

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

“(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H-1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting “(L),” after “(H).”

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

“(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

“(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$2,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

“(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

“(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

“(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

“(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary determines to be appropriate; and

“(II) the employer shall be liable to employees harmed for lost wages and benefits.”

#### SEC. 423. WHISTLEBLOWER PROTECTIONS.

(a) H-1B Whistleblower Protections.—Section 212(n)(2)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)(C)(iv)) is amended—

(1) by inserting “take, fail to take, or threaten to take or fail to take, a personnel action, or” before “to intimidate.”;

(2) by adding at the end the following: “An employer that violates this clause shall be liable to the employees harmed by such violation for lost compensation, including back pay.”

(b) L-1 Whistleblower Protections.—Section 214(c)(2) of such Act, as amended by section 4, is further amended by adding at the end the following:

“(L)(i) It is a violation of this subparagraph for an employer who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L) to take, fail to take, or threaten to take or fail to take, a personnel action, or to intimidate, threaten, restrain, coerce, blacklist, discharge, or discriminate in any other manner against an employee because the employee—

“(I) has disclosed information that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection; or

“(II) cooperates or seeks to cooperate with the requirements of this subsection, or any rule or regulation pertaining to this subsection.

“(ii) An employer that violates this subparagraph shall be liable to the employees harmed by such violation for lost wages and benefits.

“(iii) In this subparagraph, the term ‘employee’ includes—

“(I) current employee;

“(II) a former employee; and

“(III) an applicant for employment.’

#### SEC. 424. LIMITATIONS ON APPROVAL OF L-1 PETITIONS FOR START-UP COMPANIES

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(a) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(b) in subparagraph (E), by striking “In the case” and inserting “Except as provided in subparagraph (H), in the case”; and

(c) by adding at the end the following:

“(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to be employed in a new office, the petition may be approved for a period not to exceed 12 months only if the alien has not been the beneficiary of two or more petitions under this subparagraph within the immediately preceding two years and only if the employer operating the new office has—

“(I) an adequate business plan;

“(II) sufficient physical premises to carry out the proposed business activities; and

“(III) 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 to the Secretary of Homeland Security—

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

“(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

“(III) a statement summarizing the original petition;

“(IV) evidence that the importing employer has substantially complied with the business plan submitted under clause (i);

“(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition if requested by the Secretary;

“(VI) evidence, that the importing employer, from the date of petition approval under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods or 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 approved 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 if the beneficiary will be employed managerial or executive capacity;

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

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

“(iii) A new office employing the beneficiary of an L-1 petition approved under this subparagraph must do business through regular, systematic, and continuous provision of goods or services for the entire period of petition approval.

“(iv) Notwithstanding clause (iii) or subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may in his discretion approve a subsequently filed petition on behalf of the beneficiary to continue employment at the office described in this subsection for a period beyond the initially granted 12-month period if the importing employer has been doing business at the new office through regular, systematic, and continuous provision of goods or services for the 6 months immediately preceding the date of extension petition filing and demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances, as determined by the Secretary in his discretion.

“(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 12-month period described in subparagraph (G)(i).

“(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

“(I) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish procedures with the Department of State to verify a company or office’s existence in the United States and abroad.”

#### SEC. 425. MEDICAL SERVICES IN UNDERSERVED AREAS

(a) PERMANENT AUTHORIZATION OF THE CONRAD PROGRAM.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) ((as amended by section 1(a) of Public Law 108-441 and section 2 of Public Law 109-477)) is amended by striking “and before June 1, 2008.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on June 1, 2007.

(b) PILOT PROGRAM REQUIREMENTS.—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) is amended—

(1) by adding at the end the following:

“(4)(A) Notwithstanding paragraph (1)(B), the Secretary of Homeland Security may grant up to a total of 50 waivers for a State under section 212(e) in a fiscal year if, after the first 30 such waivers for the State are granted in that fiscal year—

“(i) an interested State agency requests a waiver; and

“(ii) the requirements under subparagraph (B) are met.

“(B) The requirements under this subparagraph are met if—

“(i) fewer than 20 percent of the physician vacancies in the health professional shortage areas of the State, as designated by the Secretary of Health and Human Services, were filled in the most recent fiscal year;

“(ii) all of the waivers allotted for the State under paragraph (1)(B) were used in the most recent fiscal year; and

“(iii) all underserved highly rural States—