

Union Calendar No. 507

113TH CONGRESS
2^D SESSION

H. R. 2131

[Report No. 113–676, Part I]

To amend the Immigration and Nationality Act to enhance American competitiveness through the encouragement of high-skilled immigration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. ISSA (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. COBLE, Mr. ROKITA, Mr. POE of Texas, Mr. FARENTHOLD, Mr. HOLDING, Mr. SEN-
SENBRENNER, Mr. THOMPSON of Pennsylvania, Mr. CAMPBELL, Mr.
CHABOT, Mr. BACHUS, Mr. HANNA, Mr. CALVERT, Mr. FRANKS of Ari-
zona, and Mr. TERRY) 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

DECEMBER 15, 2014

Additional sponsors: Mr. KINZINGER of Illinois, Mr. WESTMORELAND, Mr.
ROONEY, Mr. HULTGREN, Mr. COOK, and Mr. WITTMAN

DECEMBER 15, 2014

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 15, 2014

The Committee on Education and the Workforce discharged; committed to the
Committee of the Whole House on the State of the Union and ordered
to be printed

[For text of introduced bill, see copy of bill as introduced on May 23, 2013]

A BILL

To amend the Immigration and Nationality Act to enhance American competitiveness through the encouragement of high-skilled immigration, 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 “Supplying Knowledge-*
 5 *based Immigrants and Lifting Levels of STEM Visas Act”*
 6 *or the “SKILLS Visa Act”.*

7 **SEC. 2. TABLE OF CONTENTS.**

8 *The table of contents for this Act is as follows:*

- Sec. 1. Short title.*
- Sec. 2. Table of contents.*
- Sec. 3. Sense of Congress.*

TITLE I—IMMIGRANT VISA REFORMS

- Sec. 101. Immigrant visas for certain advanced STEM graduates.*
- Sec. 102. Immigrant visas for entrepreneurs.*
- Sec. 103. Additional employment-based immigrant visas.*
- Sec. 104. Employment creation immigrant visas.*
- Sec. 105. Family-sponsored immigrant visas.*
- Sec. 106. Elimination of diversity immigrant program.*
- Sec. 107. Numerical limitation to any single foreign state.*
- Sec. 108. Physicians.*
- Sec. 109. Permanent priority dates.*
- Sec. 110. Set-aside for health care workers.*

TITLE II—NONIMMIGRANT VISA REFORMS

- Sec. 201. H-1B visas.*
- Sec. 202. L visas.*
- Sec. 203. O visas.*
- Sec. 204. Mexican and Canadian professionals.*
- Sec. 205. H-1B1 and E-3 Visas.*
- Sec. 206. Students.*
- Sec. 207. Extension of employment eligibility while visa extension petition pend-*
ing.
- Sec. 208. Fraud detection and prevention fee.*
- Sec. 209. Technical correction.*

**TITLE III—REFORMS AFFECTING BOTH IMMIGRANT AND
NONIMMIGRANT VISAS**

- Sec. 301. Prevailing wages.*
- Sec. 302. Streamlining petitions for established employers.*

9 **SEC. 3. SENSE OF CONGRESS.**

10 *It is the sense of the Congress that:*

1 (1) *Our Nation’s future economic prosperity in*
2 *the global economy is strongly linked to the ability of*
3 *our schools to educate students in the science, tech-*
4 *nology, engineering, and mathematics (STEM) sub-*
5 *jects.*

6 (2) *A portion of application fees paid by em-*
7 *ployers seeking to hire foreign workers should be de-*
8 *voted to supporting improvements in STEM edu-*
9 *cation in the United States, including computer*
10 *science education, at the elementary, secondary, and*
11 *university levels in order to reduce our dependence on*
12 *foreign workers over time.*

13 (3) *Such funds should be used to support—*

14 (A) *building the capacity of every State to*
15 *improve student achievement in STEM subjects,*
16 *especially in the most high-need school districts;*

17 (B) *supporting innovation in STEM edu-*
18 *cation through partnerships between elementary*
19 *and secondary schools, universities, non-profits,*
20 *businesses, and informal education and commu-*
21 *nity-based partners;*

22 (C) *broadening the diversity and capacity*
23 *of the STEM education pipeline in the United*
24 *States through scholarships and other forms of*

1 *assistance to American students who study in*
2 *these subjects; and*

3 *(D) improving and promoting STEM edu-*
4 *cation for underrepresented populations, includ-*
5 *ing economically disadvantaged individuals in*
6 *STEM fields.*

7 **TITLE I—IMMIGRANT VISA**
8 **REFORMS**

9 **SEC. 101. IMMIGRANT VISAS FOR CERTAIN ADVANCED STEM**
10 **GRADUATES.**

11 *(a) WORLDWIDE LEVEL OF IMMIGRATION.—Section*
12 *201(d)(1)(A) of the Immigration and Nationality Act (8*
13 *U.S.C. 1151(d)(1)(A)) is amended by striking “140,000,”*
14 *and inserting “140,000 in fiscal years through 2013 and*
15 *195,000 beginning in fiscal year 2014, reduced for any fis-*
16 *cal year beginning in fiscal year 2014 by the number by*
17 *which the number of visas under section 201(e) would have*
18 *been reduced in that year pursuant to section 203(d) of the*
19 *Nicaraguan Adjustment and Central American Relief Act*
20 *(8 U.S.C. 1151 note) if section 201(e) had not been repealed*
21 *by section 106 of the SKILLS Visa Act,”.*

22 *(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-*
23 *BASED IMMIGRANTS.—Section 203(b) of such Act (8 U.S.C.*
24 *1153(b)) is amended—*

1 (1) *by redesignating paragraph (6) as para-*
2 *graph (9); and*

3 (2) *by inserting after paragraph (5) the fol-*
4 *lowing:*

5 “(6) *ALIENS HOLDING DOCTORATE DEGREES*
6 *FROM U.S. DOCTORAL INSTITUTIONS OF HIGHER EDU-*
7 *CATION IN SCIENCE, TECHNOLOGY, ENGINEERING, OR*
8 *MATHEMATICS.—*

9 “(A) *IN GENERAL.—Visas shall be made*
10 *available, in a number not to exceed 55,000, re-*
11 *duced for any fiscal year by the number by*
12 *which the number of visas under section 201(e)*
13 *would have been reduced in that year pursuant*
14 *to section 203(d) of the Nicaraguan Adjustment*
15 *and Central American Relief Act (8 U.S.C. 1151*
16 *note) if section 201(e) had not been repealed by*
17 *section 106 of the SKILLS Visa Act, plus any*
18 *visas not required for the classes specified in*
19 *paragraph (1), to qualified immigrants who—*

20 “(i) *hold a doctorate degree in a field*
21 *of science, technology, engineering, or math-*
22 *ematics from a United States doctoral insti-*
23 *tution of higher education, or have success-*
24 *fully completed a dental, medical, or veteri-*
25 *nary residency program (within the sum-*

1 *mary group of residency programs in the*
2 *Department of Education’s Classification of*
3 *Instructional Programs taxonomy), have re-*
4 *ceived a medical degree (MD) in a program*
5 *that prepares individuals for the inde-*
6 *pendent professional practice of medicine*
7 *(series 51.12 in the Department of Edu-*
8 *cation’s Classification of Instructional Pro-*
9 *grams taxonomy), have received a dentistry*
10 *degree (DDS, DMD) in a program that pre-*
11 *pares individuals for the independent pro-*
12 *fessional practice of dentistry/dental medi-*
13 *cine (series 51.04 in the Department of*
14 *Education’s Classification of Instructional*
15 *Programs taxonomy), have received a vet-*
16 *erinary degree (DVM) in a program that*
17 *prepares individuals for the independent*
18 *professional practice of veterinary medicine*
19 *(series 51.24 in the Department of Edu-*
20 *cation’s Classification of Instructional Pro-*
21 *grams taxonomy), or have received an osteo-*
22 *pathic medicine/osteopathy degree (DO) in*
23 *a program that prepares individuals for the*
24 *independent professional practice of osteo-*
25 *pathic medicine (series 51.19 in the Depart-*

1 *ment of Education’s Classification of In-*
2 *structional Programs taxonomy) from an*
3 *institution that is described in subclauses*
4 *(I), (III), and (IV) of subparagraph*
5 *(B)(iii); and*

6 *“(ii) have taken not less than 85 per-*
7 *cent of the courses required for such degrees,*
8 *including all courses taken by correspond-*
9 *ence (including courses offered by tele-*
10 *communications) or by distance education,*
11 *while physically present in the United*
12 *States.*

13 *“(B) DEFINITIONS.—For purposes of this*
14 *paragraph, paragraph (7), and sections*
15 *101(a)(15)(F)(i)(I) and 212(a)(5)(A)(iii)(III):*

16 *“(i) The term ‘distance education’ has*
17 *the meaning given such term in section 103*
18 *of the Higher Education Act of 1965 (20*
19 *U.S.C. 1003).*

20 *“(ii) The term ‘field of science, tech-*
21 *nology, engineering, or mathematics’ means*
22 *a field included in the Department of Edu-*
23 *cation’s Classification of Instructional Pro-*
24 *grams taxonomy within the summary*
25 *groups of computer and information*

1 *sciences and support services, engineering,*
2 *biological and biomedical sciences, mathe-*
3 *matics and statistics, physical sciences, and*
4 *the series geography and cartography (series*
5 *45.07), advanced/graduate dentistry and*
6 *oral sciences (series 51.05) and nursing (se-*
7 *ries 51.38).*

8 “(iii) *The term ‘United States doctoral*
9 *institution of higher education’ means an*
10 *institution that—*

11 “(I) *is described in section 101(a)*
12 *of the Higher Education Act of 1965*
13 *(20 U.S.C. 1001(a)) or is a propri-*
14 *etary institution of higher education*
15 *(as defined in section 102(b) of such*
16 *Act (20 U.S.C. 1002(b))*);

17 “(II) *was classified by the Car-*
18 *negie Foundation for the Advancement*
19 *of Teaching on January 1, 2013, as a*
20 *doctorate-granting university with a*
21 *very high or high level of research ac-*
22 *tivity or classified by the National*
23 *Science Foundation after the date of*
24 *enactment of this paragraph, pursuant*
25 *to an application by the institution, as*

1 *having equivalent research activity to*
2 *those institutions that had been classi-*
3 *fied by the Carnegie Foundation as*
4 *being doctorate-granting universities*
5 *with a very high or high level of re-*
6 *search activity;*

7 *“(III) has been in existence for at*
8 *least 10 years; and*

9 *“(IV) is accredited by an accred-*
10 *iting body that is itself accredited ei-*
11 *ther by the Department of Education*
12 *or by the Council for Higher Edu-*
13 *cation Accreditation.*

14 “(C) *LABOR CERTIFICATION REQUIRED.—*

15 *“(i) IN GENERAL.—Subject to clause*
16 *(ii), the Secretary of Homeland Security*
17 *may not approve a petition filed for classi-*
18 *fication of an alien under subparagraph (A)*
19 *unless the Secretary of Homeland Security*
20 *is in receipt of a determination made by the*
21 *Secretary of Labor pursuant to the provi-*
22 *sions of section 212(a)(5)(A), except that the*
23 *Secretary of Homeland Security may, when*
24 *the Secretary deems it to be in the national*
25 *interest, waive this requirement.*

1 “(i) *REQUIREMENT DEEMED SATIS-*
2 *FIED.—The requirement of clause (i) shall*
3 *be deemed satisfied with respect to an em-*
4 *ployer and an alien in a case in which a*
5 *certification made under section*
6 *212(a)(5)(A)(i) has already been obtained*
7 *with respect to the alien by that employer.*

8 “(7) *ALIENS HOLDING MASTER’S DEGREES FROM*
9 *U.S. DOCTORAL INSTITUTIONS OF HIGHER EDUCATION*
10 *IN SCIENCE, TECHNOLOGY, ENGINEERING, OR MATHE-*
11 *MATICS.—*

12 “(A) *IN GENERAL.—Any visas not required*
13 *for the classes specified in paragraphs (1) and*
14 *(6) shall be made available to the classes of*
15 *aliens who—*

16 “(i) *hold a master’s degree in a field of*
17 *science, technology, engineering, or mathe-*
18 *matics from a United States doctoral insti-*
19 *tution of higher education that was either*
20 *part of a master’s program that required at*
21 *least 2 years of enrollment or part of a 5-*
22 *year combined baccalaureate-master’s degree*
23 *program in such field;*

24 “(ii) *have taken not less than 85 per-*
25 *cent of the master’s degree courses in a field*

1 *of science, technology, engineering, or math-*
2 *ematics, including all courses taken by cor-*
3 *respondence (including courses offered by*
4 *telecommunications) or by distance edu-*
5 *cation, while physically present in the*
6 *United States; and*

7 *“(iii) hold a baccalaureate degree in a*
8 *field of science, technology, engineering, or*
9 *mathematics.*

10 “(B) *LABOR CERTIFICATION REQUIRED.—*

11 *“(i) IN GENERAL.—Subject to clause*
12 *(ii), the Secretary of Homeland Security*
13 *may not approve a petition filed for classi-*
14 *fication of an alien under subparagraph (A)*
15 *unless the Secretary of Homeland Security*
16 *is in receipt of a determination made by the*
17 *Secretary of Labor pursuant to the provi-*
18 *sions of section 212(a)(5)(A), except that the*
19 *Secretary of Homeland Security may, when*
20 *the Secretary deems it to be in the national*
21 *interest, waive this requirement.*

22 *“(ii) REQUIREMENT DEEMED SATIS-*
23 *FIED.—The requirement of clause (i) shall*
24 *be deemed satisfied with respect to an em-*
25 *ployer and an alien in a case in which a*

1 *certification made under section*
2 *212(a)(5)(A)(i) has already been obtained*
3 *with respect to the alien by that employer.*

4 “(C) *DEFINITIONS.*—*The definitions in*
5 *paragraph (6)(B) shall apply for purposes of*
6 *this paragraph.*”.

7 (c) *ALIENS WHO ARE MEMBERS OF THE PROFES-*
8 *SIONS HOLDING ADVANCED DEGREES OR ALIENS OF EX-*
9 *CEPTIONAL ABILITY.*—*Section 203(b)(2)(A) of such Act (8*
10 *U.S.C. 1153(b)(2)(A)) is amended by striking “paragraph*
11 *(1),” and inserting “paragraphs (1), (6), (7), and (8),”.*

12 (d) *SKILLED WORKERS, PROFESSIONALS, AND OTHER*
13 *WORKERS.*—*Section 203(b)(3)(A) of such Act (8 U.S.C.*
14 *1153(b)(3)(A)) is amended by striking “paragraphs (1) and*
15 *(2),” and inserting “paragraphs (1), (2), (6), and (7),”.*

16 (e) *PROCEDURE FOR GRANTING IMMIGRANT STA-*
17 *TUS.*—*Section 204(a)(1)(F) of such Act (8 U.S.C.*
18 *1154(a)(1)(F)) is amended—*

19 (1) *by striking “(F)” and inserting “(F)(i)”;*

20 (2) *by striking “or 203(b)(3)” and inserting*
21 *“203(b)(3), 203(b)(6), or 203(b)(7)”;*

22 (3) *by striking “Attorney General” and inserting*
23 *“Secretary of Homeland Security”; and*

24 (4) *by adding at the end the following:*

1 “(ii) *The following processing standards shall apply*
2 *with respect to petitions under clause (i) relating to alien*
3 *beneficiaries qualifying under paragraph (6) or (7) of sec-*
4 *tion 203(b):*

5 “(I) *The Secretary of Homeland Security shall*
6 *adjudicate such petitions not later than 60 days after*
7 *the date on which the petition is filed. In the event*
8 *that additional information or documentation is re-*
9 *quested by the Secretary during such 60-day period,*
10 *the Secretary shall adjudicate the petition not later*
11 *than 30 days after the date on which such informa-*
12 *tion or documentation is received.*

13 “(II) *The petitioner shall be notified in writing*
14 *within 30 days of the date of filing if the petition*
15 *does not meet the standards for approval. If the peti-*
16 *tion does not meet such standards, the notice shall in-*
17 *clude the reasons therefore and the Secretary shall*
18 *provide an opportunity for the prompt resubmission*
19 *of a modified petition.”.*

20 (f) *LABOR CERTIFICATION AND QUALIFICATION FOR*
21 *CERTAIN IMMIGRANTS.—Section 212(a)(5) of such Act (8*
22 *U.S.C. 1182(a)(5)) is amended—*

23 (1) *in subparagraph (A)—*

24 (A) *in clause (ii)—*

1 (i) in subclause (I), by striking “, or”
2 at the end and inserting a semicolon;

3 (ii) in subclause (II), by striking the
4 period at the end and inserting “; or”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(III) holds a doctorate degree in
8 a field of science, technology, engineer-
9 ing, or mathematics from a United
10 States doctoral institution of higher
11 education (as defined in section
12 203(b)(6)(B)(iii)).”;

13 (B) by redesignating clauses (ii) through
14 (iv) as clauses (iii) through (v), respectively;

15 (C) by inserting after clause (i) the fol-
16 lowing:

17 “(ii) *JOB ORDER*.—

18 “(I) *IN GENERAL*.—An employer
19 who files an application under clause
20 (i) shall submit a job order for the
21 labor the alien seeks to perform to the
22 State workforce agency in the State in
23 which the alien seeks to perform the
24 labor. The State workforce agency shall
25 post the job order on its official agency

1 *website for a minimum of 30 days and*
2 *not later than 3 days after receipt*
3 *using the employment statistics system*
4 *authorized under section 15 of the*
5 *Wagner-Peyser Act (29 U.S.C. 49 et*
6 *seq.).*

7 “(II) *LINKS.—The Secretary of*
8 *Labor shall include links to the official*
9 *websites of all State workforce agencies*
10 *on a single webpage of the official*
11 *website of the Department of Labor.”;*
12 *and*

13 *(D) by adding at the end the following:*

14 “(vi) *PROCESSING STANDARDS FOR*
15 *ALIEN BENEFICIARIES QUALIFYING UNDER*
16 *PARAGRAPHS (6) AND (7) OF SECTION*
17 *203(b).—The following processing standards*
18 *shall apply with respect to applications*
19 *under clause (i) relating to alien bene-*
20 *ficiaries qualifying under paragraph (6) or*
21 *(7) of section 203(b):*

22 “(I) *The Secretary of Labor shall*
23 *adjudicate such applications not later*
24 *than 180 days after the date on which*
25 *the application is filed. In the event*

1 *that additional information or docu-*
2 *mentation is requested by the Secretary*
3 *during such 180-day period, the Sec-*
4 *retary shall adjudicate the application*
5 *not later than 60 days after the date*
6 *on which such information or docu-*
7 *mentation is received.*

8 *“(II) The applicant shall be noti-*
9 *fied in writing within 60 days of the*
10 *date of filing if the application does*
11 *not meet the standards for approval. If*
12 *the application does not meet such*
13 *standards, the notice shall include the*
14 *reasons therefore and the Secretary*
15 *shall provide an opportunity for the*
16 *prompt resubmission of a modified ap-*
17 *plication.”; and*

18 (2) *in subparagraph (D), by striking “(2) or*
19 (3)” and inserting “(2), (3), (6), or (7)”.

20 (g) *GAO STUDY.—Not later than June 30, 2019, the*
21 *Comptroller General of the United States shall provide to*
22 *the Congress the results of a study on the use by the Na-*
23 *tional Science Foundation of the classification authority*
24 *provided under section 203(b)(6)(B)(iii)(II) of the Immi-*

1 *gration and Nationality Act (8 U.S.C.*
2 *1153(b)(6)(B)(iii)(II)), as added by this section.*

3 *(h) PUBLIC INFORMATION.—The Secretary of Home-*
4 *land Security shall make available to the public on the offi-*
5 *cial website of the Department of Homeland Security, and*
6 *shall update not less than monthly, the following informa-*
7 *tion (which shall be organized according to month and fis-*
8 *cal year) with respect to aliens granted status under para-*
9 *graph (6) or (7) of section 203(b) of the Immigration and*
10 *Nationality Act (8 U.S.C. 1153(b)), as added by this sec-*
11 *tion:*

12 *(1) The name, city, and State of each employer*
13 *who petitioned pursuant to either of such paragraphs*
14 *on behalf of one or more aliens who were granted sta-*
15 *tus in the month and fiscal year to date.*

16 *(2) The number of aliens granted status under*
17 *either of such paragraphs in the month and fiscal*
18 *year to date based upon a petition filed by such em-*
19 *ployer.*

20 *(3) The occupations for which such alien or*
21 *aliens were sought by such employer and the job titles*
22 *listed by such employer on the petition.*

23 *(i) EFFECTIVE DATE.—The amendments made by this*
24 *section shall take effect on October 1, 2013, and shall apply*
25 *with respect to fiscal years beginning on or after such date.*

1 *Nothing in the preceding sentence shall be construed to pro-*
 2 *hibit the Secretary of Homeland Security from accepting*
 3 *before such date petitions under section 204(a)(1)(F) of the*
 4 *Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(F))*
 5 *relating to alien beneficiaries qualifying under paragraph*
 6 *(6) or (7) of section 203(b) of such Act (8 U.S.C. 1153(b))*
 7 *(as added by this section).*

8 **SEC. 102. IMMIGRANT VISAS FOR ENTREPRENEURS.**

9 (a) *PREFERENCE ALLOCATION FOR EMPLOYMENT-*
 10 *BASED IMMIGRANTS.*—Section 203(b) of the Immigration
 11 and Nationality Act (8 U.S.C. 1153(b)) is amended by in-
 12 serting after paragraph (7) (as added by section 101 of this
 13 Act) the following:

14 “(8) *ALIEN ENTREPRENEURS.*—

15 “(A) *IN GENERAL.*—Visas shall be made
 16 available, in a number not to exceed 10,000, plus
 17 any visas not required for the classes specified in
 18 paragraphs (1), (2), and (3), to the following
 19 classes of aliens:

20 “(i) *VENTURE CAPITAL-BACKED START-*
 21 *UP ENTREPRENEURS.*—

22 “(I) *IN GENERAL.*—An alien is
 23 described in this clause if the alien in-
 24 tends to engage in a new commercial

1 *enterprise (including a limited part-*
2 *nership) in the United States—*

3 *“(aa) with respect to which*
4 *the alien has completed an invest-*
5 *ment agreement requiring an in-*
6 *vestment in the enterprise in an*
7 *amount not less than \$500,000,*
8 *subject to subclause (III), on the*
9 *part of—*

10 *“(AA) a venture capital*
11 *fund whose investment ad-*
12 *viser is a qualified venture*
13 *capital entity; or*

14 *“(BB) 2 or more quali-*
15 *fied angel investors; and*

16 *“(bb) which will benefit the*
17 *United States economy and, dur-*
18 *ing the 3-year period beginning*
19 *on the date on which the visa is*
20 *issued under this paragraph,*
21 *will—*

22 *“(AA) create full-time*
23 *employment for at least 5*
24 *United States workers within*
25 *the enterprise; and*

1 “(BB) raise not less
2 than an additional
3 \$1,000,000 in capital invest-
4 ment, subject to subclause
5 (III), or generate not less
6 than \$1,000,000 in revenue,
7 subject to subclause (III).

8 “(II) DEFINITIONS.—For pur-
9 poses of this clause:

10 “(aa) INVESTMENT.—The
11 term ‘investment’ does not include
12 any assets acquired, directly or
13 indirectly, by unlawful means.

14 “(bb) INVESTMENT AD-
15 VISER.—The term ‘investment ad-
16 viser’ has the meaning given such
17 term under section 202(a)(11) of
18 the Investment Advisers Act of
19 1940 (15 U.S.C. 80b-2(a)(11)).

20 “(cc) QUALIFIED ANGEL IN-
21 VESTOR.—The term ‘qualified
22 angel investor’ means an indi-
23 vidual who—

24 “(AA) is an accredited
25 investor (as defined in sec-

1 *tion 230.501(a) of title 17,*
2 *Code of Federal Regulations*
3 *(as in effect on April 1,*
4 *2010));*

5 *“(BB) is a United*
6 *States citizen or an alien*
7 *lawfully admitted to the*
8 *United States for permanent*
9 *residence; and*

10 *“(CC) has made at least*
11 *2 investments during the 3*
12 *year period before the date of*
13 *a petition by the qualified*
14 *immigrant for classification*
15 *under this paragraph.*

16 *“(dd) QUALIFIED VENTURE*
17 *CAPITAL ENTITY.—The term*
18 *‘qualified venture capital entity’*
19 *means, with respect to a qualified*
20 *immigrant, an entity that—*

21 *“(AA) serves as an in-*
22 *vestment adviser to a venture*
23 *capital fund that is making*
24 *an investment under this*
25 *paragraph;*

1 “(BB) has its primary
2 office location or principal
3 place of business in the
4 United States;

5 “(CC) is owned and
6 controlled, directly or indi-
7 rectly, by individuals the
8 majority of whom are United
9 States citizens or aliens law-
10 fully admitted to the United
11 States for permanent resi-
12 dence;

13 “(DD) has been advis-
14 ing one or more venture cap-
15 ital funds for a period of at
16 least 2 years before the date
17 of the petition for classifica-
18 tion under this paragraph;
19 and

20 “(EE) advises one or
21 more venture capital funds
22 that have made at least 2 in-
23 vestments of not less than
24 \$500,000 in each of the 2
25 years before the date of the

1 *petition for classification*
2 *under this paragraph.*

3 “(ee) *VENTURE CAPITAL*
4 *FUND.—The term ‘venture capital*
5 *fund’ means an entity—*

6 “(AA) *that is classified*
7 *as a ‘venture capital oper-*
8 *ating company’ under sec-*
9 *tion 2510.3–101(d) of title*
10 *29, Code of Federal Regula-*
11 *tions (as in effect on Janu-*
12 *ary 1, 2013) or has manage-*
13 *ment rights in its portfolio*
14 *companies to the extent re-*
15 *quired by such section if the*
16 *venture capital fund were*
17 *classified as a venture cap-*
18 *ital operating company;*

19 “(BB) *has capital com-*
20 *mitments of not less than*
21 *\$10,000,000; and*

22 “(CC) *whose general*
23 *partner or managing member*
24 *is owned and controlled, di-*
25 *rectly or indirectly, by indi-*

1 *viduals the majority of whom*
2 *are United States citizens or*
3 *aliens lawfully admitted to*
4 *the United States for perma-*
5 *nent residence.*

6 *“(III) INFLATION ADJUSTMENT.—*
7 *Effective for the first fiscal year that*
8 *begins more than 6 months after the*
9 *date of the enactment of this clause,*
10 *and for each fiscal year thereafter, the*
11 *amounts described in subclauses (I)*
12 *and (II) shall be increased by the per-*
13 *centage (if any) by which the Con-*
14 *sumer Price Index for the month of*
15 *June preceding the date on which such*
16 *increase takes effect exceeds the Con-*
17 *sumer Price Index for the same month*
18 *of the preceding calendar year. An in-*
19 *crease described in the preceding sen-*
20 *tence shall apply to aliens filing peti-*
21 *tions under section 204(a)(1)(H) on or*
22 *after the date on which the increase*
23 *takes effect. For purposes of this clause,*
24 *the term ‘Consumer Price Index’ means*
25 *the Consumer Price Index for all urban*

1 consumers published by the Depart-
2 ment of Labor.

3 “(ii) *TREATY INVESTORS.*—Imm-
4 grants who have been issued a visa or other-
5 wise provided nonimmigrant status under
6 section 101(a)(15)(E)(ii) (not including
7 alien employees of the treaty investor) who
8 have maintained that status for a min-
9 imum of 10 years and have benefitted the
10 United States economy and created full-
11 time employment for not fewer than 5
12 United States workers for a minimum of 10
13 years.

14 “(B) *DEFINITIONS.*—For purposes of this
15 paragraph:

16 “(i) The term ‘full-time employment’
17 has the meaning given such term in para-
18 graph (5).

19 “(ii) The term ‘United States worker’
20 means an employee (other than the immi-
21 grant or the immigrant’s spouse, sons, or
22 daughters) who—

23 “(I) is a citizen or national of the
24 United States; or

1 “(II) is an alien who is lawfully
2 admitted for permanent residence, is
3 admitted as a refugee under section
4 207, is granted asylum under section
5 208, or is an immigrant otherwise au-
6 thorized to be employed in the United
7 States.”.

8 (b) *PROCEDURES FOR GRANTING IMMIGRANT STA-*
9 *TUS.*—Section 204(a)(1)(H) of the Immigration and Na-
10 *tionality Act (8 U.S.C. 1154(a)(1)(H)) is amended—*

11 (1) by striking “section 203(b)(5)” and inserting
12 “paragraph (5) or (8) of section 203(b)”; and

13 (2) by striking “Attorney General” and inserting
14 “Secretary of Homeland Security”.

15 (c) *CONDITIONAL PERMANENT RESIDENT STATUS.*—

16 (1) *IN GENERAL.*—

17 (A) *CONFORMING AMENDMENTS.*—Section
18 216A of the Immigration and Nationality Act (8
19 U.S.C. 1186b) is amended—

20 (i) in the section heading, by striking
21 “ENTREPRENEURS,” and inserting “INVES-
22 TORS,”.

23 (ii) by striking “Attorney General”
24 each place such term appears and inserting
25 “Secretary of Homeland Security”;

1 (iii) by striking “entrepreneur” each
2 place such term appears and inserting “in-
3 vestor”; and

4 (iv) In subsection (c)(3)(A), by striking
5 “the such filing” and inserting “such fil-
6 ing”.

7 (B) *TABLE OF CONTENTS.*—The item relat-
8 ing to section 216A in the table of contents of the
9 Immigration and Nationality Act (8 U.S.C.
10 1101 et seq.) is amended to read as follows:

“Sec. 216A. Conditional permanent resident status for certain alien investors,
spouses, and children.”.

11 (2) *CONDITIONAL PERMANENT RESIDENT STATUS*
12 *FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND*
13 *CHILDREN.*—

14 (A) *IN GENERAL.*—Chapter 2 of title II of
15 the Immigration and Nationality Act (8 U.S.C.
16 1181 et seq.) is amended by inserting after sec-
17 tion 216A the following:

18 “**SEC. 216B. CONDITIONAL PERMANENT RESIDENT STATUS**
19 **FOR CERTAIN ALIEN ENTREPRENEURS,**
20 **SPOUSES, AND CHILDREN.**”

21 “(a) *IN GENERAL.*—

22 “(1) *CONDITIONAL BASIS FOR STATUS.*—Not-
23 withstanding any other provision of this Act, an alien
24 entrepreneur (as defined in subsection (f)(1) of this

1 *section), alien spouse, and alien child (as defined in*
2 *subsection (f)(2) of this section) shall be considered, at*
3 *the time of obtaining the status of an alien lawfully*
4 *admitted for permanent residence, to have obtained*
5 *such status on a conditional basis subject to the provi-*
6 *sions of this section.*

7 *“(2) NOTICE OF REQUIREMENTS.—*

8 *“(A) AT TIME OF OBTAINING PERMANENT*
9 *RESIDENCE.—At the time an alien entrepreneur,*
10 *alien spouse, or alien child obtains permanent*
11 *resident status on a conditional basis under*
12 *paragraph (1), the Secretary of Homeland Secu-*
13 *rity shall provide for notice to such an entre-*
14 *preneur, spouse, or child respecting the provi-*
15 *sions of this section and the requirements of sub-*
16 *section (c)(1) of this section to have the condi-*
17 *tional basis of such status removed.*

18 *“(B) AT TIME OF REQUIRED PETITION.—In*
19 *addition, the Secretary of Homeland Security*
20 *shall attempt to provide notice to such an entre-*
21 *preneur, spouse, or child, at or about the begin-*
22 *ning of the 90-day period described in subsection*
23 *(d)(2)(A) of this section, of the requirements of*
24 *subsection (c)(1) of this section.*

1 “(C) *EFFECT OF FAILURE TO PROVIDE NO-*
2 *TICE.—The failure of the Secretary of Homeland*
3 *Security to provide a notice under this para-*
4 *graph shall not affect the enforcement of the pro-*
5 *visions of this section with respect to such an en-*
6 *trepreneur, spouse, or child.*

7 “(b) *TERMINATION OF STATUS IF FINDING THAT*
8 *QUALIFYING ENTREPRENEURSHIP IMPROPER.—*

9 “(1) *IN GENERAL.—In the case of an alien entre-*
10 *preneur with permanent resident status on a condi-*
11 *tional basis under subsection (a) of this section, if the*
12 *Secretary of Homeland Security determines, before*
13 *the third anniversary of the alien’s obtaining the sta-*
14 *tus of lawful admission for permanent residence,*
15 *that—*

16 “(A) *the required investment in the com-*
17 *mercial enterprise under section*
18 *203(b)(8)(A)(i)(I) was intended solely as a*
19 *means of evading the immigration laws of the*
20 *United States;*

21 “(B)(i) *any requisite capital to be invested*
22 *under section 203(b)(8)(A)(i)(I) had not been in-*
23 *vested, or was not actively in the process of being*
24 *invested; or*

1 “(i) the alien was not sustaining the ac-
2 tions described in clause (i) throughout the pe-
3 riod of the alien’s residence in the United States;
4 or

5 “(C) the alien was otherwise not conforming
6 to the requirements of section 203(b)(8)(A)(i);
7 then the Secretary of Homeland Security shall so no-
8 tify the alien involved and, subject to paragraph (2),
9 shall terminate the permanent resident status of the
10 alien (and the alien spouse and alien child) involved
11 as of the date of the determination.

12 “(2) HEARING IN REMOVAL PROCEEDING.—Any
13 alien whose permanent resident status is terminated
14 under paragraph (1) may request a review of such de-
15 termination in a proceeding to remove the alien. In
16 such proceeding, the burden of proof shall be on the
17 Secretary of Homeland Security to establish, by a
18 preponderance of the evidence, that a condition de-
19 scribed in paragraph (1) is met.

20 “(c) REQUIREMENTS OF TIMELY PETITION AND
21 INTERVIEW FOR REMOVAL OF CONDITION.—

22 “(1) IN GENERAL.—In order for the conditional
23 basis established under subsection (a) of this section
24 for an alien entrepreneur, alien spouse, or alien child
25 to be removed—

1 “(A) *the alien entrepreneur must submit to*
2 *the Secretary of Homeland Security, during the*
3 *period described in subsection (d)(2), a petition*
4 *which requests the removal of such conditional*
5 *basis and which states, under penalty of perjury,*
6 *the facts and information described in subsection*
7 *(d)(1); and*

8 “(B) *in accordance with subsection (d)(3),*
9 *the alien entrepreneur must appear for a per-*
10 *sonal interview before an officer or employee of*
11 *the Department of Homeland Security respecting*
12 *the facts and information described in subsection*
13 *(d)(1).*

14 “(2) *TERMINATION OF PERMANENT RESIDENT*
15 *STATUS FOR FAILURE TO FILE PETITION OR HAVE*
16 *PERSONAL INTERVIEW.—*

17 “(A) *IN GENERAL.—In the case of an alien*
18 *with permanent resident status on a conditional*
19 *basis under subsection (a) of this section, if—*

20 “(i) *no petition is filed with respect to*
21 *the alien in accordance with the provisions*
22 *of paragraph (1)(A); or*

23 “(ii) *unless there is good cause shown,*
24 *the alien entrepreneur fails to appear at the*
25 *interview described in paragraph (1)(B) (if*

1 *required under subsection (d)(3) of this sec-*
2 *tion), the Secretary of Homeland Security*
3 *shall terminate the permanent resident sta-*
4 *tus of the alien (and the alien’s spouse and*
5 *children if it was obtained on a conditional*
6 *basis under this section or section 216A) as*
7 *of the third anniversary of the alien’s lawful*
8 *admission for permanent residence.*

9 “(B) *HEARING IN REMOVAL PROCEEDING.—*

10 *In any removal proceeding with respect to an*
11 *alien whose permanent resident status is termi-*
12 *nated under subparagraph (A), the burden of*
13 *proof shall be on the alien to establish compli-*
14 *ance with the conditions of subparagraphs (A)*
15 *and (B) of paragraph (1).*

16 “(3) *DETERMINATION AFTER PETITION AND*
17 *INTERVIEW.—*

18 “(A) *IN GENERAL.—If—*

19 “(i) *a petition is filed in accordance*
20 *with the provisions of paragraph (1)(A);*
21 *and*

22 “(ii) *the alien entrepreneur appears at*
23 *any interview described in paragraph*
24 *(1)(B);*

1 *the Secretary of Homeland Security shall make*
2 *a determination, within 90 days of the date of*
3 *such filing or interview (whichever is later), as*
4 *to whether the facts and information described in*
5 *subsection (d)(1) and alleged in the petition are*
6 *true with respect to the qualifying commercial*
7 *enterprise.*

8 “(B) *REMOVAL OR EXTENSION OF CONDI-*
9 *TIONAL BASIS.—*

10 “(i) *IN GENERAL.—Except as provided*
11 *in clause (ii), if the Secretary of Homeland*
12 *Security determines that such facts and in-*
13 *formation are true, including demonstrating*
14 *that the alien complied with subsection*
15 *(d)(1)(B)(i), the Secretary shall so notify*
16 *the alien involved and shall remove the con-*
17 *ditional basis of the alien’s status effective*
18 *as of the third anniversary of the alien’s*
19 *lawful admission for permanent residence.*

20 “(ii) *EXCEPTION.—If the petition dem-*
21 *onstrates that the facts and information are*
22 *true, including demonstrating that the alien*
23 *is in compliance with section (d)(1)(B)(ii),*
24 *then the Secretary of Homeland Security*
25 *may, in the Secretary’s discretion, extend*

1 *the conditional status for an additional*
2 *year at the end of which—*

3 “(I) *the alien must file a petition*
4 *within 30 days after the fourth anni-*
5 *versary of the alien’s lawful admission*
6 *for permanent residence demonstrating*
7 *that the alien complied with subsection*
8 *(d)(1)(B)(i) and the Secretary shall re-*
9 *move the conditional basis of the*
10 *alien’s status effective as of such fourth*
11 *anniversary; or*

12 “(II) *the conditional status shall*
13 *terminate.*

14 “(C) *DETERMINATION IF ADVERSE DETER-*
15 *MINATION.—If the Secretary of Homeland Secu-*
16 *rity determines that such facts and information*
17 *are not true, the Secretary shall so notify the*
18 *alien involved and, subject to subparagraph (D),*
19 *shall terminate the permanent resident status of*
20 *an alien entrepreneur, alien spouse, or alien*
21 *child as of the date of the determination.*

22 “(D) *HEARING IN REMOVAL PROCEEDING.—*
23 *Any alien whose permanent resident status is*
24 *terminated under subparagraph (C) may request*
25 *a review of such determination in a proceeding*

1 to remove the alien. In such proceeding, the bur-
2 den of proof shall be on the Secretary of Home-
3 land Security to establish, by a preponderance of
4 the evidence, that the facts and information de-
5 scribed in subsection (d)(1) of this section and
6 alleged in the petition are not true with respect
7 to the qualifying commercial enterprise.

8 “(d) DETAILS OF PETITION AND INTERVIEW.—

9 “(1) CONTENTS OF PETITION.—Each petition
10 under subsection (c)(1)(A) shall contain facts and in-
11 formation demonstrating that—

12 “(A)(i) any requisite capital to be invested
13 under section 203(b)(8)(A)(i)(I) had been in-
14 vested, or was actively in the process of being in-
15 vested; and

16 “(ii) the alien sustained the actions de-
17 scribed in clause (i) throughout the period of the
18 alien’s residence in the United States;

19 “(B)(i) the alien created the employment re-
20 quired under section 203(b)(8)(A)(i)(I)(bb)(AA);
21 or

22 “(ii) the alien is actively in the process of
23 creating the employment required under section
24 203(b)(8)(A)(i)(I)(bb)(AA) and will create such
25 employment before the fourth anniversary of the

1 *alien’s lawful admission for permanent resi-*
2 *dence; and*

3 “(C) *the alien is otherwise conforming to*
4 *the requirements of section 203(b)(8)(A)(i).*

5 “(2) *PERIOD FOR FILING PETITION.—*

6 “(A) *90-DAY PERIOD BEFORE SECOND ANNI-*
7 *VERSARY.—Except as provided in subparagraph*
8 *(B), the petition under subsection (c)(1)(A) of*
9 *this section must be filed during the 90-day pe-*
10 *riod before the third anniversary of the alien’s*
11 *lawful admission for permanent residence.*

12 “(B) *DATE PETITIONS FOR GOOD CAUSE.—*
13 *Such a petition may be considered if filed after*
14 *such date, but only if the alien establishes to the*
15 *satisfaction of the Secretary of Homeland Secu-*
16 *rity good cause and extenuating circumstances*
17 *for failure to file the petition during the period*
18 *described in subparagraph (A).*

19 “(C) *FILING OF PETITIONS DURING RE-*
20 *MOVAL.—In the case of an alien who is the sub-*
21 *ject of removal hearings as a result of failure to*
22 *file a petition on a timely basis in accordance*
23 *with subparagraph (A), the Secretary of Home-*
24 *land Security may stay such removal pro-*

1 *ceedings against an alien pending the filing of*
2 *the petition under subparagraph (B).*

3 “(3) *PERSONAL INTERVIEW.*—*The interview*
4 *under subsection (c)(1)(B) shall be conducted within*
5 *90 days after the date of submitting a petition under*
6 *subsection (c)(1)(A) and at a local office of the De-*
7 *partment of Homeland Security, designated by the*
8 *Secretary of Homeland Security, which is convenient*
9 *to the parties involved. The Secretary, in the Sec-*
10 *retary’s discretion, may waive the deadline for such*
11 *an interview or the requirement for such an interview*
12 *in such cases as may be appropriate.*

13 “(e) *TREATMENT OF PERIOD FOR PURPOSES OF NATU-*
14 *RALIZATION.*—*For purposes of title III, in the case of an*
15 *alien who is in the United States as a lawful permanent*
16 *resident on a conditional basis under this section, the alien*
17 *shall be considered to have been admitted as an alien law-*
18 *fully admitted for permanent residence and to be in the*
19 *United States as an alien lawfully admitted to the United*
20 *States for permanent residence.*

21 “(f) *DEFINITIONS.*—*In this section:*

22 “(1) *The term ‘alien entrepreneur’ means an*
23 *alien who obtains the status of an alien lawfully ad-*
24 *mitted for permanent residence (whether on a condi-*

1 *tional basis or otherwise) under section*
2 *203(b)(8)(A)(i)(I) of this title.*

3 *“(2) The term ‘alien spouse’ and the term ‘alien*
4 *child’ mean an alien who obtains the status of an*
5 *alien lawfully admitted for permanent residence*
6 *(whether on a conditional basis or otherwise) by vir-*
7 *tue of being the spouse or child, respectively, of an*
8 *alien entrepreneur.*

9 *“(3) The term ‘commercial enterprise’ includes a*
10 *limited partnership.”.*

11 *(B) CLERICAL AMENDMENT.—The table of*
12 *contents for such Act is amended by inserting*
13 *after the item relating to section 216A the fol-*
14 *lowing:*

“Sec. 216B. Conditional permanent resident status for certain alien entre-
preneurs, spouses, and children.”.

15 *(d) EFFECTIVE DATE.—The amendments made by this*
16 *section shall take effect on October 1, 2013, and shall apply*
17 *with respect to fiscal years beginning on or after such date.*

18 **SEC. 103. ADDITIONAL EMPLOYMENT-BASED IMMIGRANT**
19 **VISAS.**

20 *(a) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IM-*
21 *MIGRANTS.—Section 201(d)(1)(A) of the Immigration and*
22 *Nationality Act (8 U.S.C. 1151(d)(1)(A)), as amended by*
23 *section 101, is further amended by striking “195,000” and*
24 *inserting “235,000”.*

1 (b) *PRIORITY WORKERS.*—Section 203(b)(1) of such
2 Act (8 U.S.C. 1153(b)(1)) is amended by striking “28.6 per-
3 cent of such worldwide level,” and inserting “40,040,”.

4 (c) *ALIENS WHO ARE MEMBERS OF THE PROFES-*
5 *SIONS HOLDING ADVANCED DEGREES OR ALIENS OF EX-*
6 *CEPTIONAL ABILITY.*—Section 203(b)(2)(A) of such Act (8
7 U.S.C. 1153(b)(2)(A)) is amended by striking “28.6 percent
8 of such worldwide level,” and inserting “55,040,”.

9 (d) *SKILLED WORKERS, PROFESSIONALS, AND OTHER*
10 *WORKERS.*—Section 203(b)(3)(A) of such Act (8 U.S.C.
11 1153(b)(3)(A)) is amended by striking “28.6 percent of such
12 worldwide level,” and inserting “55,040,”.

13 (e) *CERTAIN SPECIAL IMMIGRANTS.*—Section
14 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)) is amended by
15 striking “7.1 percent of such worldwide level,” and insert-
16 ing “9,940,”.

17 (f) *EMPLOYMENT CREATION.*—Section 203(b)(5)(A) of
18 such Act (8 U.S.C. 1153(b)(5)(A)) is amended by striking
19 “7.1 percent of such worldwide level,” and inserting
20 “9,940,”.

21 (g) *EFFECTIVE DATE.*—The amendments made by this
22 section shall take effect on October 1, 2013, and shall apply
23 with respect to fiscal years beginning on or after such date.

1 *(h) ADJUSTMENT OF STATUS FOR EMPLOYMENT-*
2 *BASED IMMIGRANTS.—Section 245 of such Act (8 U.S.C.*
3 *1255) is amended by adding at the end the following:*

4 *“(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-*
5 *BASED IMMIGRANTS.—*

6 *“(1) PETITION.—An alien who has status under*
7 *subparagraph (H)(i)(b), (L), or (O)(i) of section*
8 *101(a)(15) or who has status under subparagraph (F)*
9 *or (M) of such section and who has received optional*
10 *practical training after completion of the alien’s*
11 *course of study, and any eligible dependents of such*
12 *alien, who has filed a petition or on whose behalf a*
13 *petition has been filed for immigrant status pursuant*
14 *to subparagraph (E), (F), (G), or (H) of section*
15 *204(a)(1), may concurrently, or at any time there-*
16 *after, file an application with the Secretary of Home-*
17 *land Security for adjustment of status if such petition*
18 *has been approved, regardless of whether an immi-*
19 *grant visa is immediately available at the time the*
20 *application is filed.*

21 *“(2) AVAILABILITY.—An application filed pursu-*
22 *ant to paragraph (1) may not be approved until the*
23 *date on which an immigrant visa becomes available.”.*

24 **SEC. 104. EMPLOYMENT CREATION IMMIGRANT VISAS.**

25 *(a) CHANGES TO THE GENERAL PROGRAM.—*

1 (1) *CAPITAL*.—Section 203(b)(5)(C) of the *Immigration and Nationality Act* (8 U.S.C. 1153(b)(5)(C))
2
3 is amended by adding at the end the following:

4 “(iv) *CAPITAL DEFINED*.—For purposes of this paragraph, the term ‘capital’
5 does not include any assets acquired, directly or indirectly, by unlawful means.”.

6
7
8 (2) *INFLATION ADJUSTMENT*.—Such section, as amended by paragraph (1), is further amended by
9 adding at the end the following:

10
11 “(v) *INFLATION ADJUSTMENT*.—

12 “(I) *INITIAL ADJUSTMENT*.—As of
13 the date of enactment of the *SKILLS Visa Act*, the amount specified in the
14 first sentence of clause (i) shall be increased by the percentage (if any) by
15 which the Consumer Price Index for the month preceding such enactment
16 date exceeds the Consumer Price Index for the same month of calendar year
17 1990. The increase described in the preceding sentence shall apply to aliens
18 filing petitions under section 204(a)(1)(H) on or after such enactment
19 date.

20
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1 “(II) *SUBSEQUENT ADJUST-*
2 *MENTS.—Effective for the first fiscal*
3 *year that begins more than 6 months*
4 *after the date of the enactment of this*
5 *clause, and for each fiscal year there-*
6 *after, the amount described in sub-*
7 *clause (I) (as of the last increase to*
8 *such amount) shall be increased by the*
9 *percentage (if any) by which the Con-*
10 *sumer Price Index for the month of*
11 *June preceding the date on which such*
12 *increase takes effect exceeds the Con-*
13 *sumer Price Index for the same month*
14 *of the preceding calendar year. An in-*
15 *crease described in the preceding sen-*
16 *tence shall apply to aliens filing peti-*
17 *tions under section 204(a)(1)(H) on or*
18 *after the date on which the increase*
19 *takes effect.*

20 “(III) *DEFINITION.—For purposes*
21 *of this clause, the term ‘Consumer*
22 *Price Index’ means the Consumer Price*
23 *Index for all urban consumers pub-*
24 *lished by the Department of Labor.’”.*

1 (3) *FLEXIBILITY FOR JOB CREATION TIME PE-*
2 *RIOD.—*

3 (A) *REMOVAL OF CONDITIONAL BASIS IF FA-*
4 *VORABLE* *DETERMINATION.—Section*
5 *216A(c)(3)(B) of the Immigration and Nation-*
6 *ality Act (8 U.S.C. 1186b(c)(3)(B)), is amended*
7 *to read as follows:*

8 “(B) *REMOVAL OR EXTENSION OF CONDI-*
9 *TIONAL BASIS.—*

10 “(i) *IN GENERAL.—Except as provided*
11 *under clause (ii), if the Secretary of Home-*
12 *land Security determines that such facts*
13 *and information are true, including dem-*
14 *onstrating that the alien complied with sec-*
15 *tion (d)(1)(B)(i), the Secretary shall so no-*
16 *tify the alien involved and shall remove the*
17 *conditional basis of the alien’s status effec-*
18 *tive as of the second anniversary of the*
19 *alien’s lawful admission for permanent resi-*
20 *dence.*

21 “(ii) *EXCEPTION.—If the petition dem-*
22 *onstrates that the facts and information are*
23 *true, including demonstrating that the alien*
24 *is in compliance with section (d)(1)(B)(ii),*
25 *then the Secretary of Homeland Security*

1 *may in the Secretary's discretion extend the*
2 *conditional status for an additional year at*
3 *the end of which—*

4 *“(I) the alien must file a petition*
5 *within 30 days after the third anniver-*
6 *sary of the alien's lawful admission for*
7 *permanent residence demonstrating*
8 *that the alien complied with section*
9 *(d)(1)(B)(i) and the Secretary shall re-*
10 *move the conditional basis of the*
11 *alien's status effective as of such third*
12 *anniversary; or*

13 *“(II) the conditional status shall*
14 *terminate.”.*

15 *(B) CONTENTS OF PETITION.—Section*
16 *216A(d)(1) of such Act (8 U.S.C. 1186b(d)(1)) is*
17 *amended—*

18 *(i) by striking “and” at the end of sub-*
19 *paragraph (A);*

20 *(ii) by redesignating subparagraph (B)*
21 *as subparagraph (C); and*

22 *(iii) by inserting after subparagraph*
23 *(A) the following:*

24 *“(B)(i) created the employment required*
25 *under section 203(b)(5)(A)(ii); or*

1 “(i) is actively in the process of creating
2 the employment required under section
3 203(b)(5)(A)(i) and will create such employ-
4 ment before the third anniversary of the alien’s
5 lawful admission for permanent residence; and”.

6 (4) *TARGETED EMPLOYMENT AREAS.*—

7 (A) *TARGETED EMPLOYMENT AREA DE-*
8 *FINED.*—Section 203(b)(5)(B)(i) of the *Immi-*
9 *gration and Nationality Act* (8 U.S.C.
10 1153(b)(5)(B)(i)) is amended by striking “(of at
11 least 150 percent of the national average rate)”.

12 (B) *SET-ASIDE FOR TARGETED EMPLOY-*
13 *MENT AREA.*—Section 203(b)(5)(B) of the *Immi-*
14 *gration and Nationality Act* (8 U.S.C.
15 1153(b)(5)(B)) is amended by adding at the end
16 the following:

17 “(iv) *DEFINITION.*—In this paragraph,
18 the term ‘an area which has experienced
19 high unemployment’ means an area which
20 has an unemployment rate of at least 150
21 of the national average rate. Such an area
22 must fit entirely within a geographical unit
23 that the Secretary of Labor has determined
24 has an unemployment rate of at least 150
25 percent of the national average rate (and

1 *which determination has not been super-*
2 *seded by a later determination in which the*
3 *Secretary of Labor has found that the unit*
4 *did not have an unemployment rate of at*
5 *least 150 percent of the national average*
6 *rate). The Secretary of Labor shall set forth*
7 *a uniform methodology for determining*
8 *whether an area an area qualifies as having*
9 *experienced unemployment of at least 150*
10 *percent of the national average rate. It shall*
11 *be within the discretion of the Secretary of*
12 *Homeland Security to determine whether*
13 *any particular area has experienced high*
14 *unemployment for purposes of this para-*
15 *graph, and the Secretary shall not be bound*
16 *by the determination of any other govern-*
17 *mental or nongovernmental entity that a*
18 *particular area has experienced high unem-*
19 *ployment for purposes of this paragraph.”.*

20 **(b) REGIONAL CENTERS.—**

21 **(1) PERMANENT REAUTHORIZATION OF THE RE-**
22 **REGIONAL CENTER PILOT PROGRAM.—***Section 610 of the*
23 *Departments of Commerce, Justice, and State, the Ju-*
24 *diiciary, and Related Agencies Appropriations Act,*
25 *1993 (8 U.S.C. 1153 note) is amended—*

1 (A) in the section heading, by striking
2 “PILOT”; and

3 (B) in subsection (b), by striking “until
4 September 30, 2015”.

5 (2) *PERSONS BARRED FROM INVOLVEMENT IN*
6 *REGIONAL CENTERS.—*

7 (A) *PROHIBITION.—Such section 610 is*
8 *amended by adding at the end the following:*

9 “(e)(1) No person who—

10 “(A) has been convicted of an aggravated felony
11 (as defined in section 101(a)(43) of the Immigration
12 and Nationality Act (8 U.S.C. 1101(a)(43)));

13 “(B) would be inadmissible under section
14 212(a)(3) of such Act (8 U.S.C. 1182(a)(3)) if they
15 were an alien seeking admission; or

16 “(C) has been convicted of violating, or found to
17 have violated, a fraud provision of the Federal securi-
18 ties laws (as such term is defined under section 3 of
19 the Securities Exchange Act of 1934 (15 U.S.C. 78c)),
20 shall knowingly be permitted by any regional center to be
21 involved with the regional center as its principal, represent-
22 ative, administrator, owner, officer, board member, man-
23 ager, executive, general partner, fiduciary, member, or in
24 other similar position of substantive authority for the oper-
25 ations, management, or promotion of the regional center.

1 “(2) *The Secretary of Homeland Security shall require*
2 *such attestations and information (including biometric in-*
3 *formation), and shall perform such criminal record checks*
4 *and other background checks with respect to a regional cen-*
5 *ter, and persons involved in a regional center as described*
6 *in paragraph (1), as the Secretary, in the Secretary’s dis-*
7 *cretion, considers appropriate to determine whether the re-*
8 *gional center is in compliance with paragraph (1).*

9 “(3) *The Secretary may terminate any regional center*
10 *from the program under this section if the Secretary deter-*
11 *mines that—*

12 “(A) *the regional center is in violation of para-*
13 *graph (1);*

14 “(B) *the regional center has provided any false*
15 *attestation or information under paragraph (2), or*
16 *continues to allow any person who was involved with*
17 *the regional center as described in paragraph (1) to*
18 *continue to be involved with the regional center if the*
19 *regional center knows that the person has provided*
20 *any false attestation or information under paragraph*
21 *(2); or*

22 “(C) *the regional center fails to provide an attes-*
23 *tation or information requested by the Secretary*
24 *under paragraph (2), or continues to allow any per-*
25 *son who was involved with the regional center as de-*

1 scribed in paragraph (1) to continue to be involved
2 with the regional center if the regional center knows
3 that the person has failed to provide an attestation or
4 information requested by the Secretary under para-
5 graph (2).

6 “(4) For the purpose of this subsection, the term ‘re-
7 gional center’ shall, in addition to the regional center itself,
8 include any commercial enterprise or job creating enter-
9 prise in which a regional center has invested.”.

10 (B) COMPLIANCE WITH SECURITIES
11 LAWS.—Such section 610, as amended by sub-
12 paragraph (A), is further amended by adding at
13 the end the following:

14 “(f)(1) The Secretary of Homeland Security shall not
15 approve an application for regional center designation or
16 regional center amendment that does not certify that the
17 regional center and all parties to the regional center are
18 in and will maintain compliance with Federal securities
19 laws (as such term is defined under section 3 of the Securi-
20 ties Exchange Act of 1934 (15 U.S.C. 78c)).

21 “(2) The Secretary of Homeland Security shall imme-
22 diately terminate the designation of any regional center
23 that does not provide the certification described in para-
24 graph (1) on an annual basis.

1 “(3) *In addition to any other authority provided to*
2 *the Secretary of Homeland Security regarding the program*
3 *described in this section, the Secretary may suspend or ter-*
4 *minate the designation of any regional center if the Sec-*
5 *retary determines that the regional center, or any party to*
6 *the regional center:*

7 “(A) *is permanently or temporarily enjoined by*
8 *order, judgment, or decree of any court of competent*
9 *jurisdiction in connection with the purchase or sale*
10 *of a security;*

11 “(B) *is subject to any order of the Securities and*
12 *Exchange Commission that bars such person from as-*
13 *sociation with an entity regulated by the Securities*
14 *and Exchange Commission, or constitutes a final*
15 *order based on violations in connection with the pur-*
16 *chase or sale of a security;*

17 “(C) *has been convicted of violating, or found to*
18 *have violated, a fraud provision of the Federal securi-*
19 *ties laws (as such term is defined under section 3 of*
20 *the Securities Exchange Act of 1934 (15 U.S.C. 78c));*
21 *or*

22 “(D) *knowingly submitted or caused to be sub-*
23 *mitted a certification described in paragraphs (1) or*
24 *(2) of this subsection that contained an untrue state-*
25 *ment of material fact, or omitted to state a material*

1 *fact necessary, in order to make the statements made,*
2 *in light of the circumstances under which they were*
3 *made, not misleading.*

4 *“(4) Nothing in this subsection shall be construed to*
5 *impair or limit the authority of the Securities and Ex-*
6 *change Commission under the Federal securities laws.*

7 *“(5) For the purpose of this subsection, the term ‘party*
8 *to the regional center’ shall include, in addition to the re-*
9 *gional center itself, its agents, servants, employees, attor-*
10 *neys, or any persons in active concert or participation with*
11 *the regional center.”.*

12 *(c) EFFECTIVE DATES.—*

13 *(1) IN GENERAL.—Except for the amendments*
14 *made by paragraphs (1) and (2) of subsection (a), the*
15 *amendments made by subsections (a) and (b) shall*
16 *take effect on the date of the enactment of this Act*
17 *and shall apply—*

18 *(A) to aliens filing petitions under section*
19 *204(a)(1)(H) of the Immigration and Nation-*
20 *ality Act (8 U.S.C. 1154(a)(1)(H)) on or after*
21 *such date;*

22 *(B) to a regional center (and any person*
23 *involved with or a party to a regional center)*
24 *designated before, on, or after such date; and*

1 (C) to any application to designate a re-
2 gional center, and any person involved with or
3 a party to the regional center, that is pending on
4 such date.

5 (2) *DEFINITION OF “CAPITAL”*.—The amendment
6 made by subsection (a)(1) shall take effect on the date
7 of the enactment of this Act.

8 (3) *INFLATION ADJUSTMENT*.—The amendment
9 made by subsection (a)(2) shall take effect as provided
10 in section 203(b)(5)(C)(v) of the Immigration and
11 Nationality Act, as added by subsection (a)(2) of this
12 section.

13 **SEC. 105. FAMILY-SPONSORED IMMIGRANT VISAS.**

14 (a) *WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMI-*
15 *GRANTS*.—Section 201(c)(1) of the Immigration and Na-
16 *tionality Act (8 U.S.C. 1151(c)(1)) is amended—*

17 (1) in subparagraph (A)(i), by striking
18 “480,000,” and inserting “480,000 in fiscal years
19 through 2013, 505,000 beginning in fiscal year 2014
20 through fiscal year 2023, and 440,000 beginning in
21 fiscal year 2024,”; and

22 (2) in subparagraph (B)(ii), by striking
23 “226,000.” and inserting “226,000 in fiscal years
24 through 2013, 251,000 beginning in fiscal year 2014

1 *through fiscal year 2023, and 186,000 beginning in*
2 *fiscal year 2024.”.*

3 **(b) PREFERENCE ALLOCATION FOR FAMILY-SPON-**
4 **SORED IMMIGRANTS.**—Section 203(a)(2) of such Act (8
5 U.S.C. 1153(a)(2)) is amended—

6 (1) by striking “114,200,” and inserting
7 “139,200,”;

8 (2) by striking “226,000,” and inserting
9 “226,000 in fiscal years through 2013, 251,000 begin-
10 ning in fiscal year 2014 through fiscal year 2023,
11 and 186,000 beginning in fiscal year 2024,”; and

12 (3) by striking “77” and inserting “81.13”.

13 **(c) BROTHERS AND SISTERS OF CITIZENS.**—

14 (1) **IN GENERAL.**—Section 203(a) of such Act (8
15 U.S.C. 1153(a)) is amended—

16 (A) in paragraph (1), by striking “23,400,”
17 and all that follows through the period at the end
18 and inserting “23,400.”; and

19 (B) by striking paragraph (4).

20 (2) **CLASSIFICATION PETITIONS.**—Section
21 204(a)(1)(A)(i) of such Act (8 U.S.C.
22 1154(a)(1)(A)(i)) is amended by striking “(1), (3), or
23 (4)” and inserting “(1) or (3)”.

24 **(d) EFFECTIVE DATE.**—The amendments made by this
25 section shall take effect on October 1, 2013, and shall apply

1 *with respect to fiscal years beginning on or after such date,*
2 *except that the amendments made by subsection (c)(1) shall*
3 *take effect on October 1, 2023.*

4 **SEC. 106. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
5 **GRAM.**

6 *(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—*
7 *Section 201 of the Immigration and Nationality Act (8*
8 *U.S.C. 1151) is amended—*

9 *(1) in subsection (a)—*

10 *(A) by inserting “and” at the end of para-*
11 *graph (1);*

12 *(B) by striking “; and” at the end of para-*
13 *graph (2) and inserting a period; and*

14 *(C) by striking paragraph (3); and*

15 *(2) by striking subsection (e).*

16 *(b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—*
17 *Section 203 of such Act (8 U.S.C. 1153) is amended—*

18 *(1) by striking subsection (c);*

19 *(2) in subsection (d), by striking “(a), (b), or*
20 *(c),” and inserting “(a) or (b),”;*

21 *(3) in subsection (e), by striking paragraph (2)*
22 *and redesignating paragraph (3) as paragraph (2);*

23 *(4) in subsection (f), by striking “(a), (b), or (c)”*
24 *and inserting “(a) or (b),”;* and

1 (5) in subsection (g), by striking “(a), (b), and
2 (c)” and inserting “(a) and (b)”.

3 (c) *PROCEDURE FOR GRANTING IMMIGRANT STA-*
4 *TUS.—Section 204 of such Act (8 U.S.C. 1154) is amend-*
5 *ed—*

6 (1) by striking subsection (a)(1)(I); and

7 (2) in subsection (e), by striking “(a), (b), or
8 (c)” and inserting “(a) or (b)”.

9 (d) *EFFECTIVE DATE.—The amendments made by this*
10 *section shall take effect on October 1, 2013, and shall apply*
11 *with respect to fiscal years beginning on or after such date.*

12 **SEC. 107. NUMERICAL LIMITATION TO ANY SINGLE FOR-**
13 **EIGN STATE.**

14 (a) *IN GENERAL.—Section 202(a)(2) of the Immigra-*
15 *tion and Nationality Act (8 U.S.C. 1152(a)(2)) is amend-*
16 *ed—*

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

19 (2) by striking “(3), (4), and (5),” and inserting
20 “(3) and (4),”;

21 (3) by striking “subsections (a) and (b) of section
22 203” and inserting “section 203(a)”;

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

24 (5) by striking “such subsections” and inserting
25 “such section”.

1 (b) *CONFORMING AMENDMENTS.*—Section 202 of the
2 *Immigration and Nationality Act (8 U.S.C. 1152)* is
3 *amended—*

4 (1) *in subsection (a)(3), by striking “both sub-*
5 *sections (a) and (b) of section 203” and inserting*
6 *“section 203(a)”;*

7 (2) *by striking subsection (a)(5); and*

8 (3) *by amending subsection (e) to read as fol-*
9 *lows:*

10 “(e) *SPECIAL RULES FOR COUNTRIES AT CEILING.*—
11 *If it is determined that the total number of immigrant visas*
12 *made available under section 203(a) to natives of any single*
13 *foreign state or dependent area will exceed the numerical*
14 *limitation specified in subsection (a)(2) in any fiscal year,*
15 *in determining the allotment of immigrant visa numbers*
16 *to natives under section 203(a), visa numbers with respect*
17 *to natives of that state or area shall be allocated (to the*
18 *extent practicable and otherwise consistent with this section*
19 *and section 203) in a manner so that, except as provided*
20 *in subsection (a)(4), the proportion of the visa numbers*
21 *made available under each of paragraphs (1) through (4)*
22 *of section 203(a) is equal to the ratio of the total number*
23 *of visas made available under the respective paragraph to*
24 *the total number of visas made available under section*
25 *203(a).”.*

1 (c) *COUNTRY-SPECIFIC OFFSET.*—Section 2 of the Chi-
2 nese Student Protection Act of 1992 (8 U.S.C. 1255 note)
3 is amended—

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

6 (2) by striking subsection (d) and redesignating
7 subsection (e) as subsection (d).

8 (d) *EFFECTIVE DATE.*—The amendments made by this
9 section shall take effect on October 1, 2013.

10 **SEC. 108. PHYSICIANS.**

11 (a) *PERMANENT AUTHORIZATION OF THE CONRAD*
12 *STATE 30 PROGRAM.*—Section 220(c) of the Immigration
13 and Nationality Technical Corrections Act of 1994 (Public
14 Law 103–416; 8 U.S.C. 1182 note) is amended by striking
15 “and before September 30, 2015”.

16 (b) *ALLOTMENT OF CONRAD 30 WAIVERS.*—

17 (1) *IN GENERAL.*—Section 214(l) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1184(l)) is
19 amended by adding at the end the following:

20 “(4)(A)(i) A State shall be allotted a total of 35 waiv-
21 ers under paragraph (1)(B) for a fiscal year if 90 percent
22 of the waivers available to the State were used in the pre-
23 vious fiscal year.

24 “(ii) When an allotment has occurred under clause (i),
25 the State shall be allotted an additional 5 waivers under

1 paragraph (1)(B) for each subsequent fiscal year if 90 per-
2 cent of the waivers available to the State were used in the
3 previous fiscal year, except that if the State is allotted 60
4 or more waivers for a fiscal year, the State shall be eligible
5 for the additional 5 waivers under this clause only if 90
6 percent of the waivers available to all States receiving at
7 least 1 waiver under paragraph (1)(B) were used in the
8 previous fiscal year.

9 “(B) Any increase in allotments under subparagraph
10 (A) shall be maintained indefinitely, unless in a fiscal year,
11 the total number of such waivers granted is 5 percent lower
12 than in the last year in which there was an increase in
13 the number of waivers allotted pursuant to this paragraph,
14 in which case—

15 “(i) the number of waivers allotted shall be de-
16 creased by 5 for all States beginning in the next fiscal
17 year; and

18 “(ii) each additional 5 percent decrease in such
19 waivers granted from the last year in which there was
20 an increase in the allotment, shall result in an addi-
21 tional decrease of 5 waivers allotted for all States,
22 provided that the number of waivers allotted for all
23 States shall not drop below 30.”.

1 (2) *ACADEMIC MEDICAL CENTERS.*—Section
2 214(l)(1)(D) of the *Immigration and Nationality Act*
3 (8 U.S.C. 1184(l)(1)(D)) is amended—

4 (A) in clause (ii), by striking “and” at the
5 end;

6 (B) in clause (iii), by striking the period at
7 the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(iv) in the case of a request by an inter-
10 ested State agency—

11 “(I) the head of such agency deter-
12 mines that the alien is to practice medicine
13 in, or be on the faculty of a residency pro-
14 gram at, an academic medical center (as
15 that term is defined in section 411.355(e)(2)
16 of title 42, *Code of Federal Regulations*, or
17 similar successor regulation), without re-
18 gard to whether such facility is located
19 within an area designated by the Secretary
20 of Health and Human Services as having a
21 shortage of health care professionals; and

22 “(II) the head of such agency deter-
23 mines that—

24 “(aa) the alien physician’s work
25 is in the public interest; and

1 “(bb) the grant of such waiver
2 would not cause the number of the
3 waivers granted on behalf of aliens for
4 such State for a fiscal year (within the
5 limitation in subparagraph (B) and
6 subject to paragraph (4)) in accord-
7 ance with the conditions of this clause
8 to exceed 3.”.

9 (c) *EMPLOYMENT PROTECTIONS FOR PHYSICIANS.*—

10 (1) *IN GENERAL.*—Section 214(l)(1)(C) of the
11 *Immigration and Nationality Act* (8 U.S.C.
12 1184(l)(1)(C)) is amended by striking clauses (i) and
13 (ii) and inserting the following:

14 “(i) the alien demonstrates a bona fide offer
15 of full-time employment, at a health care organi-
16 zation, which employment has been determined
17 by the Secretary of Homeland Security to be in
18 the public interest; and

19 “(ii) the alien agrees to begin employment
20 with the health facility or health care organiza-
21 tion in a geographic area or areas which are des-
22 ignated by the Secretary of Health and Human
23 Services as having a shortage of health care pro-
24 fessionals by the later of the date that is 90 days
25 after receiving such waiver, 90 days after com-

1 *pleting graduate medical education or training*
2 *under a program approved pursuant to section*
3 *212(j)(1), or 90 days after receiving non-*
4 *immigrant status or employment authorization,*
5 *and agrees to continue to work for a total of not*
6 *less than 3 years in any status authorized for*
7 *such employment under this subsection unless—*

8 *“(I) the Secretary determines that ex-*
9 *tenuating circumstances exist that justify a*
10 *lesser period of employment at such facility*
11 *or organization, in which case the alien*
12 *shall demonstrate another bona fide offer of*
13 *employment at a health facility or health*
14 *care organization, for the remainder of such*
15 *3-year period;*

16 *“(II) the interested State agency that*
17 *requested the waiver attests that extenuating*
18 *circumstances exist that justify a lesser pe-*
19 *riod of employment at such facility or orga-*
20 *nization in which case the alien shall dem-*
21 *onstrate another bona fide offer of employ-*
22 *ment at a health facility or health care or-*
23 *ganization so designated by the Secretary of*
24 *Health and Human Services, for the re-*
25 *mainder of such 3-year period; or*

1 “(III) if the alien elects not to pursue
2 a determination of extenuating cir-
3 cumstances pursuant to subclause (I) or
4 (II), the alien terminates the alien’s em-
5 ployment relationship with such facility or
6 organization, in which case the alien shall
7 be employed for the remainder of such 3-
8 year period, and 1 additional year for each
9 determination, at another health facility or
10 health care organization in a geographic
11 area or areas which are designated by the
12 Secretary of Health and Human Services as
13 having a shortage of health care profes-
14 sionals; and”.

15 (2) *CONTRACT REQUIREMENTS.*—Section 214(l)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1184(l)), as amended by subsection (b)(1), is further
18 amended by adding at the end the following:

19 “(5) An alien granted a waiver under paragraph
20 (1)(C) shall enter into an employment agreement with the
21 contracting health facility or health care organization
22 that—

23 “(A) specifies the maximum number of on-call
24 hours per week (which may be a monthly average)

1 *that the alien will be expected to be available and the*
2 *compensation the alien will receive for on-call time;*

3 *“(B) specifies whether the contracting facility or*
4 *organization will pay for the alien’s malpractice in-*
5 *surance premiums, including whether the employer*
6 *will provide malpractice insurance and, if so, the*
7 *amount of such insurance that will be provided;*

8 *“(C) describes all of the work locations that the*
9 *alien will work and a statement that the contracting*
10 *facility or organization will not add additional work*
11 *locations without the approval of the Federal agency*
12 *or State agency that requested the waiver; and*

13 *“(D) does not include a non-compete provision.*

14 *“(6) An alien granted a waiver under paragraph*
15 *(1)(C) whose employment relationship with a health facility*
16 *or health care organization terminates during the 3-year*
17 *service period required by such paragraph—*

18 *“(A) shall have a period of 120 days beginning*
19 *on the date of such determination of employment to*
20 *submit to the Secretary of Homeland Security appli-*
21 *cations or petitions to commence employment with*
22 *another contracting health facility or health care or-*
23 *ganization in a geographic area or areas which are*
24 *designated by the Secretary of Health and Human*

1 *Services as having a shortage of health care profes-*
2 *sionals; and*

3 *“(B) shall be considered to be maintaining law-*
4 *ful status in an authorized stay during the 120-day*
5 *period referred to in subparagraph (A).”.*

6 *(d) AMENDMENTS TO THE PROCEDURES, DEFINI-*
7 *TIONS, AND OTHER PROVISIONS RELATED TO PHYSICIAN*
8 *IMMIGRATION.—*

9 *(1) DUAL INTENT FOR PHYSICIANS SEEKING*
10 *GRADUATE MEDICAL TRAINING.—Section 214(b) of the*
11 *Immigration and Nationality Act (8 U.S.C. 1184(b))*
12 *is amended by striking “(other than a nonimmigrant*
13 *described in subparagraph (L) or (V) of section*
14 *101(a)(15), and other than a nonimmigrant described*
15 *in any provision of section 101(a)(15)(H)(i) except*
16 *subclause (b1) of such section)” and inserting “(other*
17 *than a nonimmigrant described in subparagraph (L)*
18 *or (V) of section 101(a)(15), a nonimmigrant de-*
19 *scribed in any provision of section 101(a)(15)(H)(i),*
20 *except subclause (b1) of such section, and an alien*
21 *coming to the United States to receive graduate med-*
22 *ical education or training as described in section*
23 *212(j) or to take examinations required to receive*
24 *graduate medical education or training as described*
25 *in section 212(j))”.*

1 (2) *ALLOWABLE VISA STATUS FOR PHYSICIANS*
2 *FULFILLING WAIVER REQUIREMENTS IN MEDICALLY*
3 *UNDERSERVED AREAS.*—Section 214(l)(2)(A) of the
4 *Immigration and Nationality Act* (8 U.S.C.
5 *1184(l)(2)(A)) is amended by striking “an alien de-*
6 *scribed in section 101(a)(15)(H)(i)(b).” and inserting*
7 *“any status authorized for employment under this*
8 *Act.”.*

9 (3) *PHYSICIAN NATIONAL INTEREST WAIVER*
10 *CLARIFICATIONS.*—

11 (A) *PRACTICE AND GEOGRAPHIC AREA.*—
12 *Section 203(b)(2)(B)(ii)(I) of the Immigration*
13 *and Nationality Act* (8 U.S.C.
14 *1153(b)(2)(B)(ii)(I)) is amended by striking*
15 *items (aa) and (bb) and inserting the following:*

16 “*(aa) the alien physician agrees to*
17 *work on a full-time basis practicing pri-*
18 *mary care, specialty medicine, or a com-*
19 *bination thereof, in an area or areas des-*
20 *ignated by the Secretary of Health and*
21 *Human Services as having a shortage of*
22 *health care professionals, or at a health care*
23 *facility under the jurisdiction of the Sec-*
24 *retary of Veterans Affairs; or*

1 “(bb) the alien physician is pursuing
2 such waiver based upon service at a facility
3 or facilities that serve patients who reside
4 in a geographic area or areas designated by
5 the Secretary of Health and Human Serv-
6 ices as having a shortage of health care pro-
7 fessionals (without regard to whether such
8 facility or facilities are located within such
9 an area) and a Federal agency, or a local,
10 county, regional, or State department of
11 public health determines the alien physi-
12 cian’s work was or will be in the public in-
13 terest.”.

14 (B) *FIVE-YEAR SERVICE REQUIREMENT.*—
15 Section 203(b)(2)(B)(i)(II) of the Immigration
16 and Nationality Act (8 U.S.C. 1153(B)(i)(II))
17 is amended—

18 (i) by inserting “(aa)” after “(II)”;

19 and

20 (ii) by adding at the end the following:

21 “(bb) The 5-year service requirement of item
22 (aa) shall be counted from the date the alien
23 physician begins work in the shortage area in
24 any legal status and not the date an immigrant
25 visa petition is filed or approved. Such service

1 *shall be aggregated without regard to when such*
2 *service began and without regard to whether such*
3 *service began during or in conjunction with a*
4 *course of graduate medical education.*

5 “(cc) *An alien physician shall not be re-*
6 *quired to submit an employment contract with a*
7 *term exceeding the balance of the 5-year commit-*
8 *ment yet to be served, nor an employment con-*
9 *tract dated within a minimum time period prior*
10 *to filing of a visa petition pursuant to this sub-*
11 *section.*

12 “(dd) *An alien physician shall not be re-*
13 *quired to file additional immigrant visa peti-*
14 *tions upon a change of work location from the lo-*
15 *cation approved in the original national interest*
16 *immigrant petition.”.*

17 (4) *TECHNICAL CLARIFICATION REGARDING AD-*
18 *VANCED DEGREE FOR PHYSICIANS.—Section*
19 *203(b)(2)(A) of the Immigration and Nationality Act*
20 *(8 U.S.C. 1153(b)(2)(A)) is amended by adding at the*
21 *end the following: “An alien physician holding a for-*
22 *foreign medical degree that has been deemed sufficient*
23 *for acceptance by an accredited United States medical*
24 *residency or fellowship program is a member of the*

1 *professions holding an advanced degree or its equiva-*
2 *lent.”.*

3 (5) *SHORT-TERM WORK AUTHORIZATION FOR*
4 *PHYSICIANS COMPLETING THEIR RESIDENCIES.—A*
5 *physician completing graduate medical education or*
6 *training as described in section 212(j) of the Immi-*
7 *gration and Nationality Act (8 U.S.C. 1182(j)) as a*
8 *nonimmigrant described section 101(a)(15)(H)(i) of*
9 *such Act (8 U.S.C. 1101(a)(15)(H)(i)) shall have such*
10 *nonimmigrant status automatically extended until*
11 *October 1 of the fiscal year for which a petition for*
12 *a continuation of such nonimmigrant status has been*
13 *submitted in a timely manner and where the employ-*
14 *ment start date for the beneficiary of such petition is*
15 *October 1 of that fiscal year. Such physician shall be*
16 *authorized to be employed incident to status during*
17 *the period between the filing of such petition and Oc-*
18 *tober 1 of such fiscal year. However, the physician’s*
19 *status and employment authorization shall terminate*
20 *30 days from the date such petition is rejected, denied*
21 *or revoked. A physician’s status and employment au-*
22 *thorization will automatically extend to October 1 of*
23 *the next fiscal year if all visas as described in such*
24 *section 101(a)(15)(H)(i) authorized to be issued for*
25 *the fiscal year have been issued.*

1 (6) *APPLICABILITY OF SECTION 212(e) TO*
2 *SPOUSES AND CHILDREN OF J-1 EXCHANGE VISI-*
3 *TORS.—A spouse or child of an exchange visitor de-*
4 *scribed in section 101(a)(15)(J) of the Immigration*
5 *and Nationality Act (8 U.S.C. 1101(a)(15)(J)) shall*
6 *not be subject to the requirements of section 212(e) of*
7 *the Immigration and Nationality Act (8 U.S.C.*
8 *1182(e)).*

9 (e) *EFFECTIVE DATE.—The amendments made by sub-*
10 *sections (a) and (c) shall take effect on the date of the enact-*
11 *ment of this Act and shall apply to aliens granted waivers*
12 *before, on, or after the date of the enactment of this Act.*
13 *Subsection (d), and the amendments made by subsections*
14 *(b) and (d), shall take effect on October 1, 2013.*

15 **SEC. 109. PERMANENT PRIORITY DATES.**

16 (a) *IN GENERAL.—Section 203 of the Immigration*
17 *and Nationality Act (8 U.S.C. 1153) is amended by adding*
18 *at the end the following:*

19 “(i) *PERMANENT PRIORITY DATES.—*

20 “(1) *IN GENERAL.—Subject to subsection (h)(3)*
21 *and paragraph (2), the priority date for any employ-*
22 *ment-based petition shall be the date of filing of the*
23 *petition with the Secretary of Homeland Security (or*
24 *the Secretary of State, if applicable), unless the filing*
25 *of the petition was preceded by the filing of a labor*

1 *certification with the Secretary of Labor, in which*
2 *case that date shall constitute the priority date.*

3 “(2) *SUBSEQUENT EMPLOYMENT-BASED PETI-*
4 *TIONS.—Subject to subsection (h)(3), an alien who is*
5 *the beneficiary of any employment-based petition that*
6 *was approvable when filed (including self-petitioners)*
7 *shall retain the priority date assigned with respect to*
8 *that petition in the consideration of any subsequently*
9 *filed employment-based petition (including self-peti-*
10 *tions).”.*

11 “(b) *EFFECTIVE DATE.—The amendment made by sub-*
12 *section (a) shall take effect on October 1, 2013, and shall*
13 *apply to aliens who are a beneficiary of a classification*
14 *petition pending on or after such date.*

15 **SEC. 110. SET-ASIDE FOR HEALTH CARE WORKERS.**

16 *Section 203(b)(3) of the Immigration and Nationality*
17 *Act (8 U.S.C. 1153(b)(3)), as amended by this Act, is fur-*
18 *ther amended—*

19 (1) *in subparagraph (A), by inserting after*
20 *clause (iii) the following:*

21 “(iv) *HEALTH CARE WORKERS.—*
22 *Qualified immigrants who are required to*
23 *submit health care worker certificates pur-*
24 *suant to section 212(a)(5)(C) or certified*
25 *statements pursuant to section 212(r) and*

1 *will be working in a rural area or a health*
2 *professional shortage area (as defined in*
3 *section 332 of the Public Health Service Act*
4 *(42 U.S.C. 254e)).”;* and

5 (2) *by adding at the end the following:*

6 “(D) *SET ASIDE FOR HEALTH CARE WORK-*
7 *ERS.—*

8 “(i) *IN GENERAL.—Not less than 4,000*
9 *of the visas made available under this para-*
10 *graph in each fiscal year shall be reserved*
11 *for qualified immigrants described in sub-*
12 *paragraph (A)(iv).*

13 “(ii) *UNUSED VISAS.—If the number of*
14 *visas reserved under clause (i) has not been*
15 *exhausted at the end of a given fiscal year,*
16 *the Secretary of Homeland Security shall*
17 *adjust upwards the numerical limitation in*
18 *subparagraph (A) for that fiscal year by the*
19 *amount remaining. Visas may be issued*
20 *pursuant to such adjustment within the*
21 *first 45 days of the next fiscal year to aliens*
22 *who had applied for such visas during the*
23 *fiscal year for which the adjustment was*
24 *made.”.*

1 **TITLE II—NONIMMIGRANT VISA**
2 **REFORMS**

3 **SEC. 201. H-1B VISAS.**

4 (a) *INCREASE IN H-1B VISA NUMERICAL LIMIT.*—
5 *Section 214(g) of the Immigration and Nationality Act (8*
6 *U.S.C. 1184(g)) is amended—*

7 (1) *in paragraph (1)(A)—*

8 (A) *in clause (vi), by striking “and” at the*
9 *end;*

10 (B) *by amending clause (vii) to read as fol-*
11 *lows:*

12 *“(vii) 65,000 in fiscal years 2004 through*
13 *2013; and”;* and

14 (C) *by adding at the end the following:*

15 *“(viii) 155,000 in each succeeding fiscal*
16 *year; or”;* and

17 (2) *by amending paragraph (5)(C) to read as*
18 *follows:*

19 *“(C) meets the requirements of paragraph (6)(A)*
20 *or (7)(A) of section 203(b), until the number of aliens*
21 *who are exempted from such numerical limitation*
22 *during such year exceeds 40,000.”.*

23 (b) *WAGE LEVEL.*—*Section 212(n)(1)(A)(i) of the Im-*
24 *migration and Nationality Act (8 U.S.C. 1182(n)(1)(A)(i))*
25 *is amended—*

1 (1) by striking “, and” at the end and inserting
2 “; or”;

3 (2) by redesignating subclauses (I) and (II) as
4 items (aa) and (bb), respectively;

5 (3) by striking “(i)” and inserting “(i)(I)”;

6 (4) by inserting “except as provided in subclause
7 (II),” before “is offering”; and

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

9 “(II) if 80 percent or more of the employer’s
10 workers in the same occupational classification
11 as the alien admitted or provided status as an
12 H-1B nonimmigrant and in the same area of
13 employment as the alien admitted or provided
14 status as an H-1B nonimmigrant are United
15 States workers (as defined in paragraph (4)), is
16 offering and will offer during the period of au-
17 thorized employment to aliens admitted or pro-
18 vided status as an H-1B nonimmigrant wages
19 that are at least the actual wage level paid by
20 the employer to all other individuals with simi-
21 lar experience and qualifications for the specific
22 employment in question (but, in the case of an
23 employer with more than 25 employees, in no
24 event shall such wages be lower than the mean

1 of the lowest one-half of wages surveyed pursuant
2 to subsection (p)(5)); and”.

3 (c) *SPOUSAL EMPLOYMENT*.—Section 214(c)(2)(E) of
4 the *Immigration and Nationality Act* (8 U.S.C.
5 1184(c)(2)(E)) is amended by striking “101(a)(15)(L),”
6 and inserting “subparagraph (H)(i)(b), (H)(i)(b1),
7 (E)(iii), or (L) of section 101(a)(15)”.

8 (d) *ANTI-FRAUD MEASURES*.—

9 (1) *FOREIGN DEGREES*.—

10 (A) *SPECIALTY OCCUPATION*.—Section
11 214(i) of the *Immigration and Nationality Act*
12 (8 U.S.C. 1184(i)) is amended by adding at the
13 end the following:

14 “(4)(A) For purposes of paragraphs (1)(B) and (3)(B),
15 the term ‘bachelor’s or higher degree’ includes a foreign de-
16 gree that is a recognized foreign equivalent of a bachelor’s
17 or higher degree.

18 “(B)(i) In the case of an alien with a foreign degree,
19 any determination with respect to the equivalence of that
20 degree to a degree obtained in the United States shall be
21 made by the Secretary of State.

22 “(ii) In carrying out the preceding clause, the Sec-
23 retary of State shall verify the authenticity of any foreign
24 degree proffered by an alien. The Secretary of State may

1 *enter into contracts with public or private entities in con-*
2 *ducting such verifications.*

3 “(iii) *In addition to any other fees authorized by law,*
4 *the Secretary of State may impose a fee on an employer*
5 *filing a petition under subsection (c)(1) initially to grant*
6 *an alien nonimmigrant status described in section*
7 *101(a)(15)(H)(i)(b), if a determination or verification de-*
8 *scribed in clause (i) or (ii) is required with respect to the*
9 *petition. Fees collected under this clause shall be deposited*
10 *in the Treasury in accordance with section 286(t).”.*

11 (B) *H-1B EDUCATIONAL CREDENTIAL*
12 *VERIFICATION ACCOUNT.—Section 286 of the Im-*
13 *migration and Nationality Act (8 U.S.C. 1356)*
14 *is amended by adding at the end the following:*

15 “(w) *H-1B EDUCATIONAL CREDENTIAL VERIFICATION*
16 *ACCOUNT.—There is established in the general fund of the*
17 *Treasury a separate account, which shall be known as the*
18 *‘H-1B Educational Credential Verification Account’. Not-*
19 *withstanding any other provision of law, there shall be de-*
20 *posited as offsetting receipts into the account all fees col-*
21 *lected under section 214(i)(4)(B)(iii). Amounts deposited*
22 *into the account shall remain available to the Secretary of*
23 *State until expended to carry out section 214(i)(4)(B).”.*

24 (2) *INVESTIGATIONS.—The first sentence of sub-*
25 *section (n)(2)(F), and the first sentence of subsection*

1 (t)(3)(E) (as added by section 402(b)(2) of Public
2 Law 108–77 (117 Stat. 941)), of section 212 of the
3 Immigration and Nationality Act (8 U.S.C. 1182)
4 are each amended by striking “investigations” and all
5 that follows through the period at the end and insert-
6 ing the following: “investigations. An employer who
7 has been subject to 2 random investigations may not
8 be subject to another random investigation within 4
9 years of the second investigation unless the employer
10 was found in the previous investigations or otherwise
11 to have committed a willful failure to meet a condi-
12 tion of paragraph (1) (or has been found under para-
13 graph (5) to have committed willful failure to meet
14 the condition of paragraph (1)(G)(i)(II)) or to have
15 made a willful misrepresentation of material fact in
16 an application.”.

17 (3) *BONA FIDE BUSINESSES*.—Section 214(c) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1184(c)) is amended by adding at the end the fol-
20 lowing:

21 “(15) The Secretary of Homeland Security may not
22 approve any petition under paragraph (1) filed by an em-
23 ployer with respect to an alien seeking to obtain the status
24 of a nonimmigrant under subclause (b) or (b1) of section
25 101(a)(15)(H)(i) and the Secretary of State may not ap-

1 *prove a visa with respect to an alien seeking to obtain the*
2 *status of a nonimmigrant under subparagraph (E)(iii) or*
3 *(H)(i)(b1) of section 101(a)(15) unless—*

4 “(A) *the employer—*

5 “(i) *is an institution of higher education*
6 *(as defined in section 101(a) of the Higher Edu-*
7 *cation Act of 1965 (20 U.S.C. 1001(a)), or a*
8 *governmental or nonprofit entity; or*

9 “(ii) *maintains a place of business in the*
10 *United States that is licensed in accordance with*
11 *any applicable State or local business licensing*
12 *requirements and is used exclusively for business*
13 *purposes; and*

14 “(B) *the employer—*

15 “(i) *is a governmental entity;*

16 “(ii) *has aggregate gross assets with a value*
17 *of not less than \$50,000—*

18 “(I) *in the case of an employer that is*
19 *a publicly held corporation, as determined*
20 *using its most recent report filed with the*
21 *Securities and Exchange Commission; or*

22 “(II) *in the case of any other employer,*
23 *as determined as of the date on which the*
24 *petition is filed under regulations promul-*

1 gated by the Secretary of Homeland Secu-
2 rity; or

3 “(iii) provides appropriate documentation
4 of business activity under regulations promul-
5 gated by the Secretary of Homeland Security.”.

6 (4) *SUBPOENA AUTHORITY.*—

7 (A) *H-1B APPLICATION.*—Section 212(n)(2)
8 of the Immigration and Nationality Act (8
9 U.S.C. 1182(n)(2)) is amended by adding at the
10 end the following:

11 “(J) The Secretary of Labor is authorized to issue sub-
12 poenas as may be necessary to assure employer compliance
13 with the terms and conditions of this subsection.”.

14 (B) *ATTESTATION WITH RESPECT TO*
15 *OTHER NONIMMIGRANT EMPLOYEES.*—Section
16 212(t)(3) of such Act (8 U.S.C. 1182(t)(3)) (as
17 added by section 402(b)(2) of Public Law 108-77
18 (117 Stat. 941)) is amended by adding at the
19 end the following:

20 “(G) The Secretary of Labor is authorized to issue sub-
21 poenas as may be necessary to assure employer compliance
22 with the terms and conditions of this subsection.”.

23 (e) *B VISAS IN LIEU OF H-1B VISAS.*—Section 214(g)
24 of the Immigration and Nationality Act (8 U.S.C. 1184(g))
25 is amended by adding at the end the following:

1 “(12) Notwithstanding any other provision of this Act,
2 any alien admitted or provided status as a nonimmigrant
3 in order to provide services in a specialty occupation de-
4 scribed in paragraph (1) or (3) of subsection (i) (other than
5 services described in subparagraph (H)(ii)(a), (O), or (P)
6 of section 101(a)(15)) or as a fashion model shall have been
7 issued a visa (or otherwise been provided nonimmigrant
8 status) under subclause (b) or (b1) of section
9 101(a)(15)(H)(i) or section 101(a)(15)(E)(iii).”.

10 (f) *EFFECTIVE DATES.*—

11 (1) The amendments made by subsection (a)
12 shall take effect on the date of the enactment of this
13 Act and shall apply to aliens issued visas or otherwise
14 provided with nonimmigrant status under section
15 101(a)(15)(H)(i)(b) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) beginning
17 in fiscal year 2014.

18 (2) The amendments made by subsection (b)
19 shall take effect on the date of the enactment of this
20 Act and shall apply to the spouses of aliens issued
21 visas or otherwise provided with nonimmigrant status
22 under subparagraph (H)(i)(b), (H)(i)(b1), or (E)(iii)
23 of section 101(a)(15) of the Immigration and Nation-
24 ality Act before, on, or after such date.

1 (3) *The amendments made by paragraphs (1)*
2 *and (3) of subsection (c) shall take effect on the date*
3 *of the enactment of this Act and shall apply to peti-*
4 *tions filed under section 214(c) of the Immigration*
5 *and Nationality Act (8 U.S.C. 1184(c)) on or after*
6 *such date and to visa applications filed on or after*
7 *such date where no petition was filed because none*
8 *was required under subparagraph (H)(i)(b1) or*
9 *(E)(iii) of section 101(a)(15) of the Immigration and*
10 *Nationality Act (8 U.S.C. 1101(a)(15)).*

11 (4) *The amendments made by paragraphs (2)*
12 *and (4) of subsection (c) shall take effect on the date*
13 *of the enactment of this Act and shall apply to em-*
14 *ployers of aliens issued visas or otherwise provided*
15 *with nonimmigrant status under subparagraph*
16 *(H)(i)(b), (H)(i)(b1), or (E)(iii) section 101(a)(15) of*
17 *the Immigration and Nationality Act (8 U.S.C.*
18 *1101(a)(15)) before, on, or after such date.*

19 (5) *The amendment made by subsection (d) shall*
20 *take effect on the date of the enactment of this Act*
21 *and shall apply to aliens admitted or provided status*
22 *as nonimmigrants on or after such date.*

1 **SEC. 202. L VISAS.**

2 (a) *IN GENERAL.*—Section 214(c)(2) of the Immigra-
3 *tion and Nationality Act (8 U.S.C. 1184(c)(2)) is amended*
4 *by adding at the end the following:*

5 “(G)(i) *An employer of an alien who will serve in a*
6 *capacity for the employer involving specialized knowledge*
7 *under section 101(a)(15)(L) for a cumulative period of time*
8 *in excess of 6 months over a 2-year period—*

9 “(I)(aa) *except as provided in item (bb), will*
10 *offer to the alien during the period of authorized em-*
11 *ployment wages that are at least—*

12 “(AA) *the actual wage level paid by the em-*
13 *ployer to all other individuals with similar expe-*
14 *rience and qualifications for the specific employ-*
15 *ment in question; or*

16 “(BB) *the prevailing wage level for the oc-*
17 *cupational classification in the area of employ-*
18 *ment, whichever is greater, based on the best in-*
19 *formation available; or*

20 “(bb) *if 80 percent or more of the employer’s*
21 *workers in the same occupational classification as the*
22 *alien and in the same area of employment as the*
23 *alien are United States workers (as defined in section*
24 *212(n)(4)), will offer to the alien during the period of*
25 *authorized employment wages that are at least the ac-*
26 *tual wage level paid by the employer to all other indi-*

1 *viduals with similar experience and qualifications for*
2 *the specific employment in question; and*

3 *“(II) will provide working conditions for such*
4 *alien that will not adversely affect the working condi-*
5 *tions of workers similarly employed.*

6 *“(ii) In complying with the requirements of clause (i),*
7 *an employer may keep the alien on their home country pay-*
8 *roll, and may take into account the value of wages paid*
9 *by the employer to the alien in the currency of the alien’s*
10 *home country, the value of benefits paid by the employer*
11 *to the alien in the alien’s home country, employer-provided*
12 *housing or housing allowances, employer-provided vehicles*
13 *or transportation allowances, and other benefits provided*
14 *to the alien as an incident of the assignment in the United*
15 *States.*

16 *“(iii) The Secretary of Labor shall have the same in-*
17 *vestigatory and enforcement powers to ensure compliance*
18 *with this subparagraph as are set forth in section*
19 *212(n)(2).”.*

20 *(b) EFFECTIVE DATE.—The amendment made by sub-*
21 *section (a) shall take effect on the date of the enactment*
22 *of this Act and shall apply to employers with respect to*
23 *aliens issued visas or otherwise provided nonimmigrant sta-*
24 *tus under section 101(a)(15)(L) of the Immigration and*

1 *Nationality Act (8 U.S.C. 1101(a)(15)(L)) on or after such*
2 *date.*

3 **SEC. 203. O VISAS.**

4 (a) *PORTABILITY OF O VISAS.—The first sentence of*
5 *section 214(n)(1) of the Immigration and Nationality Act*
6 *(8 U.S.C. 1184(n)(1)) is amended—*

7 (1) *by striking “section 101(a)(15)(H)(i)(b)”*
8 *and inserting “subparagraphs (H)(i)(b) and (O)(i) of*
9 *section 101(a)(15)”;* and

10 (2) *by inserting “under such sections” after “new*
11 *employment”.*

12 (b) *3-YEAR WAIVER OF NEW O–1 CONSULTATIONS FOR*
13 *ARTS AND MOTION PICTURES AND TELEVISION AND TRANS-*
14 *PARENCY FOR O–1 VISAS FOR MOTION PICTURES AND TEL-*
15 *EVISION.—*

16 (1) *IN GENERAL.—Section 214(c)(3) of the Im-*
17 *migration and Nationality Act (8 U.S.C. 1184(c)(3))*
18 *is amended—*

19 (A) *by striking “Attorney General” each*
20 *place such term appears and inserting “Sec-*
21 *retary of Homeland Security”;* and

22 (B) *by striking the first two sentences of the*
23 *matter that follows subparagraph (B) and insert-*
24 *ing the following: “In the case of an alien seek-*
25 *ing entry for a motion picture or television pro-*

1 *duction, (i) any opinion under the previous sen-*
2 *tence shall only be advisory, (ii) any such opin-*
3 *ion that recommends denial must be in writing,*
4 *(iii) in making the decision the Secretary of*
5 *Homeland Security shall consider the exigencies*
6 *and scheduling of the production, (iv) the Sec-*
7 *retary of Homeland Security shall append to the*
8 *decision any such opinion, and (v) upon making*
9 *the decision, the Secretary of Homeland Security*
10 *shall immediately provide a copy of the decision*
11 *to the consulting labor and management organi-*
12 *zations. The Secretary of Homeland Security*
13 *shall provide by regulation for the waiver of the*
14 *consultation requirement under subparagraph*
15 *(A) in the case of aliens who have been admitted*
16 *as nonimmigrants under section*
17 *101(a)(15)(O)(i) because of extraordinary ability*
18 *in the arts or extraordinary achievement in mo-*
19 *tion picture or television production and who*
20 *seek readmission to perform similar services*
21 *within 3 years after the date of a consultation*
22 *under such subparagraph provided that, in the*
23 *case of aliens admitted because of extraordinary*
24 *achievement in motion picture or television pro-*
25 *duction, such waiver shall apply only if the*

1 *prior consultations by the appropriate union*
2 *and management organization were favorable or*
3 *raised no objection to the approval of the peti-*
4 *tion.”.*

5 (2) *EFFECTIVE DATE.*—*The amendment made by*
6 *paragraph (1) shall take effect on the date of the en-*
7 *actment of this Act and shall apply to petitions filed*
8 *under section 214(c) of the Immigration and Nation-*
9 *ality Act (8 U.S.C. 1184(c)) on or after such date and*
10 *to consultation decisions made before, on, or after*
11 *such date.*

12 **SEC. 204. MEXICAN AND CANADIAN PROFESSIONALS.**

13 *Section 214(e) of the Immigration and Nationality Act*
14 *(8 U.S.C. 1184(e)) is amended by adding at the end the*
15 *following:*

16 “(7)(A) *An employer of a Mexican or Canadian profes-*
17 *sional under this subsection—*

18 “(i)(I) *except as provided in subclause (II), will*
19 *offer to the alien during the period of authorized em-*
20 *ployment wages that are at least—*

21 “(aa) *the actual wage level paid by the em-*
22 *ployer to all other individuals with similar expe-*
23 *rience and qualifications for the specific employ-*
24 *ment in question; or*

1 “(bb) the prevailing wage level for the occu-
2 pational classification in the area of employ-
3 ment, whichever is greater, based on the best in-
4 formation available; or

5 “(II) if 80 percent or more of the employer’s
6 workers in the same occupational classification as the
7 alien and in the same area of employment as the
8 alien are United States workers (as defined in section
9 212(n)(4)), will offer to the alien during the period of
10 authorized employment wages that are at least the ac-
11 tual wage level paid by the employer to all other indi-
12 viduals with similar experience and qualifications for
13 the specific employment in question (but, in the case
14 of an employer with more than 25 employees, in no
15 event shall such wages be lower than the mean of the
16 lowest one-half of wages surveyed pursuant to section
17 212(p)(5)); and

18 “(ii) will provide working conditions for such
19 alien that will not adversely affect the working condi-
20 tions of workers similarly employed.

21 “(B) The Secretary of Labor shall have the same inves-
22 tigatory and enforcement powers to ensure compliance with
23 this paragraph as are set forth in section 212(n)(2).”.

1 **SEC. 205. H-1B1 AND E-3 VISAS.**

2 *Section 212(t)(1)(A)(i) of the Immigration and Na-*
3 *tionality Act (8 U.S.C. 1182(t)(1)(A)(i)) (as added by sec-*
4 *tion 402(b)(2) of Public Law 108-77 (117 Stat. 941)) is*
5 *amended—*

6 *(1) by striking “; and” at the end and inserting*
7 *“; or”;*

8 *(2) by redesignating subclauses (I) and (II) as*
9 *items (aa) and (bb), respectively;*

10 *(3) by striking “(i)” and inserting “(i)(I)”;*

11 *(4) by inserting “except as provided in subclause*
12 *(II),” before “is offering”; and*

13 *(5) by adding at the end the following:*

14 *“(II) if 80 percent or more of the employer’s*
15 *workers in the same occupational classification*
16 *as the alien admitted or provided status under*
17 *section 101(a)(15)(H)(i)(b1) or*
18 *101(a)(15)(E)(iii) and in the same area of em-*
19 *ployment as the alien admitted or provided sta-*
20 *tus under section 101(a)(15)(H)(i)(b1) or*
21 *101(a)(15)(E)(iii) are United States workers (as*
22 *defined in subsection (n)(4)), is offering and will*
23 *offer during the period of authorized employment*
24 *to aliens admitted or provided status under sec-*
25 *tion 101(a)(15)(H)(i)(b1) or section*
26 *101(a)(15)(E)(iii) wages that are at least the ac-*

1 *tual wage level paid by the employer to all other*
2 *individuals with similar experience and quali-*
3 *fications for the specific employment in question*
4 *(but, in the case of an employer with more than*
5 *25 employees, in no event shall such wages be*
6 *lower than the mean of the lowest one-half of*
7 *wages surveyed pursuant to subsection (p)(5));*
8 *and”.*

9 **SEC. 206. STUDENTS.**

10 *(a) DUAL INTENT.—*

11 *(1) IN GENERAL.—Section 101(a)(15)(F) of the*
12 *Immigration and Nationality Act (8 U.S.C.*
13 *1101(a)(15)(F)) is amended to read as follows:*

14 *“(F) an alien—*

15 *“(i) who—*

16 *“(I) is a bona fide student qualified to*
17 *pursue a full course of study in a field of*
18 *science, technology, engineering, or mathe-*
19 *matics (as defined in section*
20 *203(b)(6)(B)(ii)) leading to a bachelors or*
21 *graduate degree and who seeks to enter the*
22 *United States for the purpose of pursuing*
23 *such a course of study consistent with sec-*
24 *tion 214(m) at an institution of higher edu-*
25 *cation (as described in section 101(a) of the*

1 *Higher Education Act of 1965 (20 U.S.C.*
2 *1001(a)) or a proprietary institution of*
3 *higher education (as defined in section*
4 *102(b) of such Act (20 U.S.C. 1002(b)) in*
5 *the United States, particularly designated*
6 *by the alien and approved by the Secretary*
7 *of Homeland Security, after consultation*
8 *with the Secretary of Education, which in-*
9 *stitution shall have agreed to report to the*
10 *Secretary of Homeland Security the deter-*
11 *mination of attendance of each non-*
12 *immigrant student, and if any such institu-*
13 *tion fails to make reports promptly the ap-*
14 *proval shall be withdrawn; or*

15 *“(II) is engaged in temporary employ-*
16 *ment for optional practical training related*
17 *to such alien’s area of study following com-*
18 *pletion of the course of study described in*
19 *subclause (I);*

20 *“(i) who—*

21 *“(I) has a residence in a foreign coun-*
22 *try which the alien has no intention of*
23 *abandoning, who is a bona fide student*
24 *qualified to pursue a full course of study,*
25 *and who seeks to enter the United States*

1 temporarily and solely for the purpose of
2 pursuing such a course of study consistent
3 with section 214(m) at an established col-
4 lege, university, seminary, conservatory,
5 academic high school, elementary school, or
6 other academic institution or in a language
7 training program in the United States, par-
8 ticularly designated by the alien and ap-
9 proved by the Secretary of Homeland Secu-
10 rity, after consultation with the Secretary of
11 Education, which institution of learning or
12 place of study shall have agreed to report to
13 the Secretary of Homeland Security the de-
14 termination of attendance of each non-
15 immigrant student, and if any such institu-
16 tion of learning or place of study fails to
17 make reports promptly the approval shall be
18 withdrawn; or

19 “(II) is engaged in temporary employ-
20 ment for optional practical training related
21 to such alien’s area of study following com-
22 pletion of the course of study described in
23 subclause (I);

1 “(iii) who is the spouse or minor child of
2 an alien described in clause (i) or (ii) if accom-
3 panying or following to join such an alien; or

4 “(iv) who is a national of Canada or Mex-
5 ico, who maintains actual residence and place of
6 abode in the country of nationality, who is de-
7 scribed in clause (i) or (ii) except that the alien’s
8 qualifications for and actual course of study
9 may be full or part-time, and who commutes to
10 the United States institution or place of study
11 from Canada or Mexico;”.

12 (2) *ADMISSION.*—Section 214(b) of the *Immigra-*
13 *tion and Nationality Act* (8 U.S.C. 1184(b)), as
14 amended by section 108(d)(1) of this Act, is further
15 amended by striking “(L) or (V)” inserting “(F)(i),
16 (L), or (V)”.

17 (3) *CONFORMING AMENDMENT.*—Section
18 214(m)(1) of the *Immigration and Nationality Act* (8
19 U.S.C. 1184(m)(1)) is amended, in the matter pre-
20 ceding subparagraph (A), by striking “(i) or (iii)”
21 and inserting “(i), (ii), or (iv)”.

22 (b) *OPTIONAL PRACTICAL TRAINING FOR FOREIGN*
23 *STUDENTS.*—Section 214 of the *Immigration and Nation-*
24 *ality Act* (8 U.S.C. 1184) is amended by adding at the end
25 the following:

1 “(s)(1) *An employer providing optional practical*
2 *training to an alien who has been issued a visa or otherwise*
3 *provided nonimmigrant status under subparagraph (F) or*
4 *(M) of section 101(a)(15) after completion of the alien’s*
5 *course of study—*

6 “(A)(i) *except as provided in clause (ii), shall*
7 *offer to the alien during the period of optional prac-*
8 *tical training wages that are at least—*

9 “(I) *the actual wage level paid by the*
10 *employer to all other individuals with simi-*
11 *lar experience and qualifications for the*
12 *specific employment in question; or*

13 “(II) *the prevailing wage level for the*
14 *occupational classification in the area of*
15 *employment, whichever is greater, based on*
16 *the best information available; or*

17 “(ii) *if 80 percent or more of the employer’s*
18 *workers in the same occupational classification as the*
19 *alien and in the same area of employment as the*
20 *alien are United States workers (as defined in section*
21 *212(n)(4)), shall offer to the alien during the period*
22 *of authorized employment wages that are at least the*
23 *actual wage level paid by the employer to all other in-*
24 *dividuals with similar experience and qualifications*
25 *for the specific employment in question (but, in the*

1 case of an employer with more than 25 employees, in
2 no event shall such wages be lower than the mean of
3 the lowest one-half of wages surveyed pursuant to sec-
4 tion 212(p)(5)); and

5 “(B) shall provide working conditions for such
6 alien that will not adversely affect the working condi-
7 tions of workers similarly employed.

8 “(2) The Secretary of Labor has the same investigatory
9 and enforcement powers to ensure compliance with para-
10 graph (1) as are set forth in section 212(n)(2).”.

11 (c) *EFFECTIVE DATES.*—

12 (1) The amendments made by subsection (a)
13 shall take effect on the date of the enactment of this
14 Act, and shall apply to nonimmigrants who possess or
15 are granted status under section 101(a)(15)(F) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1101(a))(15)(F)) on or after such date.

18 (2) The amendment made by subsection (b) shall
19 apply to employers with respect to aliens who begin
20 post-course of study optional practical training with
21 them on or after the date of the enactment of this Act.

22 **SEC. 207. EXTENSION OF EMPLOYMENT ELIGIBILITY WHILE**
23 **VISA EXTENSION PETITION PENDING.**

24 (a) *IN GENERAL.*—Section 214 of the Immigration
25 and Nationality Act (8 U.S.C. 1184, as amended by section

1 205(b), is further amended by adding at the end the fol-
2 lowing:

3 “(t) A nonimmigrant issued a visa or otherwise pro-
4 vided nonimmigrant status under subparagraph (A), (E),
5 (G), (H), (I), (J), (L), (O), (P), (Q), or (R) of section
6 101(a)(15), or section 214(e), and otherwise as the Sec-
7 retary of Homeland Security may by regulations prescribe,
8 whose status has expired but who has, or whose sponsoring
9 employer or authorized agent has, filed a timely application
10 or petition for an extension of authorized status as provided
11 under this section, is authorized to continue employment
12 with the same employer for a period not to exceed 240 days
13 beginning on the date of the expiration of the authorized
14 period of stay until and unless the application or petition
15 is denied. Such authorization shall be subject to the same
16 conditions and limitations noted on the original authoriza-
17 tion.”.

18 (b) *EFFECTIVE DATE.*—The amendment made by sub-
19 section (a) shall take effect on the date of the enactment
20 of this Act and shall apply to aliens issued visas or other-
21 wise provided nonimmigrant status before, on, or after such
22 date.

1 **SEC. 208. FRAUD DETECTION AND PREVENTION FEE.**

2 *Section 214(c)(12)(A) of the Immigration and Nation-*
3 *ality Act (8 U.S.C. 1184(c)(12)(A)) is amended by adding*
4 *at the end the following:*

5 *“The Secretary of Homeland Security shall also impose the*
6 *fee described in the preceding sentence on an employer filing*
7 *an attestation under section 212(t)(1) or employing an*
8 *alien pursuant to subsection (e).”.*

9 **SEC. 209. TECHNICAL CORRECTION.**

10 *The second subsection designated as subsection (t) of*
11 *section 212 of the Immigration and Nationality Act (8*
12 *U.S.C. 1182) (as added by section 1(b)(2)(B) of Public Law*
13 *108–449 (118 Stat. 3470)) is redesignated as subsection (u)*
14 *of such section.*

15 **TITLE III—REFORMS AFFECTING**
16 **BOTH IMMIGRANT AND NON-**
17 **IMMIGRANT VISAS**

18 **SEC. 301. PREVAILING WAGES.**

19 *(a) IN GENERAL.—Section 212(p) of the Immigration*
20 *and Nationality Act (8 U.S.C. 1182(p)) is amended—*

21 *(1) in paragraph (1), by striking “subsections*
22 *(a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II)” and*
23 *inserting “subsections (a)(5)(A), (n)(1)(A)(i)(II), and*
24 *(t)(1)(A)(i)(II) of this section, and subsections*
25 *(c)(2)(G), (e), and (s) of section 214,”;*

1 (2) by redesignating paragraphs (2) through (4)
2 as paragraphs (3) through (5), respectively;

3 (3) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) In computing the prevailing wage level for an oc-
6 cupational classification in an area of employment for pur-
7 poses of subsections (a)(5)(A), (n)(1)(A)(i)(II), and
8 (t)(1)(A)(i)(II) of this section, and subsections (c)(2)(G),
9 (e), and (s) of section 214, the wage level shall be the wage
10 level specified in subparagraph (A), (B), or (C) of para-
11 graph (5) depending on the experience, education, and level
12 of supervision required for the position.”;

13 (4) in paragraph (4) (as redesignated), by strik-
14 ing “subsections (a)(5)(A), (n)(1)(A)(i)(II), and
15 (t)(1)(A)(i)(II)” and inserting “subsections (a)(5)(A),
16 (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of this section,
17 and subsections (c)(2)(G), (e), and (s) of section
18 214,”;

19 (5) by amending paragraph (5) (as redesignated)
20 to read as follows:

21 “(5) Subject to paragraph (2), the Secretary of Labor
22 shall make available to employers a governmental survey
23 to determine the prevailing wage for each occupational clas-
24 sification by metropolitan statistical area in the United
25 States. Such survey, or other survey approved by the Sec-

1 *retary of Labor, shall provide 3 levels of wages commensu-*
2 *rate with experience, education, and level of supervision.*

3 *Such wage levels shall be determined as follows:*

4 *“(A) The first level shall be the mean of the low-*
5 *est two-thirds of wages surveyed, but in no case less*
6 *than 80 percent of the mean of the wages surveyed.*

7 *“(B) The second level shall be the mean of wages*
8 *surveyed.*

9 *“(C) The third level shall be the mean of the*
10 *highest two-thirds of wages surveyed.”; and*

11 *(6) by adding at the end the following:*

12 *“(6) An employer may use an independent authori-*
13 *tative survey approved by the Secretary of Labor for pur-*
14 *poses of paragraph (5), if—*

15 *“(A) the survey data was collected within 24*
16 *months;*

17 *“(B) the survey was published within the prior*
18 *24 months;*

19 *“(C) the survey reflects the area of intended em-*
20 *ployment;*

21 *“(D) the employer’s job description adequately*
22 *matches the job description in the survey;*

23 *“(E) the survey is across industries that employ*
24 *workers in the occupation;*

1 “(F) the wage determination is based on the
2 arithmetic mean (weighted average); and

3 “(G) the survey identifies a statistically valid
4 methodology that was used to collect the data.”.

5 (b) *EFFECTIVE DATE.*—The amendments made by sub-
6 section (a) shall take effect on the date of the enactment
7 of this Act, and shall apply to employers with regard to
8 labor certifications under sections 212(a)(5)(A) of the Im-
9 migration and Nationality Act (8 U.S.C. 1182(a)(5)(A)),
10 labor condition applications under section 212(n)(1) of such
11 Act (8 U.S.C. 1182(n)(1)), and attestations under section
12 212(t)(1) of such Act (8 U.S.C. 1182(t)(1)), filed on or after
13 such date, to employers with regard to aliens issued visas
14 or otherwise provided nonimmigrant status under section
15 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) on or
16 after such date, and to employers with regard to aliens they
17 provide post-course of study optional practical training
18 that begins on or after such date.

19 **SEC. 302. STREAMLINING PETITIONS FOR ESTABLISHED**
20 **EMPLOYERS.**

21 (a) *IN GENERAL.*—Section 214(c) of the Immigration
22 and Nationality Act (8 U.S.C. 1184(c)), as amended by this
23 Act, is further amended by adding at the end the following:

24 “(16) The Secretary of Homeland Security shall estab-
25 lish a pre-certification procedure for employers who file

1 *multiple petitions described in this subsection or section*
2 *204(a)(1)(F). Such precertification procedure shall enable*
3 *an employer to avoid repeatedly submitting documentation*
4 *that is common to multiple petitions and establish, through*
5 *a single filing, criteria relating to the employer and the*
6 *offered employment opportunity.”.*

7 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
8 *section (a) shall take effect on the date of the enactment*
9 *of this Act, and shall apply to petitions filed under section*
10 *204(a)(1)(F) or 214(c) of the Immigration and Nationality*
11 *Act (8 U.S.C. 1154(a)(1)(F) or 1184(c)) beginning 180 days*
12 *after such date.*

Union Calendar No. 507

113TH CONGRESS
2^D SESSION

H. R. 2131

[Report No. 113-676, Part I]

A BILL

To amend the Immigration and Nationality Act to enhance American competitiveness through the encouragement of high-skilled immigration, and for other purposes.

DECEMBER 15, 2014

Reported from the Committee on the Judiciary with an amendment

DECEMBER 15, 2014

The Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed