

Union Calendar No. 193

112TH CONGRESS
1ST SESSION

H. R. 3012

[Report No. 112-292]

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 HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. CHAFFETZ (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

NOVEMBER 18, 2011

Additional sponsors: Mr. GRIFFIN of Arkansas, Ms. ZOE LOFGREN of California, Mr. HOLT, Mr. GOODLATTE, Mr. GUTIERREZ, Mr. JACKSON of Illinois, Mr. THOMPSON of Pennsylvania, Mr. MORAN, Mr. FLAKE, and MRS. MALONEY

NOVEMBER 18, 2011

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

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

[For text of the introduced bill, see bill as introduced on September 22, 2011]

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Fairness for High-*
5 *Skilled Immigrants Act of 2011”.*

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

8 *(a) IN GENERAL.—Section 202(a)(2) of the Immigra-*
9 *tion and Nationality Act (8 U.S.C. 1152(a)(2)) is amend-*
10 *ed—*

11 *(1) in the paragraph heading, by striking “AND*
12 *EMPLOYMENT-BASED”;*

13 *(2) by striking “(3), (4), and (5),” and inserting*
14 *“(3) and (4),”;*

15 *(3) by striking “subsections (a) and (b) of section*
16 *203” and inserting “section 203(a)”;*

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

18 *(5) by striking “such subsections” and inserting*
19 *“such section”.*

20 *(b) CONFORMING AMENDMENTS.—Section 202 of the*
21 *Immigration and Nationality Act (8 U.S.C. 1152) is*
22 *amended—*

23 *(1) in subsection (a)(3), by striking “both sub-*
24 *sections (a) and (b) of section 203” and inserting*
25 *“section 203(a)”;*

1 (2) by striking subsection (a)(5); and

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

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

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

23 (1) *in subsection (a), by striking “subsection*
24 *(e)” and inserting “subsection (d)”;* and

1 (2) *by striking subsection (d) and redesignating*
2 *subsection (e) as subsection (d).*

3 (d) *EFFECTIVE DATE.—The amendments made by this*
4 *section shall take effect as if enacted on September 30, 2011,*
5 *and shall apply to fiscal years beginning with fiscal year*
6 *2012.*

7 (e) *TRANSITION RULES FOR EMPLOYMENT-BASED IM-*
8 *MIGRANTS.—*

9 (1) *IN GENERAL.—Subject to the succeeding*
10 *paragraphs of this subsection and notwithstanding*
11 *title II of the Immigration and Nationality Act (8*
12 *U.S.C. 1151 et seq.), the following rules shall apply:*

13 (A) *For fiscal year 2012, 15 percent of the*
14 *immigrant visas made available under each of*
15 *paragraphs (2) and (3) of section 203(b) of such*
16 *Act (8 U.S.C. 1153(b)) shall be allotted to immi-*
17 *grants who are natives of a foreign state or de-*
18 *pendent area that was not one of the two states*
19 *with the largest aggregate numbers of natives ob-*
20 *taining immigrant visas during fiscal year 2010*
21 *under such paragraphs.*

22 (B) *For fiscal year 2013, 10 percent of the*
23 *immigrant visas made available under each of*
24 *such paragraphs shall be allotted to immigrants*
25 *who are natives of a foreign state or dependent*

1 *area that was not one of the two states with the*
2 *largest aggregate numbers of natives obtaining*
3 *immigrant visas during fiscal year 2011 under*
4 *such paragraphs.*

5 *(C) For fiscal year 2014, 10 percent of the*
6 *immigrant visas made available under each of*
7 *such paragraphs shall be allotted to immigrants*
8 *who are natives of a foreign state or dependent*
9 *area that was not one of the two states with the*
10 *largest aggregate numbers of natives obtaining*
11 *immigrant visas during fiscal year 2012 under*
12 *such paragraphs.*

13 *(2) PER-COUNTRY LEVELS.—*

14 *(A) RESERVED VISAS.—With respect to the*
15 *visas reserved under each of subparagraphs (A)*
16 *through (C) of paragraph (1), the number of*
17 *such visas made available to natives of any sin-*
18 *gle foreign state or dependent area in the appro-*
19 *priate fiscal year may not exceed 25 percent (in*
20 *the case of a single foreign state) or 2 percent (in*
21 *the case of a dependent area) of the total number*
22 *of such visas.*

23 *(B) UNRESERVED VISAS.—With respect to*
24 *the immigrant visas made available under each*
25 *of paragraphs (2) and (3) of section 203(b) of*

1 *such Act (8 U.S.C. 1153(b)) and not reserved*
2 *under paragraph (1), for each of fiscal years*
3 *2012, 2013, and 2014, not more than 85 percent*
4 *shall be allotted to immigrants who are natives*
5 *of any single foreign state.*

6 (3) *SPECIAL RULE TO PREVENT UNUSED*
7 *VISAS.—If, with respect to fiscal year 2012, 2013, or*
8 *2014, the operation of paragraphs (1) and (2) of this*
9 *subsection would prevent the total number of immi-*
10 *grant visas made available under paragraph (2) or*
11 *(3) of section 203(b) of such Act (8 U.S.C. 1153(b))*
12 *from being issued, such visas may be issued during*
13 *the remainder of such fiscal year without regard to*
14 *paragraphs (1) and (2) of this subsection.*

15 (4) *RULES FOR CHARGEABILITY.—Section 202(b)*
16 *of such Act (8 U.S.C. 1152(b)) shall apply in deter-*
17 *mining the foreign state to which an alien is charge-*
18 *able for purposes of this subsection.*

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