure to meet such a condition that affects multiple employees, the Secretary shall provide for notice of such determination to the interested

parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 120 days after the date of the hearing.

''(F) COMPLIANCE.—

''(i) GOOD FAITH ATTEMPT.—Except as provided in clauses (ii) and (iii), a person or entity is considered to have complied with the requirements under this subsection, notwithstanding a technical or procedural failure to meet such requirements, if there was a good faith attempt to comply with the requirements.

''(ii) EXCEPTIONS.—Clause (i) shall not apply if—

''(I) the Department of Labor (or another enforcement agency) has explained to the person or entity the basis for the failure;

''(II) the person or entity has been provided a period of not less than 10 business days after the date

of the explanation to correct the failure; and

''(III) the person or entity has not corrected the failure voluntarily within the period described in subclause (II).

''(iii) PENALTY AVOIDANCE.—A person or entity shall not be assessed fines or other penalties for a violation of the prevailing wage requirements under paragraph (1)(A) if the person or entity establishes that the manner in which the prevailing wage was calculated was consistent with recognized industry standards and practices.

''(iv) EXCEPTIONS.—Clauses (i) and (iii) shall not apply to a person or entity that has engaged in, or is engaging in, a pattern or practice of willful violations of this subsection.

''(4) SAVINGS PROVISION.—Nothing in this subsection may be construed to supersede or preempt any other enforcement-related authority under this title, including section 274B, or under any other Act.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) by amending subsection (b) to read as follows:

''(b) PRESUMPTION OF STATUS; WRITTEN WAIVER.—

''(1) IN GENERAL.—Every alien (other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15) and other than a nonimmigrant described in any provision of subparagraph (H) of such section except subclause (b1) of such subparagraph) shall be presumed to be an immigrant until the alien establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he or she is entitled to a nonimmigrant status under section 101(a)(15).

''(2) RESTRICTIONS.—An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the Inter-

national Organizations Immunities Act (22 U.S.C. 288 et seq.), and an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless the alien executes a written waiver in the same form and substance as is prescribed under section 247(b).''; and

(3) in subsection (c)—

(A) by striking paragraph (2);

(B) in paragraph (9)—

(i) in the matter preceding subparagraph (A), by striking ''(excluding'' and all that follows through ''organization) filing before'' and inserting ''filing''; and

(ii) in subparagraph (B), by striking ''$1,500'' and inserting ''$10,000'';

(C) by striking paragraph (10);

(D) in paragraph (11)(A), by striking ''or the Secretary of State, as appropriate,''; and

(E) in paragraph (12)(C), by striking ''$500'' and inserting ''$2,000''.

(c) EMPLOYMENT AUTHORIZATION.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end the following:

''(4) EMPLOYMENT AUTHORIZATION FOR ALIENS NO LONGER ENGAGED IN FULL-TIME STUDY IN THE UNITED STATES.—Notwithstanding any other provision of law, no alien present in the United States as a nonimmigrant under section 101(a)(15)(F)(i) may be provided employment authorization in the United States pursuant to the Optional Practical Training Program, or any such successor program, without an express Act of Congress authorizing such a program.''.

(d) CLERICAL AMENDMENT.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–449, as subsection (u).

TITLE II—NEW H–1B VISA REQUIREMENTS

SEC. 201. BAR ON NONDISPARAGEMENT AND NONDISCLOSURE AGREEMENTS.

(a) IN GENERAL.—A petitioner employer may not require a United States citizen or lawful permanent resident employee of such petitioner employer to sign any nondisparagement or nondisclosure agreement, regardless of its characterization or label, that conditions receipt of any financial or nonfinancial benefit from the petitioner em-

ployer upon the nondisclosure of such petitioner employer's potential misuse of the H–1B visa program.

(b) PATENT OR TRADEMARK AFFIRMATIVE DEFENSE IN LITIGATION.—Notwithstanding subsection (a), a petitioner employer, as a defense in litigation, may affirmatively assert that an agreement described in subsection (a) was necessary to prevent the disclosure of any highly technical information that might be related to a pending patent or trademark application.

SEC. 202. UNITED STATES FEDERAL COURT JURISDICTION OVER CIVIL ACTIONS PERTAINING TO MISUSE OF THE H–1B VISA PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) each United States district court shall have jurisdiction to address civil actions by any person claiming misuse of the H–1B visa program;

(2) each United States court of appeals shall have jurisdiction to address appeals of civil actions by any person claiming misuse of the H–1B visa program for cases originating within a United States district court within that circuit; and

(3) the Supreme Court of the United States shall have jurisdiction to address appeals of civil actions by any person claiming misuse of the H–1B

visa program for cases originating from any United States court of appeals.

(b) NO EXHAUSTION REQUIREMENT.—Notwithstanding any other provision of law, a person shall have standing to pursue a civil action claiming misuse of the H–1B visa program, in accordance with subsection (a), regardless of whether such person has exhausted all administrative remedies in connection with such claims.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect or change any of the other jurisdictional, procedural, or administrative rules under title 28, United States Code, other than the specific establishment of jurisdiction of Federal courts, as provided in subsection (a).

TITLE III—REPEAL OF OTHER PROVISIONS

SEC. 301. REPEAL OF THE DIVERSITY VISA LOTTERY.

Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended—

(1) in section 201(a)—

(A) in paragraph (1), by adding ''and'' at the end;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3);

(2) in section 203—

(A) by striking subsection (c); and

(B) in subsection (e)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2); and

(3) in section 204(a)(1), by striking subparagraph (I).

○