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TO PROVIDE FOR WORK AUTHORIZATION FOR NONIMMIGRANT SPOUSES OF INTRACOMPANY TRANSFEREES, AND TO REDUCE THE PERIOD OF TIME DURING WHICH CERTAIN INTRACOMPANY TRANSFEREES HAVE TO BE CONTINUOUSLY EMPLOYED BEFORE APPLYING FOR ADMISSION TO THE UNITED STATES

AUGUST 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2278]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2278) to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 2278 would allow the spouses of L visa recipients to work in the United States while accompanying the primary visa recipients. The bill would also allow aliens to qualify for L visas after working for 6 months overseas for employers if the employers have filed blanket L petitions and have met the blanket petitions' requirements.

BACKGROUND AND NEED FOR THE LEGISLATION

L visas are available for "intracompany transferees"—they allow employees working at a company's overseas branch to be shifted to the company's worksite in the United States. A visa is available to an alien who:

> within 3 years preceding the time of his application for admission into the United States, has been employed continuously for 1 year by a firm . . . or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him. . . .[1]

The visas are good for up to 5 years for aliens admitted to render services in a capacity that involves specialized knowledge and for up to 7 years for aliens admitted to render services in a managerial or executive capacity.[2] In fiscal year 1998, 38,307 aliens (along with 44,176 dependents) were granted L visas.

To make the L visa program more convenient for established and frequent users of the program, "blanket" L visas are available.[3] If an employer meets certain qualifications—it 1) is engaged in commercial trade or services; 2) has an office in the U.S. that has been doing business for at least 1 year; 3) has three or more domestic and foreign branches, subsidiaries, or affiliates; and 4) has received approval for at least 10 L visa professionals during the past year or has U.S. subsidiaries or affiliates with annual combined sales of at least $25 million or has a U.S. workforce of at least 1,000 employees[4]—it can receive pre-approval for an unlimited number of L visas from the INS. Individual aliens seeking visas (within 6 months of the blanket petition approval)[5] to work for the company simply have to go to a U.S. consular office abroad and show that the job they will be employed in qualifies for the L visa program and that they are qualified for the job.[6]

While current law allows spouses (and minor children) to come to the U.S. with the L visa recipients, spouses are not allowed to work in the U.S. Since working spouses are now becoming the rule rather than the exception in the U.S. and many foreign countries' multi-national corporations are finding it increasingly difficult to persuade their employees abroad to relocate to the United States.

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[1] Immigration and Nationality Act (hereinafter cited as "INA") § 101(a)(15)(L).
[2] INA § 214(c)(2)(D).
[3] INA § 214(c)(2)(A).
[4] 8 C.F.R. § 214.2(l)(4)(i).
[5] 8 C.F.R. § 214.2(l)(5)(ii).
[6] 8 C.F.R. § 214.2(l)(5).

Spouses hesitate to forgo their own career ambitions or a second income to accommodate an overseas assignment. This factor places an impediment in the way of these employers' use of the L visa program and their competitiveness in the international economy. Thus, H.R. 2278 would allow the spouses of L visa recipients to work in the United States while accompanying the primary visa recipients.

Additionally, current law requires that a beneficiary of a L visa have been employed for at least 1 year overseas by the petitioning employer. In many situations, this is an overly restrictive requirement. For example, consultancies recruit and hire individuals overseas with specialized skills to meet the needs of particular clients. The 1 year prior employment requirement can result in long delays before they can bring such employees to the U.S. on L visas. A shorter prior employment period would allow companies to more expeditiously meet the needs of their clients.

Thus, H.R. 2278 would allow aliens to qualify for L visas after having worked for 6 months overseas for employers if the employers have filed blanket L petitions and have met the blanket petitions' requirements. There is a high level of fraud in the L visa program, especially involving "front companies" set up purely to procure visas,[7] and lowering the qualifications for L visas might encourage more fraudulent petitions. With a company that has been prescreened and approved for "blanket" L status, the risk of fraud is much lower.

HEARINGS

No hearings were held on H.R. 2278.

COMMITTEE CONSIDERATION

On June 27, 2001, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 2278, by a voice vote, a quorum being present. On July 24, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 2278 without amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

No recorded votes were held on H.R. 2278.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

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[7] *See Nonimmigrant Visa Fraud*, Hearing Before the Subcomm. on Immigration and Claims of the House Judiciary Comm., 106th Cong. (May 5, 1999).

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2278 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2278, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 2001.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2278, a bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.
Ranking Member

H.R. 2278—A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States

CBO estimates that enacting H.R. 2278 would result in no significant net cost to the Federal Government. The bill could affect direct spending, so pay-as-you-go procedures would apply, but we estimate that any net effects would be insignificant. H.R. 2278 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

Current law permits certain persons to enter the United States temporarily for employment purposes if they have worked for their employer for at least 1 year. H.R. 2278 would reduce this time re-

quirement under certain circumstances to 6 months and would allow the spouses of such persons to seek employment in the United States.

Enacting H.R. 2278 could increase the number of persons who enter the United States for job transfers because of the shortened employment requirement. However, the number of such persons would probably be small and the INS charges no fee for their entry.

Based on information from the Immigration and Naturalization Service (INS), CBO estimates that 10,000 to 20,000 spouses each year could seek employment authorization from the INS under H.R. 2278. The INS would charge a fee of $100 per person to provide a work permit, so the agency could collect an additional $1 million to $2 million annually in offsetting receipts (a credit against direct spending). The INS is authorized to spend these fees without further appropriation, so the net impact on spending would be negligible.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SEC. 1. WORK AUTHORIZATION FOR SPOUSES OF INTRACOMPANY TRANSFEREES

Section 1 of the bill creates a new section 214(c)(2)(E) of the Immigration and Nationality Act (INA) providing that in the case of an alien spouse admitted under the L visa program who is accompanying or following to join a principal alien admitted under the program, the Attorney General shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an employment authorized endorsement or other appropriate work permit.

SEC. 2. REDUCTION OF REQUIRED PERIOD OF PRIOR CONTINUOUS EMPLOYMENT FOR CERTAIN INTRACOMPANY TRANSFEREES

Section 2(a) of the bill amends section 214(c)(2)(A) of the INA by providing that in the case of an alien seeking admission under the L visa program, the 1 year period of continuous employment required under the program is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition and has been found by the Attorney General to have met the requirements for expedited processing of aliens covered under such blanket petition.

Section 2(b) of the bill makes a conforming change to section 101(a)(15)(L) of the INA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

* * * * * * *

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—
(1) * * *

* * * * * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens
(A) * * *

* * * * * * *

(L) [an alien who,] *subject to section 214(c)(2), an alien who,* within 3 years preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

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TITLE II—IMMIGRATION

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CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

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ADMISSION OF NONIMMIGRANTS

SEC. 214. (a) * * *

* * * * * * *

(c)(1) * * *
(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants described in section 101(a)(15)(L) instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for admission of aliens covered under such a petition. *In the case of an alien seeking admission under section 101(a)(15)(L), the one-year period of continuous employment required under such section is deemed to be reduced to a 6-month period if the importing*

employer has filed a blanket petition under this subparagraph and met the requirements for expedited processing of aliens covered under such petition.

* * * * * * *

(E) In the case of an alien spouse admitted under section 101(a)(15)(L), who is accompanying or following to join a principal alien admitted under such section, the Attorney General shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an "employment authorized" endorsement or other appropriate work permit.

MARKUP TRANSCRIPT

BUSINESS MEETING

TUESDAY, JULY 24, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

The next item on the agenda is markup of H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

[The bill, H.R. 2278, follows:]

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107TH CONGRESS
1ST SESSION

H. R. 2278

To provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2001

Mr. GEKAS (for himself, Ms. LOFGREN, Mr. SMITH of Texas, Ms. JACKSON-LEE of Texas, Mr. CANNON, Mr. DOOLEY of California, Ms. DUNN of Washington, and Mr. DREIER) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

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

SECTION 1. WORK AUTHORIZATION FOR SPOUSES OF INTRACOMPANY TRANSFEREES.

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:

"(E) In the case of an alien spouse admitted under section 101(a)(15)(L), who is accompanying or following to join a principal alien admitted under such section, the Attorney General shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an 'employment authorized' endorsement or other appropriate work permit.".

SEC. 2. REDUCTION OF REQUIRED PERIOD OF PRIOR CONTINUOUS EMPLOYMENT FOR CERTAIN INTRACOMPANY TRANSFEREES.

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

"In the case of an alien seeking admission under section 101(a)(15)(L), the one-year period of continuous employment required under such section is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition under this subparagraph and met the requirements for expedited processing of aliens covered under such petition.".

(b) CONFORMING AMENDMENT.—Section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "an alien who," and inserting "subject to section 214(c)(2), an alien who,".

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Pennsylvania, Mr. Gekas, for a motion.

Mr. GEKAS. Mr. Chairman, the Subcommittee on Immigration and Claims reports favorably the bill H.R. 2278 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the gentleman from Pennsylvania, Mr. Gekas's statement will appear in the record.

Chairman SENSENBRENNER. Without objection, the Ranking Member of the Subcommittee, the gentlewoman from Texas, Ms. Jackson Lee's statement will appear in the record.

Ms. JACKSON LEE OF TEXAS. Thank you.

[The prepared statement of Ms. Jackson Lee of Texas follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you Mr. Chairman.

I support H.R. 2278. This is a positive bill because it allows work authorization for nonimmigrant spouses of intracompany transferees.

Not only will spouses be able to accompany their husband or wife who is in the United States in a nonimmigrant capacity, but these spouses will now be afforded the opportunity to be employed. It makes no sense to allow spouses to accompany their loved ones to the United States and then deny them opportunity to be employed.

Global companies are finding it increasingly difficult to relocate foreign nationals in the United States. This bill makes relocation easier since spouses will not have to forgo their career ambitions or a second income which is increasingly necessary.

This bill is also positive since it contains a six month reduction in the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States. Without this bill, companies who recruit and hire individuals overseas with specialized skills to meet the needs of their clients will be able to bring these employees more expeditiously.

Thank you Mr. Chairman. I yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, all Members' statements will appear in the record.

Chairman SENSENBRENNER. Are there any amendments?

If not, a reporting quorum is present. The question occurs on the motion to report H.R. 2278 favorably.

All those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is adopted.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by House rules, in which to submit additional dissenting supplemental or minority views.

