

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify the W nonimmigrant visa program.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. SCHUMER

Viz:

1 On page 806, between lines 4 and 5, insert the fol-
2 lowing:

3 “(9) INITIAL W NONIMMIGRANT.—The term
4 ‘initial W nonimmigrant’ means a certified alien
5 issued a W nonimmigrant visa by the Secretary of
6 State pursuant to section 101(a)(15)(W)(i) in order
7 to seek initial admission to the United States to
8 commence employment for a registered employer in
9 a registered position subject to the numerical limit
10 at section 220(g).

11 On page 807, between lines 18 and 19, insert the fol-
12 lowing:

1 “(17) W NONIMMIGRANT VISA.—The term ‘W
2 nonimmigrant visa’ means a visa issued to a cer-
3 tified alien by the Secretary of State pursuant to
4 section 101(a)(15)(W)(i).

5 On page 818, line 2, strike “(g)(4)(C),” and insert
6 “(g)(4)(C)(i),”.

7 On page 821, between lines 21 and 22, insert the fol-
8 lowing:

9 “(F) REGISTRY OF REGISTERED POSI-
10 TIONS.—

11 “(i) MAINTENANCE OF REGISTRY.—
12 The Secretary shall develop and maintain
13 a registry of approved registered positions
14 for which the Secretary has issued a per-
15 mit under subparagraph (D).

16 “(ii) AVAILABILITY ON WEBSITE.—
17 The registry required by clause (i) shall be
18 accessible on a website maintained by the
19 Secretary.

20 “(iii) AVAILABILITY ON STATE WORK-
21 FORCE AGENCY WEBSITES.—Each State
22 workforce agency shall be linked to such
23 registry and provide access to such registry

1 through the website maintained by such
2 agency.

3 “(iv) CONDITIONS OF AVAILABILITY
4 ON WEBSITE.—

5 “(I) IN GENERAL.—Each ap-
6 proved registered position for which
7 the Secretary has issued a permit
8 shall be included in the registry of
9 registered positions maintained by the
10 Secretary and shall remain available
11 for viewing on such registry through-
12 out the term of registration referred
13 to in subparagraph (E) or paragraph
14 (5).

15 “(II) INDICATION OF VACANCY.—
16 The Secretary shall ensure that such
17 registry indicates whether each ap-
18 proved registered position in the reg-
19 istry is filled or unfilled.

20 “(III) REQUIREMENT FOR 10 DAY
21 POSTING.—If a W nonimmigrant’s
22 employment in a registered position
23 ends, either voluntarily or involun-
24 tarily, the Secretary shall ensure that
25 such registry indicates that the reg-

1 istered position is unfilled for a period
2 of 10 calendar days, unless such reg-
3 istered position is filled by a United
4 States worker.

5 On page 822, line 18, strike “(g)(4)(A)(ii),” and in-
6 sert “(g)(4)(B)(i),”.

7 On page 826, strike lines 10 through 17, and insert
8 the following:

9 “(4) FILLING OF VACANCIES.—If a W non-
10 immigrant’s employment in a registered position
11 ends, such employer may fill that vacancy—

12 “(A) by hiring a United States worker; or

13 “(B) after the 10 calendar day posting pe-
14 riod in subsection (e)(1)(F)(iv)(III) by hiring—

15 “(i) a W nonimmigrant; or

16 “(ii) if available under subsection
17 (g)(4), a certified alien.

18 On page 827, beginning on line 21, strike “a reg-
19 istered position is approved for a registered employer,”
20 and insert “a W nonimmigrant commences employment
21 in the registered position for a registered employer,”.

1 On page 828, line 8, strike “employer” and insert
2 “employer, at the time a W nonimmigrant commences em-
3 ployment in the registered position for the registered em-
4 ployer,”.

5 On page 828, line 9, after “each”, insert “such”.

6 On page 828, beginning on line 12, strike “employer”
7 insert “employer, at the time of filing the application for
8 the registered position,”.

9 On page 828, beginning on line 19, strike “employer”
10 and insert “employer, at the time of filing the application
11 for the registered position,”.

12 On page 829, line 1, strike “employer” and insert
13 “employer, at the time of filing the application for the reg-
14 istered position,”.

15 Beginning on page 834, strike line 19, and all that
16 follows through page 837, line 6, and insert the following:

17 “(4) SPECIAL ALLOCATIONS OF REGISTERED
18 POSITIONS.—

19 “(A) AUTHORITY TO MAKE AVAILABLE.—

20 In addition to the number of registered posi-

tions made available for a year under paragraph (1) or (3), the Secretary shall make additional registered positions available for the year for a specific registered employer as described in this paragraph, if—

“(i) the maximum number of registered positions available under paragraph (1) have been approved for the year and none remain available for allocation; or

“(ii) such registered employer is located in a metropolitan statistical area that has an unemployment rate that is more than 8½ percent as reported in the most recent month preceding the date that the application is submitted to the Secretary.

“(B) RECRUITMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii), an initial W non-immigrant may only enter the United States for initial employment pursuant to a special allocation under this paragraph if the registered employer has carried out at least 7 of the recruiting activities described in subsection (e)(2)(C).

1 “(ii) REQUIREMENT TO RECRUIT W
2 NONIMMIGRANTS IN THE UNITED
3 STATES.—A registered employer may reg-
4 ister a position pursuant to a special allo-
5 cation under this paragraph by conducting
6 at least 3 of the recruiting activities de-
7 scribed in subsection (e)(2)(C), however a
8 position registered pursuant to this clause
9 may not be filled by an initial W non-
10 immigrant entering the United States for
11 initial employment.

12 “(iii) 30 DAY POSTING.—

13 “(I) REQUIREMENT.—Any reg-
14 istered employer registering any posi-
15 tion under the special allocation au-
16 thority shall post the position, includ-
17 ing the wage range, location, and ini-
18 tial date of employment, for not less
19 than 30 days—

20 “(aa) on the Internet
21 website maintained by the Sec-
22 retary of Labor for the purpose
23 of such advertising; and

1 “(bb) with the workforce
2 agency of the State where the po-
3 sition will be located.

4 “(II) CONTEMPORANEOUS POST-
5 ING.—The 30 day periods required by
6 items (aa) and (bb) of subclause (I)
7 may occur at the same time.

8 “(C) WAGES.—

9 “(i) INITIAL W NONIMMIGRANTS.—An
10 initial W nonimmigrant entering the
11 United States for initial employment pur-
12 suant to a registered position made avail-
13 able under this paragraph may not be paid
14 less than the greater of—

15 “(I) the level 4 wage set out in
16 the Foreign Labor Certification Data
17 Center Online Wage Library (or simi-
18 lar successor website) maintained by
19 the Secretary of Labor for such occu-
20 pation in that metropolitan statistical
21 area; or

22 “(II) the mean of the highest
23 two-thirds of wages surveyed for such
24 occupation in that metropolitan statis-
25 tical area.

1 “(ii) OTHER W NONIMMIGRANTS.—A
2 W nonimmigrant employed in a registered
3 position referred to in subsection
4 (e)(4)(B)(ii) may not be paid less than the
5 wages required under subsection
6 (e)(1)(B)(iv).

7 “(D) REDUCTION OF FUTURE REGISTERED
8 POSITIONS.—Each registered position made
9 available for a year subject to the wage condi-
10 tions of subparagraph (C)(i) shall reduce by 1
11 the number of registered positions made avail-
12 able under paragraph (g)(1) for the following
13 year or the earliest possible year for which a
14 registered position is available. The limitation
15 contained in paragraph (h)(4) shall not be re-
16 duced by any registered position made available
17 under this paragraph.

18 On page 837, strike lines 7 through 10.

19 On page 837, line 18, strike “subsection (g)(1).” and
20 insert “paragraph (1) or (2) of subsection (g).”.

21 On page 837, line 25, strike “subsection (g)(1)” and
22 insert “paragraph (1) or (2) of subsection (g).”.

1 On page 839, beginning on line 15, strike “subsection
2 (g)(1)” and insert “paragraph (1) or (2) of subsection
3 (g)”.

4 On page 849, strike lines 1 through 8, and insert the
5 following:

6 “(2) ELECTRONIC MONITORING SYSTEM.—

7 “(A) REQUIREMENT FOR SYSTEM.—The
8 Secretary, through U.S. Citizenship and Immi-
9 gration Services, shall implement an electronic
10 monitoring system to monitor presence and em-
11 ployment of W nonimmigrants, including a re-
12 quirement that registered employers update the
13 system when W nonimmigrants start and end
14 employment in registered positions.

15 “(B) SYSTEM DESCRIPTION.—Such system
16 shall be modeled on the Student and Exchange
17 Visitor Information System (SEVIS) and
18 SEVIS II tracking system of U.S. Immigration
19 and Customs Enforcement.

20 “(C) INTERACTION WITH REGISTRY.—
21 Such system shall interact with the registry re-
22 ferred to in subsection (e)(1)(F) to ensure that
23 the Secretary designates and updates approved
24 registered positions as being filled or unfilled.”.