

111TH CONGRESS
2D SESSION

S. _____

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

IN THE SENATE OF THE UNITED STATES

Mr. KERRY (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

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 “StartUp Visa Act of
5 2010”.

6 **SEC. 2. STARTUP VISAS.**

7 (a) IN GENERAL.—Section 203(b) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 203(b)) is amended—

1 (1) by redesignating paragraph (6) as para-
2 graph (7); and

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

5 “(6) SPONSORED ENTREPRENEURS.—

6 “(A) IN GENERAL.—StartUp visas shall be
7 made available, from the number of visas allo-
8 cated under paragraph (5), to qualified immi-
9 grant entrepreneurs—

10 “(i) who have proven that a qualified
11 venture capitalist or a qualified super
12 angel investor has invested not less than
13 \$100,000 on behalf of each such entre-
14 preneur in an equity financing of not less
15 than \$250,000; and

16 “(ii) whose commercial activities will,
17 during the 2-year period beginning on the
18 date on which the visa is issued under this
19 subparagraph—

20 “(I) create not fewer than 5 new
21 full-time jobs in the United States
22 employing people other than the im-
23 migrant’s spouse, sons, or daughters;

24 “(II) raise not less than
25 \$1,000,000 in capital investment in

1 furtherance of a commercial entity
2 based in the United States; or

3 “(III) generate not less than
4 \$1,000,000 in revenue.

5 “(B) DEFINITIONS.—In this paragraph:

6 “(i) QUALIFIED SUPER ANGEL INVES-
7 TOR.—The term qualified super angel in-
8 vestor means an individual who—

9 “(I) is an accredited investor (as
10 defined in section 230.501(a) of title
11 17, Code of Federal Regulations);

12 “(II) is a United States citizen;
13 and

14 “(III) has made at least 2 equity
15 investments of not less than \$50,000
16 in each of the previous 3 years.

17 “(ii) QUALIFIED VENTURE CAPI-
18 TALIST.—The term ‘qualified venture capi-
19 talist’ means an entity that—

20 “(I) is classified as a ‘venture
21 capital operating company’ under sec-
22 tion 2510.3-101(d) of the Code of
23 Federal Regulations;

24 “(II) is based in the United
25 States;

1 “(III) is comprised of partners,
2 the majority of whom are United
3 States citizens;

4 “(IV) has capital commitments of
5 not less than \$10,000,000;

6 “(V) has been operating for at
7 least 2 years; and

8 “(VI) has made at least 2 invest-
9 ments of not less than \$500,000 dur-
10 ing each of the most recent 2 years.”.

11 (b) CONDITIONAL PERMANENT RESIDENT STA-
12 TUS.—Section 216A of the Immigration and Nationality
13 Act (8 U.S.C. 1186b) is amended—

14 (1) by striking “Attorney General” each place
15 such term appears and inserting “Secretary of
16 Homeland Security”;

17 (2) in subsection (a)—

18 (A) in paragraph (1)—

19 (i) by striking “(as defined in sub-
20 section (f)(1))” and inserting “, sponsored
21 entrepreneur”; and

22 (ii) by striking “(as defined in sub-
23 section (f)(2)) shall” and inserting “shall
24 each”;

1 (B) in paragraph (2)(A), by inserting
2 “sponsored entrepreneur,” after “alien entre-
3 preneur,”;

4 (3) in subsection (b), by adding at the end the
5 following:

6 “(3) SPONSORED ENTREPRENEURS.—The Sec-
7 retary of Homeland Security shall terminate the per-
8 manent resident status of a sponsored entrepreneur
9 and the alien spouse and children of such entre-
10 preneur if the Secretary determines, not later than
11 3 years after the date on which such permanent resi-
12 dent status was conferred, that—

13 “(A) the qualified venture capitalist or
14 qualified super angel investor who sponsored
15 the entrepreneur failed to meet the investment
16 requirements under section 203(b)(6)(A)(i); or

17 “(B) the entrepreneur failed to meet the
18 job creation, capital investment, or revenue gen-
19 eration requirements under section
20 203(b)(6)(A)(ii).”;

21 (4) in subsection (c)—

22 (A) in paragraph (1)—

23 (i) in the matter preceding subpara-
24 graph (A), by inserting “sponsored entre-
25 preneur,” after “alien entrepreneur,”; and

1 (ii) by striking “alien entrepreneur
2 must” each place such term appears and
3 inserting “entrepreneur shall”;

4 (B) in paragraph (3)—

5 (i) in subparagraph (A)(ii), by insert-
6 ing “or sponsored entrepreneur” after
7 “alien entrepreneur”; and

8 (ii) in subparagraph (C), by inserting
9 “sponsored entrepreneur,” after “alien en-
10 trepreneur”;

11 (5) in subsection (d)(1)—

12 (A) in the matter preceding subparagraph
13 (A), by striking “alien” and inserting “alien en-
14 trepreneur or sponsored entrepreneur, as appli-
15 cable”;

16 (B) in clause (i), by striking “invested, or
17 is actively in the process of investing,” and in-
18 serting “has invested, is actively in the process
19 of investing, or has been sponsored by a quali-
20 fied super angel investor or qualified venture
21 capitalist who has invested,”;

22 (C) in clause (ii), by inserting “or
23 203(b)(6), as applicable” before the period at
24 the end; and

1 (6) in subsection (f), by adding at the end the
2 following:

3 “(4) The term ‘sponsored entrepreneur’ means
4 an alien who obtains the status of an alien lawfully
5 admitted for permanent residence under section
6 203(b)(6).”.