

113TH CONGRESS  
1ST SESSION

# H. R. 2131

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

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## 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. SENBRENNER, Mr. THOMPSON of Pennsylvania, Mr. CAMPBELL, Mr. CHABOT, Mr. BACHUS, Mr. HANNA, Mr. CALVERT, Mr. FRANKS of Arizona, 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

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## 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”.

## 1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

### 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.

### 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. Students.
- Sec. 206. Extension of employment eligibility while visa extension petition pending.
- Sec. 207. Fraud detection and prevention fee.
- Sec. 208. Technical correction.

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

#### Subtitle A—STEM Education Funding

- Sec. 301. Funding for STEM education and training.
- Sec. 302. Promoting American Ingenuity Account.
- Sec. 303. STEM education grant application process.
- Sec. 304. Authorized activities.
- Sec. 305. National evaluations.
- Sec. 306. Rule of construction.

#### Subtitle B—Other Reforms

- Sec. 311. Prevailing wages.
- Sec. 312. Streamlining petitions for established employers.

1           **TITLE I—IMMIGRANT VISA**  
2                           **REFORMS**

3   **SEC. 101. IMMIGRANT VISAS FOR CERTAIN ADVANCED**  
4                           **STEM GRADUATES.**

5           (a) **WORLDWIDE LEVEL OF IMMIGRATION.**—Section  
6 201(d)(1)(A) of the Immigration and Nationality Act (8  
7 U.S.C. 1151(d)(1)(A)) is amended by striking “140,000,”  
8 and inserting “140,000 in fiscal years through 2013 and  
9 195,000 beginning in fiscal year 2014, reduced for any  
10 fiscal year beginning in fiscal year 2014 by the number  
11 by which the number of visas under section 201(e) would  
12 have been reduced in that year pursuant to section 203(d)  
13 of the Nicaraguan Adjustment and Central American Re-  
14 lief Act (8 U.S.C. 1151 note) if section 201(e) had not  
15 been repealed by section 106 of the SKILLS Visa Act,”.

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

19                   (1) by redesignating paragraph (6) as para-  
20                   graph (9); and

21                   (2) by inserting after paragraph (5) the fol-  
22                   lowing:

23                   “(6) **ALIENS HOLDING DOCTORATE DEGREES**  
24                   **FROM U.S. DOCTORAL INSTITUTIONS OF HIGHER**

1 EDUCATION IN SCIENCE, TECHNOLOGY, ENGINEER-  
2 ING, OR MATHEMATICS.—

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

15 “(i) hold a doctorate degree in a field  
16 of science, technology, engineering, or  
17 mathematics from a United States doctoral  
18 institution of higher education, or have  
19 successfully completed a dental, medical, or  
20 veterinary residency program (within the  
21 summary group of residency programs in  
22 the Department of Education’s Classifica-  
23 tion of Instructional Programs taxonomy),  
24 have received a medical degree (MD) in a  
25 program that prepares individuals for the

1 independent professional practice of medi-  
2 cine (series 51.12 in the Department of  
3 Education’s Classification of Instructional  
4 Programs taxonomy), have received a den-  
5 tistry degree (DDS, DMD) in a program  
6 that prepares individuals for the inde-  
7 pendent professional practice of dentistry/  
8 dental medicine (series 51.04 in the De-  
9 partment of Education’s Classification of  
10 Instructional Programs taxonomy), have  
11 received a veterinary degree (DVM) in a  
12 program that prepares individuals for the  
13 independent professional practice of veteri-  
14 nary medicine (series 51.24 in the Depart-  
15 ment of Education’s Classification of In-  
16 structional Programs taxonomy), or have  
17 received an osteopathic medicine/osteop-  
18 athy degree (DO) in a program that pre-  
19 pares individuals for the independent pro-  
20 fessional practice of osteopathic medicine  
21 (series 51.19 in the Department of Edu-  
22 cation’s Classification of Instructional Pro-  
23 grams taxonomy) from an institution that  
24 is described in subclauses (I), (III), and  
25 (IV) of subparagraph (B)(iii); and

1           “(ii) have taken all courses required  
2           for such degrees, including all courses  
3           taken by correspondence (including courses  
4           offered by telecommunications) or by dis-  
5           tance education, while physically present in  
6           the United States.

7           “(B) DEFINITIONS.—For purposes of this  
8           paragraph, paragraph (7), and sections  
9           101(a)(15)(F)(i)(I) and 212(a)(5)(A)(iii)(III):

10           “(i) The term ‘distance education’ has  
11           the meaning given such term in section  
12           103 of the Higher Education Act of 1965  
13           (20 U.S.C. 1003).

14           “(ii) The term ‘field of science, tech-  
15           nology, engineering, or mathematics’  
16           means a field included in the Department  
17           of Education’s Classification of Instruc-  
18           tional Programs taxonomy within the sum-  
19           mary groups of computer and information  
20           sciences and support services, engineering,  
21           biological and biomedical sciences, mathe-  
22           matics and statistics, physical sciences,  
23           and the series geography and cartography  
24           (series 45.07), advanced/graduate dentistry

1 and oral sciences (series 51.05) and nurs-  
2 ing (series 51.16).

3 “(iii) The term ‘United States doc-  
4 toral institution of higher education’ means  
5 an institution that—

6 “(I) is described in section  
7 101(a) of the Higher Education Act  
8 of 1965 (20 U.S.C. 1001(a)) or is a  
9 proprietary institution of higher edu-  
10 cation (as defined in section 102(b) of  
11 such Act (20 U.S.C. 1002(b)));

12 “(II) was classified by the Car-  
13 negie Foundation for the Advance-  
14 ment of Teaching on January 1,  
15 2013, as a doctorate-granting univer-  
16 sity with a very high or high level of  
17 research activity or classified by the  
18 National Science Foundation after the  
19 date of enactment of this paragraph,  
20 pursuant to an application by the in-  
21 stitution, as having equivalent re-  
22 search activity to those institutions  
23 that had been classified by the Car-  
24 negie Foundation as being doctorate-

1           granting universities with a very high  
2           or high level of research activity;

3           “(III) has been in existence for  
4           at least 10 years; and

5           “(IV) is accredited by an accred-  
6           iting body that is itself accredited ei-  
7           ther by the Department of Education  
8           or by the Council for Higher Edu-  
9           cation Accreditation.

10          “(C) 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  
15           (A) unless the Secretary of Homeland Se-  
16           curity is in receipt of a determination  
17           made by the Secretary of Labor pursuant  
18           to the provisions of section 212(a)(5)(A),  
19           except that the Secretary of Homeland Se-  
20           curity may, when the Secretary deems it to  
21           be in the national interest, waive this re-  
22           quirement.

23           “(ii) REQUIREMENT DEEMED SATIS-  
24           FIED.—The requirement of clause (i) shall  
25           be deemed satisfied with respect to an em-



1           ployer and an alien in a case in which a  
2           certification made under section  
3           212(a)(5)(A)(i) has already been obtained  
4           with respect to the alien by that employer.

5           “(7) ALIENS HOLDING MASTER’S DEGREES  
6           FROM U.S. DOCTORAL INSTITUTIONS OF HIGHER  
7           EDUCATION IN SCIENCE, TECHNOLOGY, ENGINEER-  
8           ING, OR MATHEMATICS.—

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

13                 “(i) hold a master’s degree in a field  
14                 of science, technology, engineering, or  
15                 mathematics from a United States doctoral  
16                 institution of higher education that was ei-  
17                 ther part of a master’s program that re-  
18                 quired at least 2 years of enrollment or  
19                 part of a 5-year combined baccalaureate-  
20                 master’s degree program in such field;

21                 “(ii) have taken all master’s degree  
22                 courses in a field of science, technology,  
23                 engineering, or mathematics, including all  
24                 courses taken by correspondence (including  
25                 courses offered by telecommunications) or

1 by distance education, while physically  
2 present in the United States; and

3 “(iii) hold a baccalaureate degree in a  
4 field of science, technology, engineering, or  
5 mathematics.

6 “(B) LABOR CERTIFICATION REQUIRED.—

7 “(i) IN GENERAL.—Subject to clause  
8 (ii), the Secretary of Homeland Security  
9 may not approve a petition filed for classi-  
10 fication of an alien under subparagraph  
11 (A) unless the Secretary of Homeland Se-  
12 curity is in receipt of a determination  
13 made by the Secretary of Labor pursuant  
14 to the provisions of section 212(a)(5)(A),  
15 except that the Secretary of Homeland Se-  
16 curity may, when the Secretary deems it to  
17 be in the national interest, waive this re-  
18 quirement.

19 “(ii) REQUIREMENT DEEMED SATIS-  
20 FIED.—The requirement of clause (i) shall  
21 be deemed satisfied with respect to an em-  
22 ployer and an alien in a case in which a  
23 certification made under section  
24 212(a)(5)(A)(i) has already been obtained  
25 with respect to the alien by that employer.

1           “(C) DEFINITIONS.—The definitions in  
2           paragraph (6)(B) shall apply for purposes of  
3           this paragraph.”.

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  
7           (8 U.S.C. 1153(b)(2)(A)) is amended by striking “para-  
8           graph (1),” and inserting “paragraphs (1), (6), and (7),”.

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

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

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

18                 (2) by striking “or 203(b)(3)” and inserting  
19                 “203(b)(3), 203(b)(6), or 203(b)(7)”;

20                 (3) by striking “Attorney General” and insert-  
21                 ing “Secretary of Homeland Security”; and

22                 (4) by adding at the end the following:

23                 “(ii) The following processing standards shall apply  
24                 with respect to petitions under clause (i) relating to alien

1 beneficiaries qualifying under paragraph (6) or (7) of sec-  
2 tion 203(b):

3           “(I) The Secretary of Homeland Security shall  
4       adjudicate such petitions not later than 60 days  
5       after the date on which the petition is filed. In the  
6       event that additional information or documentation  
7       is requested by the Secretary during such 60-day pe-  
8       riod, the Secretary shall adjudicate the petition not  
9       later than 30 days after the date on which such in-  
10      formation or documentation is received.

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

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

21                   (1) in subparagraph (A)—

22                           (A) in clause (ii)—

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

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

3 (iii) by adding at the end the fol-  
4 lowing:

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

11 (B) by redesignating clauses (ii) through  
12 (iv) as clauses (iii) through (v), respectively;

13 (C) by inserting after clause (i) the fol-  
14 lowing:

15 “(ii) JOB ORDER.—

16 “(I) IN GENERAL.—An employer  
17 who files an application under clause  
18 (i) shall submit a job order for the  
19 labor the alien seeks to perform to the  
20 State workforce agency in the State in  
21 which the alien seeks to perform the  
22 labor. The State workforce agency  
23 shall post the job order on its official  
24 agency website for a minimum of 30  
25 days and not later than 3 days after

1 receipt using the employment statis-  
2 tics system authorized under section  
3 15 of the Wagner-Peyser Act (29  
4 U.S.C. 49 et seq.).

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

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

12 “(vi) PROCESSING STANDARDS FOR  
13 ALIEN BENEFICIARIES QUALIFYING UNDER  
14 PARAGRAPHS (6) AND (7) OF SECTION  
15 203(b).—The following processing stand-  
16 ards shall apply with respect to applica-  
17 tions under clause (i) relating to alien  
18 beneficiaries qualifying under paragraph  
19 (6) or (7) of section 203(b):

20 “(I) The Secretary of Labor shall  
21 adjudicate such applications not later  
22 than 180 days after the date on which  
23 the application is filed. In the event  
24 that additional information or docu-  
25 mentation is requested by the Sec-

1           retary during such 180-day period,  
2           the Secretary shall adjudicate the ap-  
3           plication not later than 60 days after  
4           the date on which such information or  
5           documentation is received.

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

16                      (2) in subparagraph (D), by striking “(2) or  
17                      (3)” and inserting “(2), (3), (6), or (7)”.

18           (g) GAO STUDY.—Not later than June 30, 2019, the  
19           Comptroller General of the United States shall provide to  
20           the Congress the results of a study on the use by the Na-  
21           tional Science Foundation of the classification authority  
22           provided under section 203(b)(6)(B)(iii)(II) of the Immi-  
23           gration and Nationality Act (8 U.S.C.  
24           1153(b)(6)(B)(iii)(II)), as added by this section.

1 (h) PUBLIC INFORMATION.—The Secretary of Home-  
2 land Security shall make available to the public on the  
3 official website of the Department of Homeland Security,  
4 and shall update not less than monthly, the following in-  
5 formation (which shall be organized according to month  
6 and fiscal year) with respect to aliens granted status  
7 under paragraph (6) or (7) of section 203(b) of the Immi-  
8 gration and Nationality Act (8 U.S.C. 1153(b)), as added  
9 by this section:

10 (1) The name, city, and State of each employer  
11 who petitioned pursuant to either of such para-  
12 graphs on behalf of one or more aliens who were  
13 granted status in the month and fiscal year to date.

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

18 (3) The occupations for which such alien or  
19 aliens were sought by such employer and the job ti-  
20 tles listed by such employer on the petition.

21 (i) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on October 1, 2014, and shall  
23 apply with respect to fiscal years beginning on or after  
24 such date. Nothing in the preceding sentence shall be con-  
25 strued to prohibit the Secretary of Homeland Security



1 from accepting before such date petitions under section  
2 204(a)(1)(F) of the Immigration and Nationality Act (8  
3 U.S.C. 1154(a)(1)(F)) relating to alien beneficiaries quali-  
4 fying under paragraph (6) or (7) of section 203(b) of such  
5 Act (8 U.S.C. 1153(b)) (as added by this section).

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

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

12 “(8) ALIEN ENTREPRENEURS.—

13 “(A) IN GENERAL.—Visas shall be made  
14 available, in a number not to exceed 10,000,  
15 plus any visas not required for the classes speci-  
16 fied in paragraphs (1), (2), and (3), to the fol-  
17 lowing classes of aliens:

18 “(i) VENTURE CAPITAL-BACKED  
19 START-UP ENTREPRENEURS.—

20 “(I) An alien is described in this  
21 clause if the alien intends to engage in  
22 a new commercial enterprise (includ-  
23 ing a limited partnership) in the  
24 United States—

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

8           “(AA) a qualified ven-  
9 ture capital operating com-  
10 pany; or

11           “(BB) 1 or more quali-  
12 fied angel investors (of  
13 which at least 1 such inves-  
14 tor is providing \$100,000,  
15 subject to subclause (III), of  
16 the required investment);  
17 and

18           “(bb) which will benefit the  
19 United States economy and, dur-  
20 ing the 2-year period beginning  
21 on the date on which the visa is  
22 issued under this paragraph,  
23 will—

24           “(AA) create full-time  
25 employment for at least 5

1 United States workers with-  
2 in the enterprise; and

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

10 “(II) DEFINITIONS.—For pur-  
11 poses of this clause:

12 “(aa) INVESTMENT.—The  
13 term ‘investment’ does not in-  
14 clude any assets acquired, di-  
15 rectly or indirectly, by unlawful  
16 means.

17 “(bb) QUALIFIED ANGEL IN-  
18 VESTOR.—The term ‘qualified  
19 angel investor’ means an indi-  
20 vidual who—

21 “(AA) is an accredited  
22 investor (as defined in sec-  
23 tion 230.501(a) of title 17,  
24 Code of Federal Regulations

1 (as in effect on April 1,  
2 2010));

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

8 “(CC) has made at  
9 least 2 equity investments of  
10 not less than \$50,000 in  
11 each of the 3 years before  
12 the date of a petition by the  
13 qualified immigrant for clas-  
14 sification under this para-  
15 graph.

16 “(cc) QUALIFIED VENTURE  
17 CAPITAL OPERATING COMPANY.—  
18 The term ‘qualified venture cap-  
19 ital operating company’ means an  
20 entity that—

21 “(AA) is classified as a  
22 ‘venture capital operating  
23 company’ under section  
24 2510.3–101(d) of title 29,  
25 Code of Federal Regulations

1 (as in effect on July 1,  
2 2009);

3 “(BB) is based in the  
4 United States;

5 “(CC) is owned and  
6 controlled by United States  
7 citizens or aliens lawfully  
8 admitted to the United  
9 States for permanent resi-  
10 dence;

11 “(DD) has capital com-  
12 mitments of not less than  
13 \$10,000,000;

14 “(EE) has been oper-  
15 ating for a period of at least  
16 2 years before the date of  
17 the petition for classification  
18 under this paragraph; and

19 “(FF) has made at  
20 least 2 investments of not  
21 less than \$500,000 in each  
22 of the 2 years before the  
23 date of the petition for clas-  
24 sification under this para-  
25 graph.

1                   “(III)     INFLATION     ADJUST-  
2                   MENT.—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 amounts described in sub-  
7                   clauses (I) and (II) shall be increased  
8                   by the percentage (if any) by which  
9                   the Consumer Price Index for the  
10                  month of June preceding the date on  
11                  which such increase takes effect ex-  
12                  ceeds the Consumer Price Index for  
13                  the same month of the preceding cal-  
14                  endar year. An increase described in  
15                  the preceding sentence shall apply to  
16                  aliens filing petitions under section  
17                  204(a)(1)(H) on or after the date on  
18                  which the increase takes effect. For  
19                  purposes of this clause, the term  
20                  ‘Consumer Price Index’ means the  
21                  Consumer Price Index for all urban  
22                  consumers published by the Depart-  
23                  ment of Labor.

24                  “(ii)    TREATY    INVESTORS.—Immi-  
25                  grants who have been issued a visa or oth-

1 otherwise provided nonimmigrant status under  
2 section 101(a)(15)(E)(ii) (not including  
3 alien employees of the treaty investor) who  
4 have maintained that status for a min-  
5 imum of 10 years and have benefitted the  
6 United States economy and created full-  
7 time employment for not fewer than 5  
8 United States workers for a minimum of  
9 10 years.

10 “(B) DEFINITIONS.—For purposes of this  
11 paragraph:

12 “(i) The term ‘full-time employment’  
13 has the meaning given such term in para-  
14 graph (5).

15 “(ii) The term ‘United States worker’  
16 means an employee (other than the immi-  
17 grant or the immigrant’s spouse, sons, or  
18 daughters) who—

19 “(I) is a citizen or national of the  
20 United States; or

21 “(II) is an alien who is lawfully  
22 admitted for permanent residence, is  
23 admitted as a refugee under section  
24 207, is granted asylum under section  
25 208, or is an immigrant otherwise au-

1                   thorized to be employed in the United  
2                   States.”.

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

6           (1) by striking “section 203(b)(5)” and insert-  
7           ing “paragraph (5) or (8) of section 203(b)”; and

8           (2) by striking “Attorney General” and insert-  
9           ing “Secretary of Homeland Security”.

10          (c) CONDITIONAL PERMANENT RESIDENT STATUS.—

11           (1) IN GENERAL.—

12           (A) CONFORMING AMENDMENTS.—Section  
13           216A of the Immigration and Nationality Act  
14           (8 U.S.C. 1186b) is amended—

15           (i) in the section heading, by striking  
16           “ENTREPRENEURS,” and inserting “INVES-  
17           TORS,”.

18           (ii) by striking “Attorney General”  
19           each place such term appears and inserting  
20           “Secretary of Homeland Security”;

21           (iii) by striking “entrepreneur” each  
22           place such term appears and inserting “in-  
23           vestor”; and



1 (iv) In subsection (c)(3)(A), by strik-  
 2 ing “the such filing” and inserting “such  
 3 filing”.

4 (B) TABLE OF CONTENTS.—The item re-  
 5 lating to section 216A in the table of contents  
 6 of the Immigration and Nationality Act (8  
 7 U.S.C. 1101 et seq.) is amended to read as fol-  
 8 lows:

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

9 (2) CONDITIONAL PERMANENT RESIDENT STA-  
 10 TUS FOR CERTAIN ALIEN ENTREPRENEURS,  
 11 SPOUSES, AND CHILDREN.—

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

16 **“SEC. 216B. CONDITIONAL PERMANENT RESIDENT STATUS**  
 17 **FOR CERTAIN ALIEN ENTREPRENEURS,**  
 18 **SPOUSES, AND CHILDREN.**

19 “(a) IN GENERAL.—

20 “(1) CONDITIONAL BASIS FOR STATUS.—Not-  
 21 withstanding any other provision of this Act, an  
 22 alien entrepreneur (as defined in subsection (f)(1) of  
 23 this section), alien spouse, and alien child (as de-  
 24 fined in subsection (f)(2) of this section) shall be

1 considered, at the time of obtaining the status of an  
2 alien lawfully admitted for permanent residence, to  
3 have obtained such status on a conditional basis sub-  
4 ject to the provisions of this section.

5 “(2) NOTICE OF REQUIREMENTS.—

6 “(A) AT TIME OF OBTAINING PERMANENT  
7 RESIDENCE.—At the time an alien entre-  
8 preneur, alien spouse, or alien child obtains per-  
9 manent resident status on a conditional basis  
10 under paragraph (1), the Secretary of Home-  
11 land Security shall provide for notice to such an  
12 entrepreneur, spouse, or child respecting the  
13 provisions of this section and the requirements  
14 of subsection (c)(1) of this section to have the  
15 conditional basis of such status removed.

16 “(B) AT TIME OF REQUIRED PETITION.—

17 In addition, the Secretary of Homeland Secu-  
18 rity shall attempt to provide notice to such an  
19 entrepreneur, spouse, or child, at or about the  
20 beginning of the 90-day period described in  
21 subsection (d)(2)(A) of this section, of the re-  
22 quirements of subsection (c)(1) of this section.

23 “(C) EFFECT OF FAILURE TO PROVIDE  
24 NOTICE.—The failure of the Secretary of  
25 Homeland Security to provide a notice under

1           this paragraph shall not affect the enforcement  
2           of the provisions of this section with respect to  
3           such an entrepreneur, spouse, or child.

4           “(b) TERMINATION OF STATUS IF FINDING THAT  
5 QUALIFYING ENTREPRENEURSHIP IMPROPER.—

6           “(1) IN GENERAL.—In the case of an alien en-  
7           trepreneur with permanent resident status on a con-  
8           ditional basis under subsection (a) of this section, if  
9           the Secretary of Homeland Security determines, be-  
10          fore the second anniversary of the alien’s obtaining  
11          the status of lawful admission for permanent resi-  
12          dence, that—

13               “(A) the required investment in the com-  
14               mercial        enterprise        under        section  
15               203(b)(8)(A)(i)(I) was intended solely as a  
16               means of evading the immigration laws of the  
17               United States;

18               “(B)(i) any requisite capital to be invested  
19               under section 203(b)(8)(A)(i)(I) had not been  
20               invested, or was not actively in the process of  
21               being invested; or

22               “(ii) the alien was not sustaining the ac-  
23               tions described in clause (i) throughout the pe-  
24               riod of the alien’s residence in the United  
25               States; or

1           “(C) the alien was otherwise not con-  
2           forming to the requirements of section  
3           203(b)(8)(A)(i);

4           then the Secretary of Homeland Security shall so  
5           notify the alien involved and, subject to paragraph  
6           (2), shall terminate the permanent resident status of  
7           the alien (and the alien spouse and alien child) in-  
8           volved as of the date of the determination.

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

17          “(c) REQUIREMENTS OF TIMELY PETITION AND  
18          INTERVIEW FOR REMOVAL OF CONDITION.—

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

23                         “(A) the alien entrepreneur must submit  
24                         to the Secretary of Homeland Security, during  
25                         the period described in subsection (d)(2), a peti-

1           tion which requests the removal of such condi-  
2           tional basis and which states, under penalty of  
3           perjury, the facts and information described in  
4           subsection (d)(1); and

5           “(B) in accordance with subsection (d)(3),  
6           the alien entrepreneur must appear for a per-  
7           sonal interview before an officer or employee of  
8           the Department of Homeland Security respect-  
9           ing the facts and information described in sub-  
10          section (d)(1).

11          “(2) TERMINATION OF PERMANENT RESIDENT  
12          STATUS FOR FAILURE TO FILE PETITION OR HAVE  
13          PERSONAL INTERVIEW.—

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

17                       “(i) no petition is filed with respect to  
18                       the alien in accordance with the provisions  
19                       of paragraph (1)(A); or

20                       “(ii) unless there is good cause shown,  
21                       the alien entrepreneur fails to appear at  
22                       the interview described in paragraph  
23                       (1)(B) (if required under subsection (d)(3)  
24                       of this section), the Secretary of Homeland  
25                       Security shall terminate the permanent

1 resident status of the alien (and the alien’s  
2 spouse and children if it was obtained on  
3 a conditional basis under this section or  
4 section 216A) as of the second anniversary  
5 of the alien’s lawful admission for perma-  
6 nent residence.

7 “(B) HEARING IN REMOVAL PRO-  
8 CEEDING.—In any removal proceeding with re-  
9 spect to an alien whose permanent resident sta-  
10 tus is terminated under subparagraph (A), the  
11 burden of proof shall be on the alien to estab-  
12 lish compliance with the conditions of subpara-  
13 graphs (A) and (B) of paragraph (1).

14 “(3) DETERMINATION AFTER PETITION AND  
15 INTERVIEW.—

16 “(A) IN GENERAL.—If—

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

20 “(ii) the alien entrepreneur appears at  
21 any interview described in paragraph  
22 (1)(B);

23 the Secretary of Homeland Security shall make  
24 a determination, within 90 days of the date of  
25 such filing or interview (whichever is later), as

1 to whether the facts and information described  
2 in subsection (d)(1) and alleged in the petition  
3 are true with respect to the qualifying commer-  
4 cial enterprise.

5 “(B) REMOVAL OR EXTENSION OF CONDI-  
6 TIONAL BASIS.—

7 “(i) IN GENERAL.—Except as pro-  
8 vided in clause (ii), if the Secretary of  
9 Homeland Security determines that such  
10 facts and information are true, including  
11 demonstrating that the alien complied with  
12 subsection (d)(1)(B)(i), the Secretary shall  
13 so notify the alien involved and shall re-  
14 move the conditional basis of the alien’s  
15 status effective as of the second anniver-  
16 sary of the alien’s lawful admission for  
17 permanent residence.

18 “(ii) EXCEPTION.—If the petition  
19 demonstrates that the facts and informa-  
20 tion are true, including demonstrating that  
21 the alien is in compliance with section  
22 (d)(1)(B)(ii), then the Secretary of Home-  
23 land Security may, in the Secretary’s dis-  
24 cretion, extend the conditional status for  
25 an additional year at the end of which—

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

10                   “(II) the conditional status shall  
11                   terminate.

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

20                   “(D) HEARING IN REMOVAL PRO-  
21                   CEEDING.—Any alien whose permanent resident  
22                   status is terminated under subparagraph (C)  
23                   may request a review of such determination in  
24                   a proceeding to remove the alien. In such pro-  
25                   ceeding, the burden of proof shall be on the



1 Secretary of Homeland Security to establish, by  
2 a preponderance of the evidence, that the facts  
3 and information described in subsection (d)(1)  
4 of this section and alleged in the petition are  
5 not true with respect to the qualifying commer-  
6 cial enterprise.

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

8 “(1) CONTENTS OF PETITION.—Each petition  
9 under subsection (c)(1)(A) shall contain facts and  
10 information demonstrating that—

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

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

18 “(B)(i) the alien created the employment  
19 required under section  
20 203(b)(8)(A)(i)(I)(bb)(AA); or

21 “(ii) the alien is actively in the process of  
22 creating the employment required under section  
23 203(b)(8)(A)(i)(I)(bb)(AA) and will create such  
24 employment before the third 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 AN-  
7 NIVERSARY.—Except as provided in subpara-  
8 graph (B), the petition under subsection  
9 (c)(1)(A) of this section must be filed during  
10 the 90-day period before the second anniversary  
11 of the alien’s lawful admission for permanent  
12 residence.

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

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

1 land Security may stay such removal pro-  
2 ceedings against an alien pending the filing of  
3 the petition under subparagraph (B).

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

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

22 “(f) DEFINITIONS.—In this section:

23 “(1) The term ‘alien entrepreneur’ means an  
24 alien who obtains the status of an alien lawfully ad-  
25 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  
10 a 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  
16 this section shall take effect on October 1, 2013, and shall  
17 apply with respect to fiscal years beginning on or after  
18 such date.

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

21 (a) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
22 IMMIGRANTS.—Section 201(d)(1)(A) of the Immigration  
23 and Nationality Act (8 U.S.C. 1151(d)(1)(A)), as amend-

1 ed by section 101, is further amended by striking  
2 “195,000” and inserting “235,000”.

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

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

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

15 (e) CERTAIN SPECIAL IMMIGRANTS.—Section  
16 203(b)(4) of such Act (8 U.S.C. 1153(b)(3)) is amended  
17 by striking “7.1 percent of such worldwide level,” and in-  
18 serting “9,940,”.

19 (f) EMPLOYMENT CREATION.—Section 203(b)(5) of  
20 such Act (8 U.S.C. 1153(b)(4)) is amended by striking  
21 “7.1 percent of such worldwide level,” and inserting  
22 “9,940,”.

23 (g) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect on October 1, 2013, and shall

1 apply with respect to fiscal years beginning on or after  
2 such date.

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

4 (a) CHANGES TO THE GENERAL PROGRAM.—

5 (1) CAPITAL.—Section 203(b)(5)(C) of the Im-  
6 migration and Nationality Act (8 U.S.C.  
7 1153(b)(5)(C)) is amended by adding at the end the  
8 following:

9 “(iv) CAPITAL DEFINED.—For pur-  
10 poses of this paragraph, the term ‘capital’  
11 does not include any assets acquired, di-  
12 rectly or indirectly, by unlawful means.”.

13 (2) INFLATION ADJUSTMENT.—Such section, as  
14 amended by paragraph (1), is further amended by  
15 adding at the end the following:

16 “(v) INFLATION ADJUSTMENT.—

17 “(I) INITIAL ADJUSTMENT.—As  
18 of the date of enactment of the  
19 SKILLS Visa Act, the amount speci-  
20 fied in the first sentence of clause (i)  
21 shall be increased by the percentage  
22 (if any) by which the Consumer Price  
23 Index for the month preceding such  
24 enactment date exceeds the Consumer  
25 Price Index for the same month of

1 calendar year 1990. The increase de-  
2 scribed in the preceding sentence shall  
3 apply to aliens filing petitions under  
4 section 204(a)(1)(H) on or after such  
5 enactment date.

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

1                   “(III) DEFINITION.—For pur-  
2                   poses of this clause, the term ‘Con-  
3                   sumer Price Index’ means the Con-  
4                   sumer Price Index for all urban con-  
5                   sumers published by the Department  
6                   of Labor.”.

7                   (3) FLEXIBILITY FOR JOB CREATION TIME PE-  
8                   RIOD.—

9                   (A) REMOVAL OF CONDITIONAL BASIS IF  
10                  FAVORABLE                  DETERMINATION.—Section  
11                  216A(c)(3)(B) of the Immigration and Nation-  
12                  ality Act (8 U.S.C. 1186b(c)(3)(B)), is amend-  
13                  ed to read as follows:

14                  “(B) REMOVAL OR EXTENSION OF CONDI-  
15                  TIONAL BASIS.—

16                  “(i) IN GENERAL.—Except as pro-  
17                  vided under clause (ii), if the Secretary of  
18                  Homeland Security determines that such  
19                  facts and information are true, including  
20                  demonstrating that the alien complied with  
21                  section (d)(1)(B)(i), the Secretary shall so  
22                  notify the alien involved and shall remove  
23                  the conditional basis of the alien’s status  
24                  effective as of the second anniversary of



1 the alien’s lawful admission for permanent  
2 residence.

3 “(ii) EXCEPTION.—If the petition  
4 demonstrates that the facts and informa-  
5 tion are true, including demonstrating that  
6 the alien is in compliance with section  
7 (d)(1)(B)(ii), then the Secretary of Home-  
8 land Security may in the Secretary’s dis-  
9 cretion extend the conditional status for an  
10 additional year at the end of which—

11 “(I) the alien must file a petition  
12 within 30 days after the third anni-  
13 versary of the alien’s lawful admission  
14 for permanent residence dem-  
15 onstrating that the alien complied  
16 with section (d)(1)(B)(i) and the Sec-  
17 retary shall remove the conditional  
18 basis of the alien’s status effective as  
19 of such third anniversary; or

20 “(II) the conditional status shall  
21 terminate.”.

22 (B) CONTENTS OF PETITION.—Section  
23 216A(d)(1) of such Act (8 U.S.C. 1186b(d)(1))  
24 is amended—

1 (i) by striking “and” at the end of  
2 subparagraph (A);

3 (ii) by redesignating subparagraph  
4 “(B)” as subparagraph “(C)”; and

5 (iii) by inserting after subparagraph  
6 (A) the following:

7 “(B)(i) created the employment required  
8 under section 203(b)(5)(A)(ii); or

9 “(ii) is actively in the process of creating  
10 the employment required under section  
11 203(b)(5)(A)(ii) and will create such employ-  
12 ment before the third anniversary of the alien’s  
13 lawful admission for permanent residence;  
14 and”.

15 (4) TARGETED EMPLOYMENT AREAS.—

16 (A) TARGETED EMPLOYMENT AREA DE-  
17 FINED.—Section 203(b)(5)(B)(ii) of the Immi-  
18 gration and Nationality Act (8 U.S.C.  
19 1153(b)(5)(B)(ii)) is amended by striking “(of  
20 at least 150 percent of the national average  
21 rate)”.

22 (B) SET-ASIDE FOR TARGETED EMPLOY-  
23 MENT AREA.—Section 203(b)(5)(B) of the Im-  
24 migration and Nationality Act (8 U.S.C.

1 1153(b)(5)(B)) is amended by adding at the  
2 end the following:

3 “(iv) DEFINITION.—In this para-  
4 graph, the term ‘an area which has experi-  
5 enced high unemployment’ means an area  
6 which has an unemployment rate of at  
7 least 150 of the national average rate.  
8 Such an area must fit entirely within a  
9 geographical unit that the Secretary of  
10 Labor has determined has an unemploy-  
11 ment rate of at least 150 percent of the  
12 national average rate (and which deter-  
13 mination has not been superseded by a  
14 later determination in which the Secretary  
15 of Labor has found that the unit did not  
16 have an unemployment rate of at least 150  
17 percent of the national average rate). The  
18 Secretary of Labor shall set forth a uni-  
19 form methodology for determining whether  
20 an area an area qualifies as having experi-  
21 enced unemployment of at least 150 per-  
22 cent of the national average rate. It shall  
23 be within the discretion of the Secretary of  
24 Homeland Security to determine whether  
25 any particular area has experienced high

1           unemployment for purposes of this para-  
2           graph, and the Secretary shall not be  
3           bound by the determination of any other  
4           governmental or nongovernmental entity  
5           that a particular area has experienced high  
6           unemployment for purposes of this para-  
7           graph.”.

8           (b) REGIONAL CENTERS.—

9           (1) PERMANENT REAUTHORIZATION OF THE  
10          REGIONAL CENTER PILOT PROGRAM.—Section 610  
11          of the Departments of Commerce, Justice, and  
12          State, the Judiciary, and Related Agencies Appro-  
13          priations Act, 1993 (8 U.S.C. 1153 note) is amend-  
14          ed—

15                 (A) by striking “pilot” each place such  
16                 term appears; and

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

19          (2) PERSONS BARRED FROM INVOLVEMENT IN  
20          REGIONAL CENTERS.—

21                 (A) PROHIBITION.—Such section 610 is  
22                 amended by adding at the end the following:

23                 “(e)(1) No person who—

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

4           “(B) would be inadmissible under section  
5           212(a)(3) of such Act (8 U.S.C. 1182(a)(3)) if they  
6           were an alien seeking admission; or

7           “(C) has been convicted of violating, or found  
8           to have violated, a fraud provision of the Federal se-  
9           curities laws (as such term is defined under section  
10          3 of the Securities Exchange Act of 1934 (15 U.S.C.  
11          78c)),

12          shall be permitted by any regional center to be in-  
13          volved with the regional center as its principal, rep-  
14          resentative, administrator, owner, officer, board  
15          member, manager, executive, general partner, fidu-  
16          ciary, marketer, promoter, or in other similar posi-  
17          tion of substantive authority for the operations,  
18          management, or promotion of the regional center.

19          “(2) The Secretary of Homeland Security shall re-  
20          quire such attestations and information (including biomet-  
21          ric information), and shall perform such criminal record  
22          checks and other background checks with respect to a re-  
23          gional center, and persons involved in a regional center  
24          as described in paragraph (1), as the Secretary, in the  
25          Secretary’s discretion, considers appropriate to determine

1 whether the regional center is in compliance with para-  
2 graph (1).

3 “(3) The Secretary is authorized, in the Secretary’s  
4 unreviewable discretion, to terminate any regional center  
5 from the program under this section if the Secretary de-  
6 termines that—

7 “(A) the regional center is in violation of para-  
8 graph (1);

9 “(B) the regional center, or any person involved  
10 with the regional center as described in paragraph  
11 (1), has provided any false attestation or informa-  
12 tion under paragraph (2); or

13 “(C) the regional center, or any person involved  
14 with the regional center as described in paragraph  
15 (1), fails to provide an attestation or information re-  
16 quested by the Secretary under paragraph (2).

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

22 (B) COMPLIANCE WITH SECURITIES  
23 LAWS.—Such section 610, as amended by sub-  
24 paragraph (A), is further amended by adding at  
25 the end the following:

1       “(f)(1) The Secretary of Homeland Security shall not  
2 approve an application for regional center designation or  
3 regional center amendment that does not certify that the  
4 regional center and all parties to the regional center are  
5 in and will maintain compliance with Federal securities  
6 laws (as such term is defined under section 3 of the Secu-  
7 rities Exchange Act of 1934 (15 U.S.C. 78c)).

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

12       “(3) In addition to any other authority provided to  
13 the Secretary of Homeland Security regarding the pro-  
14 gram described in this section, the Secretary may suspend  
15 or terminate the designation of any regional center if the  
16 Secretary determines that the regional center, or any  
17 party to the regional center:

18               “(A) is permanently or temporarily enjoined by  
19 order, judgment, or decree of any court of competent  
20 jurisdiction in connection with the purchase or sale  
21 of a security;

22               “(B) is subject to any order of the Securities  
23 and Exchange Commission that bars such person  
24 from association with an entity regulated by the Se-  
25 curities and Exchange Commission, or constitutes a

1 final order based on violations in connection with the  
2 purchase or sale of a security;

3 “(C) has been convicted of violating, or found  
4 to have violated, a fraud provision of the Federal se-  
5 curities laws (as such term is defined under section  
6 3 of the Securities Exchange Act of 1934 (15 U.S.C.  
7 78c)); or

8 “(D) knowingly submitted or caused to be sub-  
9 mitted a certification described in paragraphs (1) or  
10 (2) of this subsection that contained an untrue  
11 statement of material fact, or omitted to state a ma-  
12 terial fact necessary, in order to make the state-  
13 ments made, in light of the circumstances under  
14 which they were made, not misleading.

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

18 “(5) For the purpose of this subsection, the term  
19 ‘party to the regional center’ shall include, in addition to  
20 the regional center itself, its agents, servants, employees,  
21 attorneys, or any persons in active concert or participation  
22 with the regional center.”.

23 (c) EFFECTIVE DATES.—

24 (1) IN GENERAL.—Except for the amendments  
25 made by paragraphs (1) and (2) of subsection (a),



1 the amendments made by subsections (a) and (b)  
2 shall take effect on the date of the enactment of this  
3 Act and shall apply—

4 (A) to aliens filing petitions under section  
5 204(a)(1)(H) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1154(a)(1)(H)) on or after  
7 such date;

8 (B) to a regional center (and any person  
9 involved with or a party to a regional center)  
10 designated before, on, or after such date; and

11 (C) to any application to designate a re-  
12 gional center, and any person involved with or  
13 a party to the regional center, that is pending  
14 on such date.

15 (2) DEFINITION OF “CAPITAL”.—The amend-  
16 ment made by subsection (a)(1) shall take effect on  
17 the date of the enactment of this Act.

18 (3) INFLATION ADJUSTMENT.—The amendment  
19 made by subsection (a)(2) shall take effect as pro-  
20 vided in section 203(b)(5)(C)(v) of the Immigration  
21 and Nationality Act, as added by subsection (a)(2)  
22 of this section.

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

2 (a) **WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-**  
3 **MIGRANTS.**—Section 201(c)(1) of the Immigration and  
4 Nationality Act (8 U.S.C. 1151(c)(1)) is amended—

5 (1) in subparagraph (A)(i), by striking  
6 “480,000,” and inserting “480,000 in fiscal years  
7 through 2013 and 440,000 beginning in fiscal year  
8 2014,”; and

9 (2) in subparagraph (B)(ii), by striking  
10 “226,000.” and inserting “226,000 in fiscal years  
11 through 2013 and 186,000 beginning in fiscal year  
12 2014.”.

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

16 (1) by striking “114,200,” and inserting  
17 “139,200,”;

18 (2) by striking “226,000,” and inserting  
19 “226,000 in fiscal years through 2013 and 186,000  
20 beginning in fiscal year 2014,”; and

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

22 (c) **BROTHERS AND SISTERS OF CITIZENS.**—Section  
23 203(a) of such Act (8 U.S.C. 1151(a)) is amended by  
24 striking paragraph (4).

25 (d) **EFFECTIVE DATE.**—The amendments made by  
26 this section shall take effect on October 1, 2014, and shall

1 apply with respect to fiscal years beginning on or after  
2 such date.

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

5 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-  
6 GRANTS.—Section 201 of the Immigration and Nation-  
7 ality Act (8 U.S.C. 1151) is amended—

8 (1) in subsection (a)—

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

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

13 (C) by striking paragraph (3); and

14 (2) by striking subsection (e).

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

17 (1) by striking subsection (c);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (5) by striking “such subsections” and inserting  
24 “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  
12 visas made available under section 203(a) to natives of  
13 any single foreign state or dependent area will exceed the  
14 numerical limitation specified in subsection (a)(2) in any  
15 fiscal year, in determining the allotment of immigrant visa  
16 numbers to natives under section 203(a), visa numbers  
17 with respect to natives of that state or area shall be allo-  
18 cated (to the extent practicable and otherwise consistent  
19 with this section and section 203) in a manner so that,  
20 except as provided in subsection (a)(4), the proportion of  
21 the visa numbers made available under each of paragraphs  
22 (1) through (4) of section 203(a) is equal to the ratio of  
23 the total number of visas made available under the respec-  
24 tive paragraph to the total number of visas made available  
25 under section 203(a).”.

1 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the  
2 Chinese Student Protection Act of 1992 (8 U.S.C. 1255  
3 note) 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  
9 this 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) All States shall be allotted a total of 35  
21 waivers under paragraph (1)(B) for a fiscal year if 90 per-  
22 cent of the waivers available to the States receiving at  
23 least 5 waivers were used in the previous fiscal year.

24 “(ii) When an allocation has occurred under clause  
25 (i), all States shall be allotted an additional 5 waivers

1 under paragraph (1)(B) for each subsequent fiscal year  
2 if 90 percent of the waivers available to the States receiv-  
3 ing at least 5 waivers were used in the previous fiscal year.  
4 If the States are allotted 45 or more waivers for a fiscal  
5 year, the States will only receive an additional increase  
6 of 5 waivers the following fiscal year if 95 percent of the  
7 waivers available to the States receiving at least 1 waiver  
8 were used in the 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  
12 lower than in the last year in which there was an increase  
13 in the number of waivers allotted pursuant to this para-  
14 graph, in which case—

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

18 “(ii) each additional 5 percent decrease in such  
19 waivers granted from the last year in which there  
20 was an increase in the allotment, shall result in an  
21 additional decrease of 5 waivers allotted for all  
22 States, provided that the number of waivers allotted  
23 for all 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  
16           411.355(e)(2) of title 42, Code of Federal  
17           Regulations, or similar successor regula-  
18           tion), without regard to whether such facil-  
19           ity is located within an area designated by  
20           the Secretary of Health and Human Serv-  
21           ices as having a shortage of health care  
22           professionals; and

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



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

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

11               (c) EMPLOYMENT PROTECTIONS FOR PHYSICIANS.—

12                   (1) IN GENERAL.—Section 214(l)(1)(C) of the  
13                   Immigration and Nationality Act (8 U.S.C.  
14                   1184(l)(1)(C)) is amended by striking clauses (i)  
15                   and (ii) and inserting the following:

16                   “(i) the alien demonstrates a bona fide  
17                   offer of full-time employment, at a health care  
18                   organization, which employment has been deter-  
19                   mined by the Secretary of Homeland Security  
20                   to be in the public interest; and

21                   “(ii) the alien agrees to begin employment  
22                   with the health facility or health care organiza-  
23                   tion in a geographic area or areas which are  
24                   designated by the Secretary of Health and  
25                   Human Services as having a shortage of health

1 care professionals by the later of the date that  
2 is 90 days after receiving such waiver, 90 days  
3 after completing graduate medical education or  
4 training under a program approved pursuant to  
5 section 212(j)(1), or 90 days after receiving  
6 nonimmigrant status or employment authoriza-  
7 tion, and agrees to continue to work for a total  
8 of not less than 3 years in any status author-  
9 ized for such employment under this subsection  
10 unless—

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

19 “(II) the interested State agency that  
20 requested the waiver attests that extenu-  
21 ating circumstances exist that justify a  
22 lesser period of employment at such facility  
23 or organization in which case the alien  
24 shall demonstrate another bona fide offer  
25 of employment at a health facility or

1 health care organization so designated by  
2 the Secretary of Health and Human Serv-  
3 ices, for the remainder of such 3-year pe-  
4 riod; or

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

19 (2) CONTRACT REQUIREMENTS.—Section 214(l)  
20 of the Immigration and Nationality Act (8 U.S.C.  
21 1184(l)), as amended by subsection (b)(1), is further  
22 amended by adding at the end the following:

23 “(5) An alien granted a waiver under paragraph  
24 (1)(C) shall enter into an employment agreement with the

1 contracting health facility or health care organization  
2 that—

3 “(A) specifies the maximum number of on-call  
4 hours per week (which may be a monthly average)  
5 that the alien will be expected to be available and  
6 the compensation the alien will receive for on-call  
7 time;

8 “(B) specifies whether the contracting facility  
9 or organization will pay for the alien’s malpractice  
10 insurance premiums, including whether the employer  
11 will provide malpractice insurance and, if so, the  
12 amount of such insurance that will be provided;

13 “(C) describes all of the work locations that the  
14 alien will work and a statement that the contracting  
15 facility or organization will not add additional work  
16 locations without the approval of the Federal agency  
17 or State agency that requested the waiver; and

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

19 “(6) An alien granted a waiver under paragraph  
20 (1)(C) whose employment relationship with a health facil-  
21 ity or health care organization terminates during the 3-  
22 year service period required by such paragraph—

23 “(A) shall have a period of 120 days beginning  
24 on the date of such determination of employment to  
25 submit to the Secretary of Homeland Security appli-

1 cations or petitions to commence employment with  
2 another contracting health facility or health care or-  
3 ganization in a geographic area or areas which are  
4 designated by the Secretary of Health and Human  
5 Services as having a shortage of health care profes-  
6 sionals; and

7 “(B) shall be considered to be maintaining law-  
8 ful status in an authorized stay during the 120-day  
9 period referred to in subparagraph (A).”.

10 (d) AMENDMENTS TO THE PROCEDURES, DEFINI-  
11 TIONS, AND OTHER PROVISIONS RELATED TO PHYSICIAN  
12 IMMIGRATION.—

13 (1) DUAL INTENT FOR PHYSICIANS SEEKING  
14 GRADUATE MEDICAL TRAINING.—Section 214(b) of  
15 the Immigration and Nationality Act (8 U.S.C.  
16 1184(b)) is amended by striking “(other than a non-  
17 immigrant described in subparagraph (L) or (V) of  
18 section 101(a)(15), and other than a nonimmigrant  
19 described in any provision of section  
20 101(a)(15)(H)(i) except subclause (b1) of such sec-  
21 tion)” and inserting “(other than a nonimmigrant  
22 described in subparagraph (L) or (V) of section  
23 101(a)(15), a nonimmigrant described in any provi-  
24 sion of section 101(a)(15)(H)(i), except subclause  
25 (b1) of such section, and an alien coming to the

1 United States to receive graduate medical education  
2 or training as described in section 212(j) or to take  
3 examinations required to receive graduate medical  
4 education or training as described in section  
5 212(j))”.

6 (2) ALLOWABLE VISA STATUS FOR PHYSICIANS  
7 FULFILLING WAIVER REQUIREMENTS IN MEDICALLY  
8 UNDERSERVED AREAS.—Section 214(l)(2)(A) of the  
9 Immigration and Nationality Act (8 U.S.C.  
10 1184(l)(2)(A)) is amended by striking “an alien de-  
11 scribed in section 101(a)(15)(H)(i)(b).” and insert-  
12 ing “any status authorized for employment under  
13 this Act.”.

14 (3) PHYSICIAN NATIONAL INTEREST WAIVER  
15 CLARIFICATIONS.—

16 (A) PRACTICE AND GEOGRAPHIC AREA.—  
17 Section 203(b)(2)(B)(ii)(I) of the Immigration  
18 and Nationality Act (8 U.S.C.  
19 1153(b)(2)(B)(ii)(I)) is amended by striking  
20 items (aa) and (bb) and inserting the following:

21 “(aa) the alien physician agrees to  
22 work on a full-time basis practicing pri-  
23 mary care, specialty medicine, or a com-  
24 bination thereof, in an area or areas des-  
25 ignated by the Secretary of Health and

1 Human Services as having a shortage of  
2 health care professionals, or at a health  
3 care facility under the jurisdiction of the  
4 Secretary of Veterans Affairs; or

5 “(bb) the alien physician is pursuing  
6 such waiver based upon service at a facility  
7 or facilities that serve patients who reside  
8 in a geographic area or areas designated  
9 by the Secretary of Health and Human  
10 Services as having a shortage of health  
11 care professionals (without regard to  
12 whether such facility or facilities are lo-  
13 cated within such an area) and a Federal  
14 agency, or a local, county, regional, or  
15 State department of public health deter-  
16 mines the alien physician’s work was or  
17 will be in the public interest.”.

18 (B) FIVE-YEAR SERVICE REQUIREMENT.—

19 Section 203(b)(2)(B)(ii)(II) of the Immigration  
20 and Nationality Act (8 U.S.C. 1153(B)(ii)(II))  
21 is amended—

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

23 and

24 (ii) by adding at the end the fol-  
25 lowing:

1           “(bb) The 5-year service requirement of  
2           item (aa) shall be counted from the date the  
3           alien physician begins work in the shortage area  
4           in any legal status and not the date an immi-  
5           grant visa petition is filed or approved. Such  
6           service shall be aggregated without regard to  
7           when such service began and without regard to  
8           whether such service began during or in con-  
9           junction with a course of graduate medical edu-  
10          cation.

11          “(cc) An alien physician shall not be re-  
12          quired to submit an employment contract with  
13          a term exceeding the balance of the 5-year com-  
14          mitment yet to be served, nor an employment  
15          contract dated within a minimum time period  
16          prior to filing of a visa petition pursuant to this  
17          subsection.

18          “(dd) An alien physician shall not be re-  
19          quired to file additional immigrant visa peti-  
20          tions upon a change of work location from the  
21          location approved in the original national inter-  
22          est immigrant petition.”.

23          (4) TECHNICAL CLARIFICATION REGARDING AD-  
24          VANCED DEGREE FOR PHYSICIANS.—Section  
25          203(b)(2)(A) of the Immigration and Nationality



1 Act (8 U.S.C. 1153(b)(2)(A)) is amended by adding  
2 at the end “An alien physician holding a foreign  
3 medical degree that has been deemed sufficient for  
4 acceptance by an accredited United States medical  
5 residency or fellowship program is a member of the  
6 professions holding an advanced degree or its equiv-  
7 alent.”.

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

1 is rejected, denied or revoked. A physician's status  
2 and employment authorization will automatically ex-  
3 tend to October 1 of the next fiscal year if all visas  
4 as described in such section 101(a)(15)(H)(i) au-  
5 thORIZED to be issued for the fiscal year have been  
6 issued.

7 (6) APPLICABILITY OF SECTION 212(e) TO  
8 SPOUSES AND CHILDREN OF J-1 EXCHANGE VISI-  
9 TORS.—A spouse or child of an exchange visitor de-  
10 scribed in section 101(a)(15)(J) of the Immigration  
11 and Nationality Act (8 U.S.C. 1101(a)(15)(J)) shall  
12 not be subject to the requirements of section 212(e)  
13 of the Immigration and Nationality Act (8 U.S.C.  
14 1182(e)).

15 (e) EFFECTIVE DATE.—The amendments made by  
16 subsections (a) and (c) shall take effect on the date of  
17 the enactment of this Act and shall apply to aliens granted  
18 waivers before, on, or after the date of the enactment of  
19 this Act. Subsection (d), and the amendments made by  
20 subsections (b) and (d), shall take effect on October 1,  
21 2013.

22 **SEC. 109. PERMANENT PRIORITY DATES.**

23 (a) IN GENERAL.—Section 203 of the Immigration  
24 and Nationality Act (8 U.S.C. 1153) is amended by add-  
25 ing at the end the following:

1 “(i) PERMANENT PRIORITY DATES.—

2 “(1) IN GENERAL.—Subject to subsection  
3 (h)(3) and paragraph (2), the priority date for any  
4 employment-based petition shall be the date of filing  
5 of the petition with the Secretary of Homeland Secu-  
6 rity (or the Secretary of State, if applicable), unless  
7 the filing of the petition was preceded by the filing  
8 of a labor certification with the Secretary of Labor,  
9 in which case that date shall constitute the priority  
10 date.

11 “(2) SUBSEQUENT EMPLOYMENT-BASED PETI-  
12 TIONS.—Subject to subsection (h)(3), an alien who  
13 is the beneficiary of any employment-based petition  
14 that was approvable when filed (including self-peti-  
15 tioners) shall retain the priority date assigned with  
16 respect to that petition in the consideration of any  
17 subsequently filed employment-based petition (in-  
18 cluding self-petitions).”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect on October 1, 2013, and  
21 shall apply to aliens who are a beneficiary of a classifica-  
22 tion petition pending on or after such date.

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 fis-  
16 cal year; or”; and

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

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

23 (b) SPOUSAL EMPLOYMENT.—Section 214(c)(1)(E)  
24 of the Immigration and Nationality Act (8 U.S.C.  
25 1184(c)(1)(E)) is amended by striking “101(a)(15)(L),”

1 and inserting “subparagraph (H)(i)(b), (H)(i)(b1),  
2 (E)(iii), or (L) of section 101(a)”.

3 (c) ANTI-FRAUD MEASURES.—

4 (1) FOREIGN DEGREES.—

5 (A) SPECIALTY OCCUPATION.—Section  
6 214(i) of the Immigration and Nationality Act  
7 (8 U.S.C. 1184(i)) is amended by adding at the  
8 end the following:

9 “(4)(A) For purposes of paragraphs (1)(B) and  
10 (3)(B), the term ‘bachelor’s or higher degree’ in-  
11 cludes a foreign degree that is a recognized foreign  
12 equivalent of a bachelor’s or higher degree.

13 “(B)(i) In the case of an alien with a foreign  
14 degree, any determination with respect to the  
15 equivalence of that degree to a degree obtained in  
16 the United States shall be made by the Secretary of  
17 State.

18 “(ii) In carrying out the preceding clause, the  
19 Secretary of State shall verify the authenticity of  
20 any foreign degree proffered by an alien. The Sec-  
21 retary of State may enter into contracts with public  
22 or private entities in conducting such verifications.

23 “(iii) In addition to any other fees authorized  
24 by law, the Secretary of State may impose a fee on  
25 an employer filing a petition under subsection (c)(1)

1 initially to grant an alien nonimmigrant status de-  
2 scribed in section 101(a)(15)(H)(i)(b), if a deter-  
3 mination or verification described in clause (i) or (ii)  
4 is required with respect to the petition. Fees col-  
5 lected under this clause shall be deposited in the  
6 Treasury in accordance with section 286(t).”.

7 (B) Section 286 of the Immigration and  
8 Nationality Act (8 U.S.C. 1356) is amended by  
9 adding at the end the following:

10 “(w) H-1B EDUCATIONAL CREDENTIAL  
11 VERIFICATION ACCOUNT.—There is established in the  
12 general fund of the Treasury a separate account, which  
13 shall be known as the ‘H-1B Educational Credential  
14 Verification Account’. Notwithstanding any other provi-  
15 sion of law, there shall be deposited as offsetting receipts  
16 into the account all fees collected under section  
17 214(i)(4)(B)(iii). Amounts deposited into the account  
18 shall remain available to the Secretary of State until ex-  
19 pended to carry out section 214(i)(4)(B).”.

20 (2) INVESTIGATIONS.—The first sentence of  
21 subsection (n)(2)(F), and the first sentence of sub-  
22 section (t)(3)(E) (as added by section 402(b)(2) of  
23 Public Law 108–77 (117 Stat. 941)), of section 212  
24 of the Immigration and Nationality Act (8 U.S.C.

1 1182) are each amended by striking all that follows  
2 “investigations” and inserting a period.

3 (3) BONA FIDE BUSINESSES.—Section 214(c)  
4 of the Immigration and Nationality Act (8 U.S.C.  
5 1184(c)) is amended by adding at the end the fol-  
6 lowing:

7 “(15) The Secretary of Homeland Security may  
8 not approve any petition under paragraph (1) filed  
9 by an employer with respect to an alien seeking to  
10 obtain the status of a nonimmigrant under subclause  
11 (b) or (b1) of section 101(a)(15)(H)(i) and the Sec-  
12 retary of State may not approve a visa with respect  
13 to an alien seeking to obtain the status of a non-  
14 immigrant under subparagraph (E)(iii) or (H)(i)(b1)  
15 of section 101(a)(15) unless—

16 “(A) the employer—

17 “(i) is an institution of higher edu-  
18 cation (as defined in section 101(a) of the  
19 Higher Education Act of 1965 (20 U.S.C.  
20 1001(a))), or a governmental or nonprofit  
21 entity; or

22 “(ii) maintains a place of business in  
23 the United States that is licensed in ac-  
24 cordance with any applicable State or local

1 business licensing requirements and is used  
2 exclusively for business purposes; and

3 “(B) the employer—

4 “(i) is a governmental entity;

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

7 “(I) in the case of an employer  
8 that is a publicly held corporation, as  
9 determined using its most recent re-  
10 port filed with the Securities and Ex-  
11 change Commission; or

12 “(II) in the case of any other em-  
13 ployer, as determined as of the date  
14 on which the petition is filed under  
15 regulations promulgated by the Sec-  
16 retary of Homeland Security; or

17 “(iii) provides appropriate documenta-  
18 tion of business activity under regulations  
19 promulgated by the Secretary of Homeland  
20 Security.”.

21 (4) SUBPOENA AUTHORITY.—

22 (A) H-1B APPLICATION.—Section  
23 212(n)(2) of the Immigration and Nationality  
24 Act (8 U.S.C. 1182(n)(2)) is amended by add-  
25 ing at the end the following:



1           “(J) The Secretary of Labor is authorized to  
2           issue subpoenas as may be necessary to assure em-  
3           ployer compliance with the terms and conditions of  
4           this subsection.”.

5           (B) ATTESTATION WITH RESPECT TO  
6           OTHER NONIMMIGRANT EMPLOYEES.—Section  
7           212(t)(3) of such Act (8 U.S.C. 1182(t)(3)) is  
8           amended by adding at the end the following:

9           “(G) The Secretary of Labor is authorized to  
10          issue subpoenas as may be necessary to assure em-  
11          ployer compliance with the terms and conditions of  
12          this subsection.”.

13          (d) B VISAS IN LIEU OF H-1B VISAS.—Section  
14          214(g) of the Immigration and Nationality Act (8 U.S.C.  
15          1184(g)) is amended by adding at the end the following:

16          “(12) Notwithstanding any other provision of this  
17          Act, any alien admitted or provided status as a non-  
18          immigrant in order to provide services in a specialty occu-  
19          pation described in paragraph (1) or (3) of subsection (i)  
20          (other than services described in subparagraph (H)(ii)(a),  
21          (O), or (P) of section 101(a)(15)) or as a fashion model  
22          shall have been issued a visa (or otherwise been provided  
23          nonimmigrant status) under subclause (b) or (b1) of sec-  
24          tion 101(a)(15)(H)(i) or section 101(a)(15)(E)(iii).”.

25          (e) EFFECTIVE DATES.—

1           (1) The amendments made by subsection (a)  
2 shall take effect on the date of the enactment of this  
3 Act and shall apply to aliens issued visas or other-  
4 wise provided with nonimmigrant status under sec-  
5 tion 101(a)(15)(H)(i)(b) of the Immigration and  
6 Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) be-  
7 ginning in fiscal year 2014.

8           (2) The amendments made by subsection (b)  
9 shall take effect on the date of the enactment of this  
10 Act and shall apply to the spouses of aliens issued  
11 visas or otherwise provided with nonimmigrant sta-  
12 tus under subparagraph (H)(i)(b), (H)(i)(b1), or  
13 (E)(iii) of section 101(a)(15) of the Immigration  
14 and Nationality Act before, on, or after such date.

15           (3) The amendments made by paragraphs (1)  
16 and (3) of subsection (c) shall take effect on the  
17 date of the enactment of this Act and shall apply to  
18 petitions filed under section 214(c) of the Immigra-  
19 tion and Nationality Act (8 U.S.C. 1184(c)) on or  
20 after such date and to visa applications filed on or  
21 after such date where no petition was filed because  
22 none was required under subparagraph (H)(i)(b1) or  
23 (E)(iii) of section 101(a)(15) of the Immigration  
24 and Nationality Act (8 U.S.C. 1101(a)(15)).

1           (4) The amendments made by paragraphs (2)  
2           and (4) of subsection (c) shall take effect on the  
3           date of the enactment of this Act and shall apply to  
4           employers of aliens issued visas or otherwise pro-  
5           vided with nonimmigrant status under subparagraph  
6           (H)(i)(b), (H)(i)(b1), or (E)(iii) section 101(a)(15)  
7           of the Immigration and Nationality Act (8 U.S.C.  
8           1101(a)(15)) before, on, or after such date.

9           (5) The amendment made by subsection (d)  
10          shall take effect on the date of the enactment of this  
11          Act and shall apply to aliens admitted or provided  
12          status as nonimmigrants on or after such date.

13 **SEC. 202. L VISAS.**

14          (a) IN GENERAL.—Section 214(c)(2) of the Immigra-  
15          tion and Nationality Act (8 U.S.C. 1184(c)(2)) is amend-  
16          ed by adding at the end the following:

17                   “(G)(i) An employer of an alien who will  
18                   serve in a capacity for the employer involving  
19                   specialized knowledge under section  
20                   101(a)(15)(L) for a cumulative period of time  
21                   in excess of 6 months over a 3-year period—

22                           “(I) will offer to the alien during the  
23                           period of authorized employment wages  
24                           that are at least—

1                   “(aa) the actual wage level paid  
2                   by the employer to all other individ-  
3                   uals with similar experience and quali-  
4                   fications for the specific employment  
5                   in question; or

6                   “(bb) the prevailing wage level  
7                   for the occupational classification in  
8                   the area of employment, whichever is  
9                   greater, based on the best information  
10                  available; and

11                  “(II) will provide working conditions  
12                  for such alien that will not adversely affect  
13                  the working conditions of workers similarly  
14                  employed.

15                  “(ii) In complying with the requirements of  
16                  clause (i), an employer may take into account  
17                  the value of wages paid by the employer to the  
18                  alien in the currency of the alien’s home coun-  
19                  try, the value of benefits paid by the employer  
20                  to the alien in the alien’s home country, em-  
21                  ployer-provided housing or housing allowances,  
22                  employer-provided vehicles or transportation al-  
23                  lowances, and other benefits provided to the  
24                  alien as an incident of the assignment in the  
25                  United States.

1           “(iii) The Secretary of Labor shall have  
2           the same investigatory and enforcement powers  
3           to ensure compliance with this subparagraph as  
4           are set forth in section 212(n)(2).”.

5           (b) EFFECTIVE DATE.—The amendment made by  
6           subsection (a) shall take effect on the date of the enact-  
7           ment of this Act and shall apply to employers with respect  
8           to aliens issued visas or otherwise provided nonimmigrant  
9           status under section 101(a)(15)(L) of the Immigration  
10          and Nationality Act (8 U.S.C. 1101(a)(15)(L)) on or after  
11          such date.

12          **SEC. 203. O VISAS.**

13          (a) PORTABILITY OF O VISAS.—The first sentence of  
14          section 214(n)(1) of the Immigration and Nationality Act  
15          (8 U.S.C. 1184(n)(1)) is amended—

16                  (1) by striking “section 101(a)(15)(H)(i)(b)”  
17                  and inserting “subparagraphs (H)(i)(b) and (O)(i)  
18                  of section 101(a)(15)”; and

19                  (2) by inserting “under such sections” after  
20                  “new employment”.

21          (b) 3-YEAR WAIVER OF NEW O-1 CONSULTATIONS  
22          FOR ARTS AND MOTION PICTURES AND TELEVISION AND  
23          TRANSPARENCY FOR O-1 VISAS FOR MOTION PICTURES  
24          AND TELEVISION.—

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

4           (A) by striking “Attorney General” each  
5 place such term appears and inserting “Sec-  
6 retary of Homeland Security”; and

7           (B) by striking the first two sentences of  
8 the matter that follows subparagraph (B) and  
9 inserting the following: “In the case of an alien  
10 seeking entry for a motion picture or television  
11 production, (i) any opinion under the previous  
12 sentence shall only be advisory, (ii) any such  
13 opinion that recommends denial must be in  
14 writing, (iii) in making the decision the Sec-  
15 retary of Homeland Security shall consider the  
16 exigencies and scheduling of the production, (iv)  
17 the Secretary of Homeland Security shall ap-  
18 pend to the decision any such opinion, and (v)  
19 upon making the decision, the Secretary of  
20 Homeland Security shall immediately provide a  
21 copy of the decision to the consulting labor and  
22 management organizations. The Secretary of  
23 Homeland Security shall provide by regulation  
24 for the waiver of the consultation requirement  
25 under subparagraph (A) in the case of aliens

1           who have been admitted as nonimmigrants  
2           under section 101(a)(15)(O)(i) because of ex-  
3           traordinary ability in the arts or extraordinary  
4           achievement in motion picture or television pro-  
5           duction and who seek readmission to perform  
6           similar services within 3 years after the date of  
7           a consultation under such subparagraph pro-  
8           vided that, in the case of aliens admitted be-  
9           cause of extraordinary achievement in motion  
10          picture or television production, such waiver  
11          shall apply only if the prior consultations by the  
12          appropriate union and management organiza-  
13          tion were favorable or raised no objection to the  
14          approval of the petition.”.

15           (2) EFFECTIVE DATE.—The amendment made  
16          by paragraph (1) shall take effect on the date of the  
17          enactment of this Act and shall apply to petitions  
18          filed under section 214(c) of the Immigration and  
19          Nationality Act (8 U.S.C. 1184(c)) on or after such  
20          date and to consultation decisions made before, on,  
21          or after such date.

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

23          Section 214(e) of the Immigration and Nationality  
24          Act (8 U.S.C. 1184(e)) is amended by adding at the end  
25          the following:

1           “(7)(A) An employer of a Mexican or Canadian  
2 professional under this subsection—

3           “(i) will offer to the alien during the period  
4 of authorized employment wages that are at  
5 least—

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

10           “(II) the prevailing wage level for the  
11 occupational classification in the area of  
12 employment, whichever is greater, based on  
13 the best information available; and

14           “(ii) will provide working conditions for  
15 such alien that will not adversely affect the  
16 working conditions of workers similarly em-  
17 ployed.

18           “(B) The Secretary of Labor shall have the  
19 same investigatory and enforcement powers to en-  
20 sure compliance with this paragraph as are set forth  
21 in section 212(n)(2).”.

22 **SEC. 205. STUDENTS.**

23           (a) DUAL INTENT.—



1           (1) IN GENERAL.—Section 101(a)(15)(F) of the  
2 Immigration and Nationality Act (8 U.S.C.  
3 1101(a)(15)(F)) is amended to read as follows:

4           “(F) an alien—

5           “(i) who—

6           “(I) is a bona fide student qualified to  
7 pursue a full course of study in a field of  
8 science, technology, engineering, or mathe-  
9 matics (as defined in section  
10 203(b)(6)(B)(ii)) leading to a bachelors or  
11 graduate degree and who seeks to enter  
12 the United States for the purpose of pur-  
13 suing such a course of study consistent  
14 with section 214(m) at an institution of  
15 higher education (as described in section  
16 101(a) of the Higher Education Act of  
17 1965 (20 U.S.C. 1001(a))) or a propri-  
18 etary institution of higher education (as  
19 defined in section 102(b) of such Act (20  
20 U.S.C. 1002(b))) in the United States,  
21 particularly designated by the alien and  
22 approved by the Secretary of Homeland  
23 Security, after consultation with the Sec-  
24 retary of Education, which institution shall  
25 have agreed to report to the Secretary of

1 Homeland Security the determination of  
2 attendance of each nonimmigrant student,  
3 and if any such institution fails to make  
4 reports promptly the approval shall be  
5 withdrawn; or

6 “(II) is engaged in temporary employ-  
7 ment for optional practical training related  
8 to such alien’s area of study following com-  
9 pletion of the course of study described in  
10 subclause (I);

11 “(ii) who has a residence in a foreign coun-  
12 try which the alien has no intention of aban-  
13 doning, who is a bona fide student qualified to  
14 pursue a full course of study, and who seeks to  
15 enter the United States temporarily and solely  
16 for the purpose of pursuing such a course of  
17 study consistent with section 214(m) at an es-  
18 tablished college, university, seminary, conserv-  
19 atory, academic high school, elementary school,  
20 or other academic institution or in a language  
21 training program in the United States, particu-  
22 larly designated by the alien and approved by  
23 the Secretary of Homeland Security, after con-  
24 sultation with the Secretary of Education,  
25 which institution of learning or place of study

1 shall have agreed to report to the Secretary of  
2 Homeland Security the determination of attend-  
3 ance of each nonimmigrant student, and if any  
4 such institution of learning or place of study  
5 fails to make reports promptly the approval  
6 shall be withdrawn;

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

10 “(iv) who is a national of Canada or Mex-  
11 ico, who maintains actual residence and place of  
12 abode in the country of nationality, who is de-  
13 scribed in clause (i) or (ii) except that the  
14 alien’s qualifications for and actual course of  
15 study may be full or part-time, and who com-  
16 mutes to the United States institution or place  
17 of study from Canada or Mexico.”.

18 (2) ADMISSION.—Section 214(b) of the Immi-  
19 gration and Nationality Act (8 U.S.C. 1184(b)), as  
20 amended by section 108(d)(1) of this Act, is further  
21 amended by striking “(L) or (V)” inserting “(F)(i),  
22 (L), or (V)”.

23 (3) CONFORMING AMENDMENT.—Section  
24 214(m)(1) of the Immigration and Nationality Act  
25 (8 U.S.C. 1184(m)(1)) is amended, in the matter

1 preceding subparagraph (A), by striking “(i) or  
2 (iii)” and inserting “(i), (ii), or (iv)”.

3 (b) OPTIONAL PRACTICAL TRAINING FOR FOREIGN  
4 STUDENTS.—Section 214 of the Immigration and Nation-  
5 ality Act (8 U.S.C. 1184) is amended by adding at the  
6 end the following:

7 “(s)(1) An employer providing optional practical  
8 training to an alien who has been issued a visa or other-  
9 wise provided nonimmigrant status under subparagraph  
10 (F) or (M) of section 101(a)(15) after completion of the  
11 alien’s course of study—

12 “(A) shall offer to the alien during the period  
13 of optional practical training wages that are at  
14 least—

15 “(i) the actual wage level paid by the em-  
16 ployer to all other individuals with similar expe-  
17 rience and qualifications for the specific em-  
18 ployment in question; or

19 “(ii) the prevailing wage level for the occu-  
20 pational classification in the area of employ-  
21 ment, whichever is greater, based on the best  
22 information available; and

23 “(B) shall provide working conditions for such  
24 alien that will not adversely affect the working con-  
25 ditions of workers similarly employed.

1 “(2) The Secretary of Labor has the same investiga-  
2 tory and enforcement powers to ensure compliance with  
3 paragraph (1) as are set forth in section 212(n)(2).”.

4 (c) EFFECTIVE DATES.—

5 (1) The amendments made by subsection (a)  
6 shall take effect on the date of the enactment of this  
7 Act, and shall apply to nonimmigrants who possess  
8 or are granted status under section 101(a)(15)(F) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1101(a))(15)(F)) on or after such date.

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

16 **SEC. 206. EXTENSION OF EMPLOYMENT ELIGIBILITY WHILE**  
17 **VISA EXTENSION PETITION PENDING.**

18 (a) IN GENERAL.—Section 214 of the Immigration  
19 and Nationality Act (8 U.S.C. 1184, as amended by sec-  
20 tion 205(b), is further amended by adding at the end the  
21 following:

22 “(t) A nonimmigrant issued a visa or otherwise pro-  
23 vided nonimmigrant status under subparagraph (A), (E),  
24 (G), (H), (I), (J), (L), (O), (P), (Q), or (R) of section  
25 101(a)(15), or section 214(e), and otherwise as the Sec-

1   retary of Homeland Security may by regulations prescribe,  
2   whose status has expired but who has, or whose spon-  
3   soring employer or authorized agent has, filed a timely ap-  
4   plication or petition for an extension of authorized status  
5   as provided under this section, is authorized to continue  
6   employment with the same employer for a period not to  
7   exceed 240 days beginning on the date of the expiration  
8   of the authorized period of stay until and unless the appli-  
9   cation or petition is denied. Such authorization shall be  
10  subject to the same conditions and limitations noted on  
11  the original authorization.”.

12       (b) **EFFECTIVE DATE.**—The amendment made by  
13  subsection (a) shall take effect on the date of the enact-  
14  ment of this Act and shall apply to aliens issued visas or  
15  otherwise provided nonimmigrant status before, on, or  
16  after such date.

17  **SEC. 207. FRAUD DETECTION AND PREVENTION FEE.**

18       Section 214(c)(12)(A) of the Immigration and Na-  
19  tionality Act (8 U.S.C. 1184(c)(12)(A)) is amended by  
20  adding at the end the following:

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

1 **SEC. 208. TECHNICAL CORRECTION.**

2 The second subsection designated as subsection (t)  
 3 of section 212 of the Immigration and Nationality Act (8  
 4 U.S.C. 1182) (as added by section 1(b)(2)(B) of Public  
 5 Law 108–449 (118 Stat. 3470)) is redesignated as sub-  
 6 section (u) of such section.

7 **TITLE III—REFORMS AFFECTING**  
 8 **BOTH IMMIGRANT AND NON-**  
 9 **IMMIGRANT VISAS**

10 **Subtitle A—STEM Education**  
 11 **Funding**

12 **SEC. 301. FUNDING FOR STEM EDUCATION AND TRAINING.**

13 (a) NONIMMIGRANT FEE ADJUSTMENT AND ALLOCA-  
 14 TION.—Section 214(c)(9) of the Immigration and Nation-  
 15 ality Act (8 U.S.C. 1184(c)(9)) is amended—

16 (1) in subparagraph (A)—

17 (A) in the matter preceding clause (i)—

18 (i) by striking “(20 U.S.C. 1001(a),”

19 and inserting “(20 U.S.C. 1001(a),”;

20 (ii) by striking “filing before a peti-  
 21 tion” and inserting “filing a petition”;

22 (2) by amending subparagraph (B) to read as  
 23 follows:

24 “(B) The amount of the fee imposed under this para-  
 25 graph shall be—

1           “(i) \$1,250 for each such petition filed by an  
2 employer with not more than 25 full-time equivalent  
3 employees who are employed in the United States  
4 (determined by including any affiliate or subsidiary  
5 of such employer); and

6           “(ii) \$2,500 for each such petition filed by an  
7 employer with more than 25 such employees.”;

8           (3) by amending subparagraph (C) to read as  
9 follows:

10           “(C) Fees collected under this paragraph shall  
11 be distributed as follows:

12           “(i) Of the amounts collected pursuant to  
13 subparagraph (B)(i)—

14           “(I) \$750 shall be deposited in the  
15 Treasury in accordance with section  
16 286(s); and

17           “(II) \$500 shall be deposited in the  
18 Treasury in accordance with section  
19 286(x).

20           “(ii) Of the amounts collected pursuant to  
21 subparagraph (B)(ii)—

22           “(I) \$1,500 shall be deposited in the  
23 Treasury in accordance with section  
24 286(s); and



1                   “(II) \$1,000 shall be deposited in the  
2                   Treasury in accordance with section  
3                   286(x).”;

4                   (4) by redesignating subparagraph (C) as sub-  
5                   paragraph (D); and

6                   (5) by inserting after subparagraph (B) the fol-  
7                   lowing:

8                   “(C) The Secretary of Homeland Security shall  
9                   impose the fee described in this paragraph on an  
10                  employer filing an attestation under section  
11                  212(t)(1), and on an employer employing an alien  
12                  pursuant to section 214(e), in the same manner as  
13                  such fee is imposed on an employer described in sub-  
14                  paragraph (A). In the case of employment pursuant  
15                  to section 214(e), the Secretary of Homeland Secu-  
16                  rity shall establish a method of imposing the fee de-  
17                  scribed in the preceding sentence notwithstanding  
18                  the absence of a petition or attestation.”.

19                  (b) CONFORMING AMENDMENT.—Section 286(s)(1)  
20                  of the Immigration and Nationality Act (8 U.S.C.  
21                  1356(s)(1)) is amended by striking the last sentence and  
22                  inserting “There shall be deposited as offsetting receipts  
23                  into the account a portion of the fees collected under para-  
24                  graphs (9) and (11) of section 214(c).”.

1 (c) IMMIGRANT FEE.—Section 203(b) of the Immi-  
2 gration and Nationality Act (8 U.S.C. 1153(b)) is amend-  
3 ed by adding at the end the following:

4 “(7) FUNDING FOR STEM EDUCATION AND  
5 TRAINING.—The Secretary of Homeland Security  
6 shall impose a fee of \$1,000 on each I-140 immi-  
7 grant visa petition filed under this subsection.  
8 Amounts collected under this paragraph shall be de-  
9 posited into the Treasury in accordance with section  
10 286(x).”.

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on October 1, 2013, and shall  
13 apply to petitions filed under section 214(c)(1) of the Im-  
14 migration and Nationality Act (8 U.S.C. 1184(c)(1)), and  
15 attestations filed under section 212(t)(1) of such Act (8  
16 U.S.C. 1182(t)(1)), on or after such date.

17 **SEC. 302. PROMOTING AMERICAN INGENUITY ACCOUNT.**

18 Section 286 of the Immigration and Nationality Act  
19 (8 U.S.C. 1356), as amended by section 201(c)(1)(B) of  
20 this Act, is further amended by adding at the end the fol-  
21 lowing:

22 “(x) PROMOTING AMERICAN INGENUITY ACCOUNT.—  
23 “(1) IN GENERAL.—There is established in the  
24 general fund of the Treasury a separate account,  
25 which shall be known as the ‘Promoting American

1 Ingenuity Account'. There shall be deposited as off-  
2 setting receipts into the account fees collected under  
3 section 203(b)(7) and a portion of the fees collected  
4 under section 214(c)(9). Amounts deposited into the  
5 account shall remain available to the Secretary of  
6 Education until expended.

7 “(2) PURPOSES.—The purposes of the Pro-  
8 moting American Ingenuity Account are to enhance  
9 the economic competitiveness of the United States  
10 by—

11 “(A) strengthening STEM education, in-  
12 cluding in computer science, at all levels;

13 “(B) ensuring that schools have access to  
14 well-trained and effective STEM teachers; and

15 “(C) helping colleges and universities  
16 produce more graduates in fields needed by  
17 American employers.

18 “(3) ALLOCATION OF FUNDS.—

19 “(A) RESERVATION OF FUNDS.—

20 “(i) IN GENERAL.—The Secretary of  
21 Education may reserve up to 5 percent of  
22 the amounts deposited into the Promoting  
23 American Ingenuity Account to carry out  
24 the activities described in clause (ii).

1           “(ii) NATIONAL ACTIVITIES.—From  
2 the amounts reserved under clause (i), the  
3 Secretary of Education shall, directly or  
4 through grants and contracts—

5           “(I) provide technical assistance  
6 to States and local educational agen-  
7 cies in carrying out activities de-  
8 scribed in section 304 of the SKILLS  
9 Visa Act; and

10           “(II) acting through the Institute  
11 of Education Sciences, conduct na-  
12 tional evaluations of activities carried  
13 out by the State under such section  
14 304.

15           “(B) ALLOCATIONS TO STATES.—

16           “(i) IN GENERAL.—Subject to clause  
17 (ii), the Secretary of Education shall pro-  
18 portionately allocate the remaining  
19 amounts deposited into the account to the  
20 States each fiscal year in an amount that  
21 bears the same relationship to the remain-  
22 der as the amount the State received under  
23 subpart 2 of part A of title I of the Ele-  
24 mentary and Secondary Education Act of  
25 1965 (20 U.S.C. 6331 et seq.) for the pre-

1 ceding fiscal year bears to the amount all  
2 States received under that subpart for the  
3 preceding fiscal year.

4 “(ii) MINIMUM ALLOCATIONS.—No  
5 State shall receive less than an amount  
6 equal to 0.5 percent of the total amount  
7 made available to all States from the Pro-  
8 moting American Ingenuity Account. If a  
9 State does not request an allocation from  
10 the Account for a fiscal year, the Secretary  
11 shall reallocate the State’s allocation to  
12 those States with approved applications  
13 under section 303 of the SKILLS Visa Act  
14 in accordance with clause (i).”.

15 **SEC. 303. STEM EDUCATION GRANT APPLICATION PROC-**  
16 **ESS.**

17 (a) APPLICATION.—Each Governor and Chief State  
18 School Officer desiring to receive an allocation from the  
19 Promoting American Ingenuity Account established under  
20 section 286(x) of the Immigration and Nationality Act (as  
21 added by section 302 of this Act) shall jointly submit a  
22 plan, including a proposed budget, signed by the Governor  
23 and Chief State School Officer, to the Secretary of Edu-  
24 cation at such time, and in such manner, as the Secretary  
25 may require, that—

1           (1) designates a State agency as the agency re-  
2           sponsible for carrying out programs funded by such  
3           allocation;

4           (2) describes the activities to be funded with  
5           such allocation and how such activities will improve  
6           STEM education in the State;

7           (3) describes how the State will partner with  
8           employers to design and carry out the activities  
9           funded by such allocation;

10          (4) describes how the State will collaborate with  
11          institutions of higher education (as defined in sec-  
12          tion 102 of the Higher Education Act of 1965 (20  
13          U.S.C. 1002), except that such term does not in-  
14          clude institutions described in subsection (a)(1)(C)  
15          of such section 102), local educational agencies,  
16          State and local workforce investment boards funded  
17          under the Workforce Investment Act of 1998 (29  
18          U.S.C. 2801 et seq.), and other State and local gov-  
19          ernment entities as appropriate to carry out the ac-  
20          tivities funded by such allocation; and

21          (5) describes how the State will coordinate ac-  
22          tivities funded by such allocation with activities  
23          funded under the Elementary and Secondary Edu-  
24          cation Act of 1965 (20 U.S.C. 6301 et seq.), the  
25          Higher Education Act of 1965 (20 U.S.C. 1001 et

1 seq.), and the Workforce Investment Act of 1998  
2 (29 U.S.C. 2801 et seq.).

3 (b) PROHIBITION.—

4 (1) IN GENERAL.—The information described in  
5 subsection (a) shall be the only information required  
6 of States, and the Secretary of Education shall not  
7 establish any additional criteria for State eligibility  
8 for such allocations.

9 (2) STANDARDS AND ASSESSMENTS.—The Sec-  
10 retary shall not condition State receipt of such allo-  
11 cations on any decision to adopt, or not to adopt,  
12 academic standards or assessments for the State’s  
13 elementary and secondary schools.

14 (c) DEEMED APPROVAL.—A plan submitted under  
15 subsection (a) shall be deemed to be approved by the Sec-  
16 retary of Education unless the Secretary makes a written  
17 determination, prior to the expiration of the 60-day period  
18 beginning on the date on which the Secretary received the  
19 plan, that the plan is not in compliance with this section.

20 **SEC. 304. AUTHORIZED ACTIVITIES.**

21 A State or other entity that receives funding from  
22 the Promoting American Ingenuity Account may use such  
23 funds for one or more of the following activities:

1           (1) To strengthen the State’s academic stand-  
2           ards in science, technology, engineering, and mathe-  
3           matics (STEM);

4           (2) To implement strategies for the recruit-  
5           ment, training, placement, and retention of teachers  
6           in STEM fields, including computer science;

7           (3) To carry out initiatives designed to assist  
8           students in succeeding and graduating from postsec-  
9           ondary STEM programs;

10          (4) To improve the availability and access to  
11          STEM-related worker training programs, including  
12          community college courses and programs; and

13          (5) For other activities to improve STEM edu-  
14          cation.

15 **SEC. 305. NATIONAL EVALUATIONS.**

16          (a) ANNUAL REPORT.—The Secretary of Education  
17          shall submit a report describing the results of each evalua-  
18          tion conducted under section 286(x)(3)(A)(ii)(II) of the  
19          Immigration and Nationality Act (as added by section 302  
20          of this Act) to—

21               (1) the President;

22               (2) the Committee on the Judiciary of the Sen-  
23          ate;

24               (3) the Committee on the Judiciary of the  
25          House of Representatives;



1 (4) the Committee on Health, Education,  
2 Labor, and Pensions of the Senate; and

3 (5) the Committee on Education and the Work-  
4 force of the House of Representatives.

5 (b) DISSEMINATION.—The Secretary of Education  
6 shall make the findings of such evaluations widely avail-  
7 able to educators, the business community, and the public.

8 **SEC. 306. RULE OF CONSTRUCTION.**

9 Nothing in this subtitle may be construed to permit  
10 the Secretary of Education or any other Federal official  
11 to approve the content or academic achievement stand-  
12 ards, academic assessments, or curriculum of a State.

13 **Subtitle B—Other Reforms**

14 **SEC. 311. PREVAILING WAGES.**

15 (a) IN GENERAL.—Section 212(p) of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1182(p)) is amended—

17 (1) in paragraph (1), by striking “subsections  
18 (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II)” and  
19 inserting “subsections (a)(5)(A), (n)(1)(A)(i)(II),  
20 and (t)(1)(A)(i)(II) of this section, and subsections  
21 (c)(2)(G), (e), and (s) of section 214,”;

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

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

1           “(2) In computing the prevailing wage level for  
2           an occupational classification in an area of employ-  
3           ment for purposes of subsections (a)(5)(A),  
4           (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of this section,  
5           and subsections (c)(2)(G), (e), and (s) of section  
6           214, in the case of an alien who begins work with  
7           their employer under such section within one year of  
8           graduation from an institution that is described in  
9           section 101(a) of the Higher Education Act of 1965  
10          (20 U.S.C. 1001(a)) or is a proprietary institution  
11          of higher education (as defined in section 102(b) of  
12          such Act (20 U.S.C. 1002(b))), the wage level shall  
13          be the wage level specified in subparagraph (A), (B),  
14          or (C) of paragraph (5) depending on the alien’s ex-  
15          perience, education, and level of supervision. In com-  
16          puting the prevailing wage level for an occupational  
17          classification in an area of employment for purposes  
18          of subsections (a)(5)(A), (n)(1)(A)(i)(II), and  
19          (t)(1)(A)(i)(II) of this section, and subsections  
20          (c)(2)(G), (e), and (s) of section 214, in the case of  
21          an alien who does not begin work with their em-  
22          ployer under such section within one year of gradua-  
23          tion from an institution that is described in section  
24          101(a) of the Higher Education Act of 1965 (20  
25          U.S.C. 1001(a)) or is a proprietary institution of

1 higher education (as defined in section 102(b) of  
2 such Act (20 U.S.C. 1002(b))), the wage level shall  
3 be the wage level specified in subparagraph (B) or  
4 (C) of paragraph (5), depending on the alien’s expe-  
5 rience, education, and level of supervision.”;

6 (4) in paragraph 4 (as redesignated), by strik-  
7 ing “subsections (a)(5)(A), (n)(1)(A)(i)(II), and  
8 (t)(1)(A)(i)(II)” and inserting “subsections  
9 (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of  
10 this section, and subsections (c)(2)(G), (e), and (s)  
11 of section 214,”; and

12 (5) by amending paragraph (5) (as redesi-  
13 gnated) to read as follows:

14 “(5) Subject to paragraph (2), the Secretary of Labor  
15 shall make available to employers a governmental survey  
16 to determine the prevailing wage for each occupational  
17 classification by metropolitan statistical area in the United  
18 States. Such survey, or other survey approved by the Sec-  
19 retary of Labor, shall provide 3 levels of wages commensu-  
20 rate with experience, education, and level of supervision.  
21 Such wage levels shall be determined as follows:

22 “(A) The first level shall be the mean of the  
23 lowest two-thirds of wages surveyed, but in no case  
24 less than 80 percent of the mean of the wages sur-  
25 veyed.

1           “(B) The second level shall be the mean of  
2 wages surveyed.

3           “(C) The third level shall be the mean of the  
4 highest two-thirds of wages surveyed.”.

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

20 **SEC. 312. STREAMLINING PETITIONS FOR ESTABLISHED**  
21 **EMPLOYERS.**

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

1       “(15) The Secretary of Homeland Security shall es-  
2       tablish a pre-certification procedure for employers who file  
3       multiple petitions described in this subsection or section  
4       204(a)(1)(F). Such precertification procedure shall enable  
5       an employer to avoid repeatedly submitting documentation  
6       that is common to multiple petitions and establish,  
7       through a single filing, criteria relating to the employer  
8       and the offered employment opportunity.”.

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

○