

# Union Calendar No. 267

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3648

[Report No. 117-353]

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2021

Ms. LOFGREN (for herself, Mr. CURTIS, Mr. NADLER, Mr. JOHNSON of Ohio, Ms. BASS, Mr. FITZPATRICK, Mr. CICILLINE, Mr. VELA, Mr. SWALWELL, Mr. LANGEVIN, Mr. WELCH, Mrs. LURIA, Mr. CORREA, Mr. GARAMENDI, Ms. SCHRIER, Mr. COHEN, Mr. SEAN PATRICK MALONEY of New York, Mr. KRISHNAMOORTHY, Mr. YARMUTH, and Mr. KHANNA) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 7, 2022

Additional sponsors: Mr. EMMER, Mr. MORELLE, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. RUSH, Mr. TONKO, Ms. JAYAPAL, Mr. BACON, Ms. ROSS, Mrs. TRAHAN, Mr. THOMPSON of California, Mrs. HAYES, Ms. STEVENS, Ms. SHERRILL, Mr. LARSON of Connecticut, Mrs. FLETCHER, Mr. BEYER, Mr. BUCSHON, Ms. DELBENE, Ms. ESHOO, Mr. CROW, Mr. STAUBER, Mr. PAPPAS, Mr. PANETTA, Ms. HOULAHAN, Ms. SCANLON, Ms. WILD, Mrs. LAWRENCE, Mr. CARBAJAL, Mrs. CAROLYN B. MALONEY of New York, Mr. JOHNSON of Georgia, Mr. MOULTON, Ms. DAVIDS of Kansas, Mr. TRONE, Mr. BERA, Mr. HIMES, Mr. LOWENTHAL, Mr. PETERS, Mr. PRICE of North Carolina, Mrs. BEATTY, Mrs. WATSON COLEMAN, Ms. JACKSON LEE, Mr. ALLRED, Mr. TIMMONS, Ms. DEAN, Mr. GREEN of Texas, Mr. HUFFMAN, Mr. LARSEN of Washington, Mr. SCHNEIDER, Mr. CARSON, Mr. THOMPSON of Mississippi, Mr. KILMER, Mr. PALLONE, Mr. HARDER of California, Mr. PHILLIPS, Ms. SPANBERGER, Mr. KIND, Mrs. NAPOLITANO, Ms. STANSBURY, Ms. KUSTER, Ms. CHU, Mrs. MCBATH, Ms. SÁNCHEZ, Mr. CASTRO of Texas, and Ms. PRESSLEY

JUNE 7, 2022

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on June 1, 2021]

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## **A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “Equal Access to Green*  
5 *cards for Legal Employment Act of 2022” or the “EAGLE*  
6 *Act of 2022”.*

7 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**  
8 **STATE.**

9        *(a) IN GENERAL.—Section 202(a)(2) of the Immigra-*  
10 *tion and Nationality Act (8 U.S.C. 1152(a)(2)) is amended*  
11 *to read as follows:*

12                *“(2) PER COUNTRY LEVELS FOR FAMILY-SPON-*  
13 *SORED IMMIGRANTS.—Subject to paragraphs (3) and*  
14 *(4), the total number of immigrant visas made avail-*  
15 *able to natives of any single foreign state or depend-*  
16 *ent area under section 203(a) in any fiscal year may*  
17 *not exceed 15 percent (in the case of a single foreign*  
18 *state) or 2 percent (in the case of a dependent area)*  
19 *of the total number of such visas made available*  
20 *under such section in that fiscal year.”.*

21        *(b) CONFORMING AMENDMENTS.—Section 202 of such*  
22 *Act (8 U.S.C. 1152) is amended—*

23                *(1) in subsection (a)—*

1           (A) in paragraph (3), by striking “both  
2           subsections (a) and (b) of section 203” and in-  
3           serting “section 203(a)”; and

4           (B) by striking paragraph (5); and

5           (2) by amending subsection (e) to read as fol-  
6           lows:

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

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

23               (1) in subsection (a), by striking “(as defined in  
24               subsection (e))”;

25               (2) by striking subsection (d); and

1           (3) by redesignating subsection (e) as subsection  
2           (d).

3           (d) *APPLICATION.*—*The amendments made by this sec-*  
4 *tion shall apply beginning on the date that is the first day*  
5 *of the second fiscal year beginning after the date of the en-*  
6 *actment of this Act.*

7           (e) *TRANSITION RULES FOR EMPLOYMENT-BASED IM-*  
8 *MIGRANTS.*—*Notwithstanding title II of the Immigration*  
9 *and Nationality Act (8 U.S.C. 1151 et seq.), the following*  
10 *transition rules shall apply to employment-based immi-*  
11 *grants, beginning on the date referred to in subsection (d):*

12           (1) *RESERVED VISAS FOR LOWER ADMISSION*  
13 *STATES.*—

14           (A) *IN GENERAL.*—*For the first nine fiscal*  
15 *years after the date referred to in subsection (d),*  
16 *immigrant visas under each of paragraphs (2)*  
17 *and (3) of section 203(b) of the Immigration and*  
18 *Nationality Act (8 U.S.C. 1153(b)) shall be re-*  
19 *served and allocated to immigrants who are na-*  
20 *tives of a foreign state or dependent area that is*  
21 *not one of the two foreign states or dependent*  
22 *areas with the highest demand for immigrant*  
23 *visas as follows:*

24           (i) *For the first fiscal year after such*  
25 *date, 30 percent of such visas.*

1                   (ii) For the second fiscal year after  
2 such date, 25 percent of such visas.

3                   (iii) For the third fiscal year after  
4 such date, 20 percent of such visas.

5                   (iv) For the fourth fiscal year after  
6 such date, 15 percent of such visas.

7                   (v) For the fifth and sixth fiscal years  
8 after such date, 10 percent of such visas.

9                   (vi) For the seventh, eighth, and ninth  
10 fiscal years after such date, 5 percent of  
11 such visas.

12                   (B) *ADDITIONAL RESERVED VISAS FOR NEW*  
13 *ARRIVALS.—For each of the first nine fiscal*  
14 *years after the date referred to in subsection (d),*  
15 *an additional 5.75 percent of the immigrant*  
16 *visas made available under each of paragraphs*  
17 *(2) and (3) of section 203(b) of the Immigration*  
18 *and Nationality Act (8 U.S.C. 1153(b)) shall be*  
19 *allocated to immigrants who are natives of a for-*  
20 *foreign state or dependent area that is not one of*  
21 *the two foreign states or dependent areas with*  
22 *the highest demand for immigrant visas. Such*  
23 *additional visas shall be allocated in the fol-*  
24 *lowing order of priority:*

1           (i) *FAMILY MEMBERS ACCOMPANYING*  
2           *OR FOLLOWING TO JOIN.—Visas reserved*  
3           *under this subparagraph shall be allocated*  
4           *to family members described in section*  
5           *203(d) of the Immigration and Nationality*  
6           *Act (8 U.S.C. 1153(d)) who are accom-*  
7           *panying or following to join a principal*  
8           *beneficiary who is in the United States and*  
9           *has been granted an immigrant visa or ad-*  
10           *justment of status to lawful permanent resi-*  
11           *dence under paragraph (2) or (3) of section*  
12           *203(b) of the Immigration and Nationality*  
13           *Act (8 U.S.C. 1153(b)).*

14           (ii) *NEW PRINCIPAL ARRIVALS.—If at*  
15           *the end of the second quarter of any fiscal*  
16           *year, the total number of visas reserved*  
17           *under this subparagraph exceeds the number*  
18           *of qualified immigrants described in clause*  
19           *(i), such visas may also be allocated, for the*  
20           *remainder of the fiscal year, to individuals*  
21           *(and their family members described in sec-*  
22           *tion 203(d) of the Immigration and Nation-*  
23           *ality Act (8 U.S.C. 1153(d))) who are seek-*  
24           *ing an immigrant visa under paragraph*  
25           *(2) or (3) of section 203(b) of the Immigra-*

1            *tion and Nationality Act (8 U.S.C. 1153(b))*  
2            *to enter the United States as new immi-*  
3            *grants, and who have not resided or worked*  
4            *in the United States at any point in the*  
5            *four-year period immediately preceding the*  
6            *filing of the immigrant visa petition.*

7            *(iii) OTHER NEW ARRIVALS.—If at the*  
8            *end of the third quarter of any fiscal year,*  
9            *the total number of visas reserved under this*  
10           *subparagraph exceeds the number of quali-*  
11           *fied immigrants described in clauses (i) and*  
12           *(ii), such visas may be also be allocated, for*  
13           *the remainder of the fiscal year, to other in-*  
14           *dividuals (and their family members de-*  
15           *scribed in section 203(d) of the Immigration*  
16           *and Nationality Act (8 U.S.C. 1153(d)))*  
17           *who are seeking an immigrant visa under*  
18           *paragraph (2) or (3) of section 203(b) of the*  
19           *Immigration and Nationality Act (8 U.S.C.*  
20           *1153(b)).*

21           *(2) RESERVED VISAS FOR SHORTAGE OCCUPA-*  
22           *TIONS.—*

23           *(A) IN GENERAL.—For each of the first*  
24           *seven fiscal years after the date referred to in*  
25           *subsection (d), not fewer than 4,400 of the immi-*



1           *grant visas made available under section*  
2           *203(b)(3) of the Immigration and Nationality*  
3           *Act (8 U.S.C. 1153(b)(3)), and not reserved*  
4           *under paragraph (1), shall be allocated to immi-*  
5           *grants who are seeking admission to the United*  
6           *States to work in an occupation described in sec-*  
7           *tion 656.5(a) of title 20, Code of Federal Regula-*  
8           *tions (or any successor regulation).*

9           *(B) FAMILY MEMBERS.—Family members*  
10          *who are accompanying or following to join a*  
11          *principal beneficiary described in subparagraph*  
12          *(A) shall be entitled to a visa in the same status*  
13          *and in the same order of consideration as such*  
14          *principal beneficiary, but such visa shall not be*  
15          *counted against the 4,400 immigrant visas re-*  
16          *served under such subparagraph.*

17          *(3) PER-COUNTRY LEVELS.—For each of the first*  
18          *nine fiscal years after the date referred to in sub-*  
19          *section (d)—*

20                 *(A) not more than 25 percent (in the case*  
21                 *of a single foreign state) or 2 percent (in the case*  
22                 *of a dependent area) of the total number of visas*  
23                 *reserved under paragraph (1) shall be allocated*  
24                 *to immigrants who are natives of any single for-*  
25                 *ign state or dependent area; and*

1           (B) not more than 85 percent of the immi-  
2           grant visas made available under each of para-  
3           graphs (2) and (3) of section 203(b) of the Immi-  
4           gration and Nationality Act (8 U.S.C. 1153(b))  
5           and not reserved under paragraph (1), may be  
6           allocated to immigrants who are native to any  
7           single foreign state or dependent area.

8           (4) *SPECIAL RULE TO PREVENT UNUSED*  
9           *VISAS.—If, at the end of the third quarter of any fis-*  
10          *cal year, the Secretary of State determines that the*  
11          *application of paragraphs (1) through (3) would re-*  
12          *sult in visas made available under paragraph (2) or*  
13          *(3) of section 203(b) of the Immigration and Nation-*  
14          *ality Act (8 U.S.C. 1153(b)) going unused in that fis-*  
15          *cal year, such visas may be allocated during the re-*  
16          *mainder of such fiscal year without regard to para-*  
17          *graphs (1) through (3).*

18          (5) *RULES FOR CHARGEABILITY AND DEPEND-*  
19          *ENTS.—Section 202(b) of the Immigration and Na-*  
20          *tionality Act (8 U.S.C. 1152(b)) shall apply in deter-*  
21          *mining the foreign state to which an alien is charge-*  
22          *able, and section 203(d) of such Act (8 U.S.C.*  
23          *1153(d)) shall apply in allocating immigrant visas to*  
24          *family members, for purposes of this subsection.*

1           (6) *DETERMINATION OF TWO FOREIGN STATES*  
2           *OR DEPENDENT AREAS WITH HIGHEST DEMAND.*—*The*  
3           *two foreign states or dependent areas with the highest*  
4           *demand for immigrant visas, as referred to in this*  
5           *subsection, are the two foreign states or dependent*  
6           *areas with the largest aggregate number beneficiaries*  
7           *of petitions for an immigrant visa under section*  
8           *203(b) of the Immigration and Nationality Act (8*  
9           *U.S.C. 1153(b)) that have been approved, but where*  
10           *an immigrant visa is not yet available, as determined*  
11           *by the Secretary of State, in consultation with the*  
12           *Secretary of Homeland Security.*

13 **SEC. 3. POSTING AVAILABLE POSITIONS THROUGH THE DE-**  
14           **PARTMENT OF LABOR.**

15           (a) *DEPARTMENT OF LABOR WEBSITE.*—*Section*  
16           *212(n) of the Immigration and Nationality Act (8 U.S.C.*  
17           *1182(n)) is amended by adding at the end the following:*

18           “(6) *For purposes of complying with paragraph*  
19           *(1)(C):*

20           “(A) *Not later than 180 days after the date of*  
21           *the enactment of the Equal Access to Green cards for*  
22           *Legal Employment Act of 2022, the Secretary of*  
23           *Labor shall establish a searchable internet website for*  
24           *posting positions in accordance with paragraph*  
25           *(1)(C) that is available to the public without charge,*

1       *except that the Secretary may delay the launch of*  
2       *such website for a single period identified by the Sec-*  
3       *retary by notice in the Federal Register that shall not*  
4       *exceed 30 days.*

5               *“(B) The Secretary may work with private com-*  
6       *panies or nonprofit organizations to develop and op-*  
7       *erate the internet website described in subparagraph*  
8       *(A).*

9               *“(C) The Secretary shall promulgate rules, after*  
10       *notice and a period for comment, to carry out this*  
11       *paragraph.”.*

12       *(b) PUBLICATION REQUIREMENT.—The Secretary of*  
13       *Labor shall submit to Congress, and publish in the Federal*  
14       *Register and in other appropriate media, a notice of the*  
15       *date on which the internet website required under section*  
16       *212(n)(6) of the Immigration and Nationality Act, as estab-*  
17       *lished by subsection (a), will be operational.*

18       *(c) APPLICATION.—The amendment made by sub-*  
19       *section (a) shall apply beginning on the date that is 90*  
20       *days after the date described in subsection (b).*

21       *(d) INTERNET POSTING REQUIREMENT.—Section*  
22       *212(n)(1)(C) of the Immigration and Nationality Act (8*  
23       *U.S.C. 1182(n)(1)(C)) is amended—*

24               *(1) by redesignating clause (ii) as subclause (II);*

1           (2) by striking “(i) has provided” and inserting  
2           the following:

3                           “(ii)(I) has provided”; and

4           (3) by inserting before clause (ii), as redesignig-  
5           nated by paragraph (2), the following:

6                           “(i) except in the case of an employer  
7                           filing a petition on behalf of an H-1B non-  
8                           immigrant who has already been counted  
9                           against the numerical limitations and is  
10                          not eligible for a full 6-year period, as de-  
11                          scribed in section 214(g)(7), or on behalf of  
12                          an H-1B nonimmigrant authorized to ac-  
13                          cept employment under section 214(n), has  
14                          posted on the internet website described in  
15                          paragraph (6), for at least 30 calendar  
16                          days, a description of each position for  
17                          which a nonimmigrant is sought, that in-  
18                          cludes—

19                           “(I) the occupational classifica-  
20                           tion, and if different the employer’s job  
21                           title for the position, in which each  
22                           nonimmigrant will be employed;

23                           “(II) the education, training, or  
24                           experience qualifications for the posi-  
25                           tion;

1                   “(III) the salary or wage range  
2                   and employee benefits offered;

3                   “(IV) each location at which a  
4                   nonimmigrant will be employed; and

5                   “(V) the process for applying for a  
6                   position; and”.

7 **SEC. 4. H-1B EMPLOYER PETITION REQUIREMENTS.**

8           (a) *WAGE DETERMINATION INFORMATION.*—Section  
9 212(n)(1)(D) of the Immigration and Nationality Act (8  
10 U.S.C. 1182(n)(1)(D)) is amended by inserting “the pre-  
11 vailing wage determination methodology used under sub-  
12 paragraph (A)(i)(II),” after “shall contain”.

13           (b) *NEW APPLICATION REQUIREMENTS.*—Section  
14 212(n)(1) of the Immigration and Nationality Act (8  
15 U.S.C. 1182(n)(1)) is amended by inserting after subpara-  
16 graph (G) the following new subparagraph:

17                   “(H)(i) The employer, or a person or entity act-  
18                   ing on the employer’s behalf, has not advertised any  
19                   available position specified in the application in an  
20                   advertisement that states or indicates that—

21                           “(I) such position is only available to an  
22                           individual who is or will be an H-1B non-  
23                           immigrant; or

1           “(II) an individual who is or will be an H-  
2           1B nonimmigrant shall receive priority or a  
3           preference in the hiring process for such position.

4           “(ii) The employer has not primarily recruited  
5           individuals who are or who will be H-1B non-  
6           immigrants to fill such position.

7           “(I) If the employer, in a previous period speci-  
8           fied by the Secretary, employed one or more H-1B  
9           nonimmigrants, the employer shall submit to the Sec-  
10          retary the Internal Revenue Service Form W-2 Wage  
11          and Tax Statements filed by the employer with re-  
12          spect to the H-1B nonimmigrants for such period.”.

13          (c) *ADDITIONAL REQUIREMENT FOR NEW H-1B PETI-*  
14          *TIONS.—*

15                 (1) *IN GENERAL.—*Section 212(n)(1) of the *Im-*  
16          *migration and Nationality Act* (8 U.S.C. 1182(n)(1)),  
17          as amended by subsection (b), is further amended by  
18          inserting after subparagraph (I), the following:

19                 “(J)(i) If the employer employs 50 or more em-  
20          ployees in the United States, the sum of the number  
21          of such employees who are H-1B nonimmigrants plus  
22          the number of such employees who are nonimmigrants  
23          described in section 101(a)(15)(L) does not exceed 50  
24          percent of the total number of employees.

1           “(ii) Any group treated as a single employer  
2           under subsection (b), (c), (m), or (o) of section 414 of  
3           the Internal Revenue Code of 1986 shall be treated as  
4           a single employer for purposes of clause (i).”.

5           (2) *RULE OF CONSTRUCTION.*—Nothing in sub-  
6           paragraph (J) of section 212(n)(1) of the Immigra-  
7           tion and Nationality Act (8 U.S.C. 1182(n)(1)), as  
8           added by paragraph (1), may be construed to prohibit  
9           renewal applications or change of employer applica-  
10          tions for H–1B nonimmigrants employed by an em-  
11          ployer on the date of the enactment of this Act.

12          (3) *APPLICATION.*—The amendment made by  
13          this subsection shall apply with respect to an em-  
14          ployer commencing on the date that is 180 days after  
15          the date of the enactment of this Act.

16          (d) *LABOR CONDITION APPLICATION FEE.*—Section  
17          212(n) of the Immigration and Nationality Act (8 U.S.C.  
18          1182(n)), as amended by section 3(a), is further amended  
19          by adding at the end the following:

20               “(7)(A) The Secretary of Labor shall promulgate a reg-  
21               ulation that requires applicants under this subsection to  
22               pay an administrative fee to cover the average paperwork  
23               processing costs and other administrative costs.

24               “(B)(i) Fees collected under this paragraph shall be  
25               deposited as offsetting receipts within the general fund of



1 *the Treasury in a separate account, which shall be known*  
2 *as the ‘H–1B Administration, Oversight, Investigation, and*  
3 *Enforcement Account’ and shall remain available until ex-*  
4 *pended.*

5       “(ii) *The Secretary of the Treasury shall refund*  
6 *amounts in such account to the Secretary of Labor for sala-*  
7 *ries and related expenses associated with the administra-*  
8 *tion, oversight, investigation, and enforcement of the H–1B*  
9 *nonimmigrant visa program.”.*

10       (e) *ELIMINATION OF B–1 IN LIEU OF H–1.—Section*  
11 *214(g) of the Immigration and Nationality Act (8 U.S.C.*  
12 *1184(g)) is amended by adding at the end the following:*

13       “(12)(A) *Unless otherwise authorized by law, an alien*  
14 *normally classifiable under section 101(a)(15)(H)(i) who*  
15 *seeks admission to the United States to provide services in*  
16 *a specialty occupation described in paragraph (1) or (3)*  
17 *of subsection (i) may not be issued a visa or admitted under*  
18 *section 101(a)(15)(B) for such purpose.*

19       “(B) *Nothing in this paragraph may be construed to*  
20 *authorize the admission of an alien under section*  
21 *101(a)(15)(B) who is coming to the United States for the*  
22 *purpose of performing skilled or unskilled labor if such ad-*  
23 *mission is not otherwise authorized by law.”.*

24       (f) *ENDING MEDIA ABUSE OF H–1B.—Section 214(g)*  
25 *of the Immigration and Nationality Act (8 U.S.C. 1184(g)),*

1 *as amended by subsection (e), is further amended by adding*  
2 *at the end the following:*

3           “(13) *An alien normally classifiable under sec-*  
4 *tion 101(a)(15)(I) who seeks admission to the United*  
5 *States solely as a representative of the foreign press,*  
6 *radio, film, or other foreign information media, may*  
7 *not be issued a visa or admitted under section*  
8 *101(a)(15)(H)(i) to engage in such vocation.”.*

9 **SEC. 5. INVESTIGATION AND DISPOSITION OF COMPLAINTS**

10                           **AGAINST H-1B EMPLOYERS.**

11           *(a) INVESTIGATION, WORKING CONDITIONS, AND PEN-*  
12 *ALTIES.—Section 212(n)(2)(C) of the Immigration and Na-*  
13 *tionality Act (8 U.S.C. 1182(n)(2)(C)) is amended by strik-*  
14 *ing clause (iv) and inserting the following:*

15           “(iv)(I) *An employer that has filed an application*  
16 *under this subsection violates this clause by taking, failing*  
17 *to take, or threatening to take or fail to take a personnel*  
18 *action, or intimidating, threatening, restraining, coercing,*  
19 *blacklisting, discharging, or discriminating in any other*  
20 *manner against an employee because the employee—*

21           “(aa) *disclosed information that the employee reason-*  
22 *ably believes evidences a violation of this subsection or any*  
23 *rule or regulation pertaining to this subsection; or*

1       “(bb) cooperated or sought to cooperate with the re-  
2       quirements under this subsection or any rule or regulation  
3       pertaining to this subsection.

4       “(II) An employer that violates this clause shall be lia-  
5       ble to the employee harmed by such violation for lost wages  
6       and benefits.

7       “(III) In this clause, the term ‘employee’ includes—  
8                               “(aa) a current employee;  
9                               “(bb) a former employee; and  
10                              “(cc) an applicant for em-  
11                              ployment.”.

12       (b) *INFORMATION SHARING.*—Section 212(n)(2)(H) of  
13       the *Immigration and Nationality Act* (8 U.S.C.  
14       1182(n)(2)(H)) is amended to read as follows:

15       “(H)(i) The Director of U.S. Citizenship and Immi-  
16       gration Services shall provide the Secretary of Labor with  
17       any information contained in the materials submitted by  
18       employers of H–1B nonimmigrants as part of the petition  
19       adjudication process that indicates that the employer is not  
20       complying with visa program requirements for H–1B non-  
21       immigrants.

22       “(ii) The Secretary may initiate and conduct an in-  
23       vestigation and hearing under this paragraph after receiv-  
24       ing information of noncompliance under this subpara-  
25       graph.”.

1 **SEC. 6. LABOR CONDITION APPLICATIONS.**

2 (a) *APPLICATION REVIEW REQUIREMENTS.*—Section  
3 212(n)(1) of the Immigration and Nationality Act (8  
4 U.S.C. 1182(n)(1)) is amended, in the undesignated matter  
5 following subparagraph (I), as added by section 4(b)—

6 (1) in the fourth sentence, by inserting “, and  
7 through the internet website of the Department of  
8 Labor, without charge.” after “Washington, D.C.”;

9 (2) in the fifth sentence, by striking “only for  
10 completeness” and inserting “for completeness, clear  
11 indicators of fraud or misrepresentation of material  
12 fact,”;

13 (3) in the sixth sentence, by striking “or obvi-  
14 ously inaccurate” and inserting “, presents clear in-  
15 dicators of fraud or misrepresentation of material  
16 fact, or is obviously inaccurate”; and

17 (4) by adding at the end the following: “If the  
18 Secretary’s review of an application identifies clear  
19 indicators of fraud or misrepresentation of material  
20 fact, the Secretary may conduct an investigation and  
21 hearing in accordance with paragraph (2).”.

22 (b) *ENSURING PREVAILING WAGES ARE FOR AREA OF*  
23 *EMPLOYMENT AND ACTUAL WAGES ARE FOR SIMILARLY*  
24 *EMPLOYED.*—Section 212(n)(1)(A) of the Immigration and  
25 Nationality Act (8 U.S.C. 1182(n)(1)(A)) is amended—

1           (1) *in clause (i), in the undesignated matter fol-*  
2           *lowing subclause (II), by striking “and” at the end;*

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

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

6                   *“(iii) will ensure that—*

7                           *“(I) the actual wages or range identi-*  
8                           *fied in clause (i) relate solely to employees*  
9                           *having substantially the same duties and*  
10                           *responsibilities as the H–1B nonimmigrant*  
11                           *in the geographical area of intended em-*  
12                           *ployment, considering experience, qualifica-*  
13                           *tions, education, job responsibility and*  
14                           *function, specialized knowledge, and other*  
15                           *legitimate business factors, except in a geo-*  
16                           *graphical area there are no such employees,*  
17                           *and*

18                           *“(II) the prevailing wages identified in*  
19                           *clause (ii) reflect the best available informa-*  
20                           *tion for the geographical area within nor-*  
21                           *mal commuting distance of the actual ad-*  
22                           *dress of employment at which the H–1B*  
23                           *nonimmigrant is or will be employed.”.*

1           (c) *PROCEDURES FOR INVESTIGATION AND DISPOSI-*  
2 *TION.—Section 212(n)(2)(A) of the Immigration and Na-*  
3 *tionality Act (8 U.S.C. 1182(n)(2)(A)) is amended—*

4                     (1) *by striking “(2)(A) Subject” and inserting*  
5                     *“(2)(A)(i) Subject”;*

6                     (2) *by striking the fourth sentence; and*

7                     (3) *by adding at the end the following:*

8                     *“(ii)(I) Upon receipt of a complaint under clause (i),*  
9 *the Secretary may initiate an investigation to determine*  
10 *whether such a failure or misrepresentation has occurred.*

11                    *“(II) The Secretary may conduct—*

12                                     *“(aa) surveys of the degree to*  
13 *which employers comply with the*  
14 *requirements under this sub-*  
15 *section; and*

16                                     *“(bb) subject to subclause*  
17 *(IV), annual compliance audits of*  
18 *any employer that employs H-1B*  
19 *nonimmigrants during the appli-*  
20 *cable calendar year.*

21                    *“(III) Subject to subclause (IV), the Secretary shall—*

22                                     *“(aa) conduct annual com-*  
23 *pliance audits of each employer*  
24 *that employs more than 100 full-*  
25 *time equivalent employees who are*

1 employed in the United States if  
2 more than 15 percent of such full-  
3 time employees are H-1B non-  
4 immigrants; and

5 “(bb) make available to the  
6 public an executive summary or  
7 report describing the general find-  
8 ings of the audits conducted under  
9 this subclause.

10 “(IV) In the case of an employer subject to an annual  
11 compliance audit in which there was no finding of a willful  
12 failure to meet a condition under subparagraph (C)(i), no  
13 further annual compliance audit shall be conducted with  
14 respect to such employer for a period of not less than 4  
15 years, absent evidence of misrepresentation or fraud.”.

16 (d) PENALTIES FOR VIOLATIONS.—Section  
17 212(n)(2)(C) of the Immigration and Nationality Act (8  
18 U.S.C. 1182(n)(2)(C)) is amended—

19 (1) in clause (i)—

20 (A) in the matter preceding subclause (I),  
21 by striking “a condition of paragraph (1)(B),  
22 (1)(E), or (1)(F)” and inserting “a condition of  
23 paragraph (1)(B), (1)(E), (1)(F), (1)(H), or  
24 (1)(I)”; and

1           (B) in subclause (I), by striking “\$1,000”  
2           and inserting “\$3,000”;

3           (2) in clause (ii)(I), by striking “\$5,000” and  
4           inserting “\$15,000”;

5           (3) in clause (iii)(I), by striking “\$35,000” and  
6           inserting “\$100,000”; and

7           (4) in clause (vi)(III), by striking “\$1,000” and  
8           inserting “\$3,000”.

9           (e) *INITIATION OF INVESTIGATIONS.*—Section  
10 *212(n)(2)(G) of the Immigration and Nationality Act (8*  
11 *U.S.C. 1182(n)(2)(G)) is amended—*

12           (1) in clause (i), by striking “In the case of an  
13           investigation” in the second sentence and all that fol-  
14           lows through the period at the end of the clause;

15           (2) in clause (ii), in the first sentence, by strik-  
16           ing “and whose identity” and all that follows through  
17           “failure or failures.” and inserting “the Secretary of  
18           Labor may conduct an investigation into the employ-  
19           er’s compliance with the requirements under this sub-  
20           section.”;

21           (3) in clause (iii), by striking the second sen-  
22           tence;

23           (4) by striking clauses (iv) and (v);

24           (5) by redesignating clauses (vi), (vii), and (viii)  
25           as clauses (iv), (v), and (vi), respectively;



1           (6) *in clause (iv), as so redesignated—*

2                   (A) *by striking “clause (viii)” and inserting*  
3           *“clause (vi)”*; and

4                   (B) *by striking “meet a condition described*  
5           *in clause (ii)” and inserting “comply with the*  
6           *requirements under this subsection”*;

7           (7) *by amending clause (v), as so redesignated,*  
8           *to read as follows:*

9           *“(v)(I) The Secretary of Labor shall provide notice to*  
10          *an employer of the intent to conduct an investigation under*  
11          *clause (i) or (ii).*

12           *“(II) The notice shall be provided in such a manner,*  
13          *and shall contain sufficient detail, to permit the employer*  
14          *to respond to the allegations before an investigation is com-*  
15          *menced.*

16           *“(III) The Secretary is not required to comply with*  
17          *this clause if the Secretary determines that such compliance*  
18          *would interfere with an effort by the Secretary to inves-*  
19          *tigate or secure compliance by the employer with the re-*  
20          *quirements of this subsection.*

21           *“(IV) A determination by the Secretary under this*  
22          *clause shall not be subject to judicial review.”*;

23                   (8) *in clause (vi), as so redesignated, by striking*  
24           *“An investigation” in the first sentence and all that*  
25           *follows through “the determination.” in the second*

1 sentence and inserting “If the Secretary of Labor,  
 2 after an investigation under clause (i) or (ii), deter-  
 3 mines that a reasonable basis exists to make a finding  
 4 that the employer has failed to comply with the re-  
 5 quirements under this subsection, the Secretary shall  
 6 provide interested parties with notice of such deter-  
 7 mination and an opportunity for a hearing in ac-  
 8 cordance with section 556 of title 5, United States  
 9 Code, not later than 60 days after the date of such de-  
 10 termination.”; and

11 (9) by adding at the end the following:

12 “(vii) If the Secretary of Labor, after a hearing, finds  
 13 that the employer has violated a requirement under this  
 14 subsection, the Secretary may impose a penalty pursuant  
 15 to subparagraph (C).”.

16 **SEC. 7. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED**  
 17 **IMMIGRANTS.**

18 (a) *ADJUSTMENT OF STATUS FOR EMPLOYMENT-*  
 19 *BASED IMMIGRANTS.*—Section 245 of the Immigration and  
 20 Nationality Act (8 U.S.C. 1255) is amended by adding at  
 21 the end the following:

22 “(o) *ADJUSTMENT OF STATUS FOR EMPLOYMENT-*  
 23 *BASED IMMIGRANTS.*—

24 “(1) *IN GENERAL.*—Notwithstanding subsection  
 25 (a)(3), an alien (including the alien’s spouse or child,

1 *if eligible to receive a visa under section 203(d)), may*  
2 *file an application for adjustment of status if—*

3 *“(A) the alien—*

4 *“(i) is present in the United States*  
5 *pursuant to a lawful admission as a non-*  
6 *immigrant, other than a nonimmigrant de-*  
7 *scribed in subparagraph (B), (C), (D), or*  
8 *(S) of section 101(a)(15), section 212(l), or*  
9 *section 217; and*

10 *“(ii) subject to subsection (k), is not*  
11 *ineligible for adjustment of status under*  
12 *subsection (c); and*

13 *“(B) not less than 2 years have elapsed*  
14 *since the immigrant visa petition filed by or on*  
15 *behalf of the alien under subparagraph (E) or*  
16 *(F) of section 204(a)(1) was approved.*

17 *“(2) PROTECTION FOR CHILDREN.—The child of*  
18 *a principal alien who files an application for adjust-*  
19 *ment of status under this subsection shall continue to*  
20 *qualify as a child for purposes of the application, re-*  
21 *gardless of the child’s age or whether the principal*  
22 *alien is deceased at the time an immigrant visa be-*  
23 *comes available.*

24 *“(3) TRAVEL AND EMPLOYMENT AUTHORIZA-*  
25 *TION.—*

1           “(A) *ADVANCE PAROLE.*—*Applicants for ad-*  
2           *justment of status under this subsection shall be*  
3           *eligible for advance parole under the same terms*  
4           *and conditions as applicants for adjustment of*  
5           *status under subsection (a).*

6           “(B) *EMPLOYMENT AUTHORIZATION.*—

7           “(i) *PRINCIPAL ALIEN.*—*Subject to*  
8           *paragraph (4), a principal applicant for*  
9           *adjustment of status under this subsection*  
10           *shall be eligible for work authorization*  
11           *under the same terms and conditions as ap-*  
12           *plicants for adjustment of status under sub-*  
13           *section (a).*

14           “(ii) *LIMITATIONS ON EMPLOYMENT*  
15           *AUTHORIZATION FOR DEPENDENTS.*—*A de-*  
16           *pendent alien who was neither authorized to*  
17           *work nor eligible to request work authoriza-*  
18           *tion at the time an application for adjust-*  
19           *ment of status is filed under this subsection*  
20           *shall not be eligible to receive work author-*  
21           *ization due to the filing of such application.*

22           “(4) *CONDITIONS ON ADJUSTMENT OF STATUS*  
23           *AND EMPLOYMENT AUTHORIZATION FOR PRINCIPAL*  
24           *ALIENS.*—

1           “(A) *IN GENERAL.*—*During the time an ap-*  
2           *plication for adjustment of status under this sub-*  
3           *section is pending and until such time an immi-*  
4           *grant visa becomes available—*

5                     “(i) *the terms and conditions of the*  
6                     *alien’s employment, including duties, hours,*  
7                     *and compensation, must be commensurate*  
8                     *with the terms and conditions applicable to*  
9                     *the employer’s similarly situated United*  
10                    *States workers in the area of employment,*  
11                    *or if the employer does not employ and has*  
12                    *not recently employed more than two such*  
13                    *workers, the terms and conditions of such*  
14                    *employment must be commensurate with the*  
15                    *terms and conditions applicable to other*  
16                    *similarly situated United States workers in*  
17                    *the area of employment; and*

18                    “(ii) *consistent with section 204(j), if*  
19                    *the alien changes positions or employers, the*  
20                    *new position is in the same or a similar oc-*  
21                    *cupational classification as the job for*  
22                    *which the petition was filed.*

23           “(B) *SPECIAL FILING PROCEDURES.*—*An*  
24           *application for adjustment of status filed by a*

1           *principal alien under this subsection shall be ac-*  
2           *companied by—*

3                     “(i) *a signed letter from the principal*  
4                     *alien’s current or prospective employer at-*  
5                     *testing that the terms and conditions of the*  
6                     *alien’s employment are commensurate with*  
7                     *the terms and conditions of employment for*  
8                     *similarly situated United States workers in*  
9                     *the area of employment; and*

10                    “(ii) *other information deemed nec-*  
11                    *essary by the Secretary of Homeland Secu-*  
12                    *rity to verify compliance with subpara-*  
13                    *graph (A).*

14                    “(C) *APPLICATION FOR EMPLOYMENT AU-*  
15                    *THORIZATION.—*

16                    “(i) *IN GENERAL.—An application for*  
17                    *employment authorization filed by a prin-*  
18                    *cipal applicant for adjustment of status*  
19                    *under this subsection shall be accompanied*  
20                    *by a Confirmation of Bona Fide Job Offer*  
21                    *or Portability (or any form associated with*  
22                    *section 204(j)) attesting that—*

23                             “(I) *the job offered in the immi-*  
24                             *grant visa petition remains a bona*  
25                             *fide job offer that the alien intends to*

1                   *accept upon approval of the adjust-*  
2                   *ment of status application; or*

3                   *“(II) the alien has accepted a new*  
4                   *full-time job in the same or a similar*  
5                   *occupational classification as the job*  
6                   *described in the approved immigrant*  
7                   *visa petition.*

8                   *“(ii) VALIDITY.—An employment au-*  
9                   *thorization document issued to a principal*  
10                  *alien who has filed an application for ad-*  
11                  *justment of status under this subsection*  
12                  *shall be valid for three years.*

13                  *“(iii) RENEWAL.—Any request by a*  
14                  *principal alien to renew an employment*  
15                  *authorization document associated with*  
16                  *such alien’s application for adjustment of*  
17                  *status filed under this subsection shall be*  
18                  *accompanied by the evidence described in*  
19                  *subparagraphs (B) and (C)(i).*

20                  *“(5) DECISION.—*

21                  *“(A) IN GENERAL.—An adjustment of status*  
22                  *application filed under paragraph (1) may not*  
23                  *be approved—*

24                  *“(i) until the date on which an immi-*  
25                  *grant visa becomes available; and*

1           “(ii) if the principal alien has not,  
2           within the preceding 12 months, filed a  
3           Confirmation of Bona Fide Job Offer or  
4           Portability (or any form associated with  
5           section 204(j)).

6           “(B) REQUEST FOR EVIDENCE.—If at the  
7           time an immigrant visa becomes available, a  
8           Confirmation of Bona Fide Job Offer or Port-  
9           ability (or any form associated with section  
10          204(j)) has not been filed by the principal alien  
11          within the preceding 12 months, the Secretary of  
12          Homeland Security shall notify the alien and  
13          provide instructions for submitting such form.

14          “(C) NOTICE OF INTENT TO DENY.—If the  
15          most recent Confirmation of Bona Fide Job Offer  
16          or Portability (or any form associated with sec-  
17          tion 204(j)) or any prior form indicates a lack  
18          of compliance with paragraph (4)(A), the Sec-  
19          retary of Homeland Security shall issue a notice  
20          of intent to deny the application for adjustment  
21          of status and provide the alien the opportunity  
22          to submit evidence of compliance.

23          “(D) DENIAL.—An application for adjust-  
24          ment of status under this subsection may be de-  
25          nied if the alien fails to—



1           “(i) *timely file a Confirmation of*  
2           *Bona Fide Job Offer or Portability (or any*  
3           *form associated with section 204(j)) in re-*  
4           *sponse to a request for evidence issued under*  
5           *subparagraph (B); or*

6           “(ii) *establish, by a preponderance of*  
7           *the evidence, compliance with paragraph*  
8           *(4)(A).*

9           “(6) *FEES.—*

10           “(A) *IN GENERAL.—Notwithstanding any*  
11           *other provision of law, the Secretary of Home-*  
12           *land Security shall charge and collect a fee in*  
13           *the amount of \$2,000 to process each Confirma-*  
14           *tion of Bona Fide Job Offer or Portability (or*  
15           *any form associated with section 204(j)) filed*  
16           *under this subsection.*

17           “(B) *DEPOSIT AND USE OF FEES.—Fees*  
18           *collected under subparagraph (A) shall be depos-*  
19           *ited and used as follows:*

20           “(i) *Fifty percent of such fees shall be*  
21           *deposited in the Immigration Examinations*  
22           *Fee Account established under section*  
23           *286(m).*

1           “(i) Fifty percent of such fees shall be  
2           deposited in the Treasury of the United  
3           States as miscellaneous receipts.

4           “(7) APPLICATION.—

5           “(A) The provisions of this subsection—

6           “(i) shall apply beginning on the date  
7           that is one year after the date of the enact-  
8           ment of the Equal Access to Green cards for  
9           Legal Employment Act of 2022; and

10           “(ii) except as provided in subpara-  
11           graph (B), shall cease to apply as of the  
12           date that is nine years after the date of the  
13           enactment of such Act.

14           “(B) This subsection shall continue to apply  
15           with respect to any alien who has filed an appli-  
16           cation for adjustment of status under this sub-  
17           section any time prior to the date on which this  
18           subsection otherwise ceases to apply.

19           “(8) CLARIFICATIONS.—For purposes of this sub-  
20           section:

21           “(A) The term ‘similarly situated United  
22           States workers’ includes United States workers  
23           performing similar duties, subject to similar su-  
24           pervision, and with similar educational back-  
25           grounds, industry expertise, employment experi-

1           ence, levels of responsibility, and skill sets as the  
2           alien in the same geographic area of employment  
3           as the alien.

4                   “(B) The duties, hours, and compensation  
5           of the alien are ‘commensurate’ with those offered  
6           to United States workers in the same area of em-  
7           ployment if the employer can demonstrate that  
8           the duties, hours, and compensation are con-  
9           sistent with the range of such terms and condi-  
10          tions the employer has offered or would offer to  
11          similarly situated United States employees.”.

12          (b) *CONFORMING AMENDMENT.*—Section 245(k) of the  
13 *Immigration and Nationality Act (8 U.S.C. 1255(k))* is  
14 amended by adding “or (n)” after “pursuant to subsection  
15 (a)”.

Union Calendar No. 267

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3648**

[Report No. 117-353]

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## **A BILL**

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

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JUNE 7, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed