

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 170
OFFERED BY MR. ISSA OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Protect and Grow
3 American Jobs Act”.

4 SEC. 2. FINDINGS.

5 The Congress makes the following findings:

6 (1) The H–1B visa program allows businesses
7 temporarily to hire highly skilled foreign workers
8 with specialized knowledge, where a qualified worker
9 in the United States cannot be found.

10 (2) In 1990, the Congress created the H–1B
11 visa program to help ensure that access to qualified
12 highly skilled professionals was not an obstacle to
13 economic growth and job creation in the United
14 States.

15 (3) The H–1B visa program was never intended
16 to be used as a catalyst for laying off workers in the
17 United States and replacing them with H–1B work-
18 ers.

1 (4) The unintended consequences of the H–1B
2 visa program enabled a small number of companies
3 to hire large numbers of H–1B workers relative to
4 their United States worker populations.

5 (5) In 1998, Congress passed new enforcement
6 provisions to the H–1B program in order to prevent
7 companies from displacing United States workers
8 with lower-cost foreign professionals.

9 (6) The 1998 revisions defined a new class of
10 H–1B dependent employers and established addi-
11 tional conditions on their business and hiring prac-
12 tices unless they paid sufficiently high wages.

13 (7) The 1998 revisions, however, did not index
14 wage requirements to keep pace with wage growth,
15 and, as a result, the strength of provisions designed
16 to protect workers and employers committed to hir-
17 ing United States workers was reduced significantly.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are to close a loophole in
20 the H–1B visa program by requiring H–1B dependent em-
21 ployers to pay sufficiently high wages to ensure the protec-
22 tion of the workforce in the United States, and to remove
23 other impediments to proper H–1B visa enforcement.

1 **SEC. 4. PROHIBITION ON DISPLACEMENT OF UNITED**
2 **STATES WORKERS.**

3 (a) IN GENERAL.—Section 212(n)(1) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1182(n)(1)) is
5 amended—

6 (1) in subparagraph (E)(i), by striking “within
7 the period beginning 90 days before and ending 90
8 days after the date of filing of any visa petition sup-
9 ported by the application.” and inserting “during
10 the period beginning 90 days before the date of fil-
11 ing of any visa petition supported by the application
12 and ending on the last day of the employer’s employ-
13 ment of any alien as an H-1B nonimmigrant pursu-
14 ant to such visa petition or any extension of such
15 visa petition.”; and

16 (2) in subparagraph (F), by striking “within
17 the period beginning 90 days before and ending 90
18 days after the date of the placement of the non-
19 immigrant with the other employer,” and inserting
20 “during the period beginning 90 days before the
21 date of the placement of the nonimmigrant with the
22 other employer and ending at the conclusion of such
23 placement,”.

1 **SEC. 5. H-1B DEPENDENT EMPLOYER DEFINED.**

2 Section 212(n)(3)(A)(iii)(II) of the Immigration and
3 Nationality Act (8 U.S.C. 1182(n)(3)(A)(iii)(II)) is
4 amended by striking “15” and inserting “20”.

5 **SEC. 6. EXEMPT H-1B NONIMMIGRANT DEFINED.**

6 Section 212(n)(3)(B) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1182(n)(3)(B)) is amended—

8 (1) by amending clause (i) to read as follows:

9 “(i) the term ‘exempt H-1B nonimmigrant’
10 means an H-1B nonimmigrant who receives wages
11 (including cash bonuses and similar compensation)
12 at an annual rate equal to at least—

13 “(I) during the 1-year period beginning on
14 the date of the enactment of the Protect and
15 Grow American Jobs Act, the greater of
16 \$90,000 (or any applicable adjusted amount
17 under clause (iii)) and 150 percent of the pre-
18 vailing wage level for the occupational classi-
19 fication in the area of employment; and

20 “(II) after such 1-year period, the lesser
21 of—

22 “(aa) \$135,000 (or any applicable ad-
23 justed amount under clause (iii)); and

24 “(bb) the greater of \$90,000 (or any
25 applicable adjusted amount under clause
26 (iii)) and 150 percent of the prevailing

1 wage level for the occupational classifica-
2 tion in the area of employment;”;

3 (2) in clause (ii), by striking the period at the
4 end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(iii) the dollar amounts described in
7 subclauses (I) and (II) of clause (i) (as of
8 the last increase to such amount) shall be
9 increased, effective for the third fiscal year
10 that begins after the date of the enactment
11 of this clause and for every third fiscal
12 year thereafter, by the percentage (if any)
13 by which the Consumer Price Index for the
14 month of June preceding the date on
15 which such increase takes effect exceeds
16 the Consumer Price Index for the same
17 month of the third preceding calendar
18 year.”.

19 **SEC. 7. EFFECTIVE DATE.**

20 The amendments made by sections 4, 5, and 6 shall
21 take effect on the date of the enactment of this Act and
22 shall apply with respect to applications filed pursuant to
23 section 212(n)(1) of the Immigration and Nationality Act
24 (8 U.S.C. 1182(n)(1)) on or after such date.

Amend the title so as to read: “A bill to amend the Immigration and Nationality Act to modify certain requirements for employment of H–1B nonimmigrants to ensure the protection of the workforce in the United States, and for other purposes.”.

