

112TH CONGRESS
1ST SESSION

S. 1857

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2011

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for High-
5 Skilled Immigrants Act”.

1 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**
2 **STATE.**

3 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
5 amended—

6 (1) in the paragraph heading, by striking “AND
7 EMPLOYMENT-BASED”;

8 (2) by striking “(3), (4), and (5),” and insert-
9 ing “(3) and (4),”;

10 (3) by striking “subsections (a) and (b) of sec-
11 tion 203” and inserting “section 203(a)”;

12 (4) by striking “7” and inserting “15”; and

13 (5) by striking “such subsections” and inserting
14 “such section”.

15 (b) CONFORMING AMENDMENTS.—Section 202 of the
16 Immigration and Nationality Act (8 U.S.C. 1152) is
17 amended—

18 (1) in subsection (a)(3), by striking “both sub-
19 sections (a) and (b) of section 203” and inserting
20 “section 203(a)”;

21 (2) by striking subsection (a)(5); and

22 (3) by amending subsection (e) to read as fol-
23 lows:

24 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
25 If it is determined that the total number of immigrant
26 visas made available under section 203(a) to natives of

1 any single foreign state or dependent area will exceed the
2 numerical limitation specified in subsection (a)(2) in any
3 fiscal year, in determining the allotment of immigrant visa
4 numbers to natives under section 203(a), visa numbers
5 with respect to natives of that state or area shall be allo-
6 cated (to the extent practicable and otherwise consistent
7 with this section and section 203) in a manner so that,
8 except as provided in subsection (a)(4), the proportion of
9 the visa numbers made available under each of paragraphs
10 (1) through (4) of section 203(a) is equal to the ratio of
11 the total number of visas made available under the respec-
12 tive paragraph to the total number of visas made available
13 under section 203(a).”.

14 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
15 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
16 note) is amended—

17 (1) in subsection (a), by striking “subsection
18 (e))” and inserting “subsection (d))”; and

19 (2) by striking subsection (d) and redesignating
20 subsection (e) as subsection (d).

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect as if enacted on September
23 30, 2011, and shall apply to fiscal years beginning with
24 fiscal year 2012.

1 (e) TRANSITION RULES FOR EMPLOYMENT-BASED
2 IMMIGRANTS.—

3 (1) IN GENERAL.—Subject to the succeeding
4 paragraphs of this subsection and notwithstanding
5 title II of the Immigration and Nationality Act (8
6 U.S.C. 1151 et seq.), the following rules shall apply:

7 (A) For fiscal year 2012, 15 percent of the
8 total number of immigrant visas made available
9 under section 203(b) of such Act (8 U.S.C.
10 1153(b)) shall be allotted to immigrants who
11 are natives of a foreign state or dependent area
12 that was not one of the two states with the
13 largest numbers of natives obtaining lawful per-
14 manent resident status during fiscal year 2010
15 under such section 203(b).

16 (B) For fiscal year 2013, 10 percent of the
17 total number of immigrant visas made available
18 under such section 203(b) shall be allotted to
19 immigrants who are natives of a foreign state
20 or dependent area that was not one of the two
21 states with the largest numbers of natives ob-
22 taining lawful permanent resident status during
23 fiscal year 2011 under such section 203(b).

24 (C) For fiscal year 2014, 10 percent of the
25 total number of immigrant visas made available

1 under such section 203(b) shall be allotted to
2 immigrants who are natives of a foreign state
3 or dependent area that was not one of the two
4 states with the largest numbers of natives ob-
5 taining lawful permanent resident status during
6 fiscal year 2012 under such section 203(b).

7 (2) PER-COUNTRY LEVELS.—

8 (A) RESERVED VISAS.—With respect to
9 the visas reserved under each of subparagraphs
10 (A) through (C) of paragraph (1), the number
11 of such visas made available to natives of any
12 single foreign state or dependent area in the ap-
13 propriate fiscal year may not exceed 25 percent
14 (in the case of a single foreign state) or 2 per-
15 cent (in the case of a dependent area) of the
16 total number of such visas.

17 (B) UNRESERVED VISAS.—

18 (i) IN GENERAL.—With respect to the
19 immigrant visas made available under such
20 section 203(b) and not reserved under
21 paragraph (1), for each of fiscal years
22 2012, 2013, and 2014, not more than the
23 number of such visas calculated under
24 clause (ii) shall be allotted to immigrants
25 who are natives of any single foreign state.

1 (ii) CALCULATION OF NUMBER.—The
2 numbers of visas calculated under this
3 clause for a fiscal year is the number that
4 is equal to 70 percent of the total number
5 of immigrant visas made available under
6 such section 203(b) for such fiscal year.

7 (3) RULES FOR CHARGEABILITY.—Section
8 202(b) of such Act (8 U.S.C. 1152(b)) shall apply
9 in determining the foreign state to which an alien is
10 chargeable for purposes of this subsection.

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