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

IN THE SENATE OF THE UNITED STATES

February 7, 2019

Mr. Lee (for himself, Ms. Harris, Mr. Cramer, Mr. Blunt, Ms. Collins, Mr. Moran, Mr. Carper, Mr. Wyden, Ms. Cantwell, Mr. Gardner, Mr. Cotton, Ms. Baldwin, Mr. Merkley, Mr. Bennet, and Ms. Sinema) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fairness for High-
Skilled Immigrants Act of 2019”.
SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.

(a) In General.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

“(2) Per country levels for family-sponsored immigrants.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.”.

(b) Conforming Amendments.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

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

and

(B) by striking paragraph (5); and

(2) by amending subsection (e) to read as follows:

“(e) Special Rules for Countries at Ceiling.—

If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state
or dependent area will exceed the numerical limitation
specified in subsection (a)(2) in any fiscal year, immigrant
visas shall be allotted to such natives under section 203(a)
to the extent practicable and otherwise consistent with
this section and section 203) in a manner so that, except
as provided in subsection (a)(4), the proportion of the
visas made available under each of paragraphs (1) through
(4) of section 203(a) is equal to the ratio of the total visas
made available under the respective paragraph to the total
visas made available under section 203(a).”.

(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
note) is amended—
(1) in subsection (a), by striking “(as defined
in subsection (e))”;
(2) by striking subsection (d); and
(3) by redesignating subsection (e) as sub-
section (d).
(d) EFFECTIVE DATE.—The amendments made by
this section shall take effect as if enacted on September
30, 2019, and shall apply to fiscal year 2020 and each
subsequent fiscal year.
(e) TRANSITION RULES FOR EMPLOYMENT-BASED
IMMIGRANTS.—
(1) IN GENERAL.—Subject to paragraphs (2) through (5), and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2020, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that is not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas under such paragraphs.

(B) For fiscal year 2021, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that is not one of the two states with the largest aggregate numbers of natives obtaining immigrant visas under such paragraphs.

(C) For fiscal year 2022, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that is not one of the two states with the
largest aggregate numbers of natives obtaining immigrant visas under such paragraphs.

(2) PER-COUNTRY LEVELS.—

(A) RESERVED VISAS.—The number of visas reserved under each of subparagraphs (A) through (C) of paragraph (1) made available to natives of any single foreign state or dependent area in the appropriate fiscal year may not exceed 25 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas.

(B) UNRESERVED VISAS.—Not more than 85 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) and not reserved under paragraph (1), for each of the fiscal years 2020, 2021, and 2022, may be allotted to immigrants who are natives of any single foreign state.

(3) SPECIAL RULE TO PREVENT UNUSED VISAS.—If, with respect to fiscal year 2020, 2021, or 2022, the application of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section
203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to paragraphs (1) and (2).

(4) Transition rule for currently approved beneficiaries.—

(A) In general.—Notwithstanding section 202 of the Immigration and Nationality Act, as amended by this Act, immigrant visas under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) shall be allocated such that no alien described in subparagraph (B) receives a visa later than the alien otherwise would have received said visa had this Act not been enacted.

(B) Alien described.—An alien is described in this subparagraph if the alien is the beneficiary of a petition for an immigrant visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) that was approved prior to the date of enactment of this Act.

(5) Rules for chargeability.—Section 202(b) of such Act (8 U.S.C. 1152(b)) shall apply
in determining the foreign state to which an alien is chargeable for purposes of this subsection.