

119TH CONGRESS
2D SESSION

S. 5197

To amend the Immigration and Nationality Act to provide for a State-sponsored nonimmigrant pilot program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2026

Mr. CURTIS (for himself and Mr. KELLY) 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 provide for a State-sponsored nonimmigrant pilot program, 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 “State-Sponsored Visa
5 Pilot Program Act of 2026”.

6 **SEC. 2. STATE-SPONSORED NONIMMIGRANT PROGRAM.**

7 Section 101(a)(15) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101(a)(15)) is amended—

9 (1) in subparagraph (U)(iii), by striking the
10 “or” at the end;

1 (2) in subparagraph (V), by striking the period
2 at the end and inserting “; or”; and

3 (3) by adding at the end the following:

4 “(W)(i) an alien who is sponsored by a State
5 and is coming temporarily to the United States to
6 reside in such State to perform services, provide cap-
7 ital investment, direct the operations of an enter-
8 prise, or otherwise contribute to the economic devel-
9 opment agenda of such State in a manner deter-
10 mined by the State; and

11 “(ii) the alien spouse and minor children of any
12 alien described in clause (i).”.

13 **SEC. 3. ADMISSION OF STATE-SPONSORED NON-**
14 **IMMIGRANTS.**

15 (a) REQUIREMENTS FOR STATE-SPONSORED NON-
16 IMMIGRANTS.—Section 214 of the Immigration and Na-
17 tionality Act (8 U.S.C. 1184) is amended—

18 (1) in subsection (h), by striking “(H)(i)(b) or
19 (c), (L), or (V)” and inserting “(H)(i)(b), (H)(i)(c),
20 (L), (V), or (W)”; and

21 (2) by adding at the end the following:

22 “(s) REQUIREMENTS APPLICABLE TO STATE-SPON-
23 SORED NONIMMIGRANT VISAS.—

24 “(1) DEFINITIONS.—In this subsection:

1 “(A) RESIDE.—The term ‘reside’ means to
2 live and establish a residence in a State for a
3 consecutive period of more than 14 days (not
4 including any period after the approval of the
5 resident’s petition for immigrant status).

6 “(B) SECRETARY.—Except as otherwise
7 specifically provided in this subsection, the term
8 ‘Secretary’ means the Secretary of Homeland
9 Security.

10 “(C) STATE.—Notwithstanding section
11 101(a)(36), the term ‘State’ means a State of
12 the United States and the District of Columbia.

13 “(D) STATE-SPONSORED NON-
14 IMMIGRANT.—The term ‘State-sponsored non-
15 immigrant’ means an alien who has been spon-
16 sored by a State for admission under section
17 101(a)(15)(W).

18 “(E) STATE-SPONSORED NONIMMIGRANT
19 PROGRAM.—The term ‘State-sponsored non-
20 immigrant program’ means a nonimmigrant
21 program to regulate the employment, invest-
22 ment, and place of residence of State-sponsored
23 nonimmigrants.

24 “(F) STATE-SPONSORED NONIMMIGRANT
25 STATUS.—The term ‘State-sponsored non-

1 immigrant status’ means status granted to an
2 alien admitted as a nonimmigrant pursuant to
3 section 101(a)(15)(W).

4 “(2) STATE-SPONSORED NONIMMIGRANT PRO-
5 GRAM.—Any State may submit an application to the
6 Secretary to participate in the State-sponsored non-
7 immigrant program by sponsoring aliens for admis-
8 sion to the United States.

9 “(3) STATE-SPONSORED NONIMMIGRANT PRO-
10 GRAM APPROVAL.—The Secretary shall approve any
11 application submitted by a State (or compact of
12 States) pursuant to paragraph (2) for a State-spon-
13 sored nonimmigrant program that—

14 “(A) was approved by the legislature of the
15 State;

16 “(B) regulates, in a manner determined by
17 the State, the employment and residence of
18 State-sponsored nonimmigrants;

19 “(C) implements procedures, in a manner
20 determined by the Secretary, to inform the Sec-
21 retary of the failure of a nonimmigrant to com-
22 ply with the terms of State-sponsored non-
23 immigrant status when the State is made aware
24 of such failure;

1 “(D) allows, in a manner determined by
2 the State, a State-sponsored nonimmigrant who
3 has been admitted to seek employment with an
4 employer other than the employer with which
5 the nonimmigrant was initially employed;

6 “(E) implements procedures to periodically
7 assess labor needs and occupational wage data
8 in the State;

9 “(F) establish mechanisms to receive and
10 investigate complaints of United States worker
11 displacement in the State;

12 “(G) attests, in a form to be determined by
13 the Secretary, that the hiring of the State-spon-
14 sored nonimmigrant has not displaced and will
15 not displace a United States worker; and

16 “(H) implements procedures, in a manner
17 determined by the Secretary, to annually inform
18 the Secretary of the place of residence and em-
19 ployment of all State-sponsored nonimmigrants
20 residing in the State.

21 “(4) STATE PETITION.—

22 “(A) IN GENERAL.—A State that partici-
23 pates in the State-sponsored nonimmigrant pro-
24 gram shall submit a petition in such form and
25 containing such relevant information as the

1 Secretary shall specify to sponsor an alien
2 under this subsection.

3 “(B) APPROVAL.—A visa may not be
4 granted to an alien described in subparagraph
5 (A) until the Secretary approves a petition sub-
6 mitted pursuant to subparagraph (A). Such ap-
7 proval does not, of itself, establish that the
8 alien is a State-sponsored nonimmigrant.

9 “(C) FEE.—The Secretary may require a
10 State that submits a petition pursuant to sub-
11 paragraph (A) to pay a reasonable fee of an
12 amount that is sufficient to cover, but not ex-
13 ceed, the cost of processing the application.

14 “(D) FEE WAIVER FOR DOMESTIC WORK-
15 FORCE INVESTMENT.—The Secretary shall
16 waive any fee otherwise required under sub-
17 paragraph (C) with respect to a State that
18 demonstrates its State-sponsored nonimmigrant
19 program assesses a fee that is allocated by the
20 State to fund workforce investment activities
21 carried out in the State.

22 “(5) STATE-SPONSORED NONIMMIGRANTS.—
23 The Secretary of State shall approve a non-
24 immigrant visa for an alien and the Secretary of
25 Homeland Security shall admit such alien to the

1 United States as a State-sponsored nonimmigrant or
2 grant State-sponsored nonimmigrant status to the
3 alien if the alien—

4 “(A) is otherwise admissible under this
5 Act;

6 “(B) passes a comprehensive background
7 check conducted by the National Vetting Center
8 to ensure such alien does not pose a security
9 risk to the United States;

10 “(C) is petitioned for by a State that par-
11 ticipates in the State-sponsored nonimmigrant
12 program approved by the Secretary pursuant to
13 paragraph (3);

14 “(D) has not previously violated any term
15 or condition of State-sponsored nonimmigrant
16 status; and

17 “(E) has paid any bond that the State may
18 require under paragraph (13).

19 “(6) PERIOD OF AUTHORIZED STATUS.—

20 “(A) IN GENERAL.—The period of author-
21 ized status for a State-sponsored nonimmigrant
22 shall be a period determined by the State, but
23 may not exceed 3 years.

24 “(B) RENEWAL.—

1 “(i) LOCATION.—Subject to clause
2 (ii), the period of authorized status under
3 subparagraph (A) shall be renewable inside
4 or outside of the United States.

5 “(ii) CONDITION.—Renewals under
6 clause (i) may be granted only if—

7 “(I) the sponsoring State re-
8 quests such renewal; and

9 “(II) the State-sponsored non-
10 immigrant has resided continuously in
11 such sponsoring State, or States sub-
12 ject to an interstate compact (not in-
13 cluding any period of residence after
14 the approval of a petition for immi-
15 grant status of which the alien is a
16 beneficiary).

17 “(C) TERMINATION.—The Secretary shall
18 terminate the period of authorized status as a
19 State-sponsored nonimmigrant if—

20 “(i) the State-sponsored non-
21 immigrant resides or works outside of the
22 State, or States subject to an interstate
23 compact under paragraph (7), that spon-
24 sored the alien;

“(ii) the State-sponsored non-immigrant, after sufficient notice, fails to follow all rules and regulations required by the State, as determined by the State (following any appeals process established by the State); or

“(iii) the State that sponsored the State-sponsored nonimmigrant, after sufficient notice to such State-sponsored non-immigrant, requests termination of such status (following any appeals process established by the State) unless another State sponsors the nonimmigrant.

“(D) EMPLOYMENT AUTHORIZATION.—

“(i) IN GENERAL.—All aliens admitted as State-sponsored nonimmigrants under section 101(a)(15)(W)—

“(I) shall be authorized for employment for purposes of section 274A; and

“(II) shall be issued appropriate documentation evidencing such authorization.

“(ii) STATE REGULATION.—Notwithstanding clause (i), the employment of

1 State-sponsored nonimmigrants may be
2 regulated in a manner determined by each
3 State that participates in the State-spon-
4 sored nonimmigrant program.

5 “(iii) OCCUPATIONAL LICENSES AND
6 CREDENTIALS.—Notwithstanding any
7 other provision of law, State-sponsored
8 nonimmigrants shall be eligible to apply
9 for—

10 “(I) occupational licenses regu-
11 lated by the sponsoring State or appli-
12 cable interstate compact;

13 “(II) certificates;

14 “(III) credential evaluations; and

15 “(IV) skills assessments.

16 “(7) STATE COMPACTS.—

17 “(A) IN GENERAL.—States may enter into
18 interstate compacts for the joint implementa-
19 tion or administration of the State-sponsored
20 nonimmigrant program in such States.

21 “(B) CONSIDERATION.—A State-sponsored
22 nonimmigrant shall be considered to be spon-
23 sored by a State if the State-sponsored non-
24 immigrant is sponsored by any State subject to

1 an interstate compact under subparagraph (A)
2 and resides in any such State.

3 “(8) APPEALS.—

4 “(A) FEDERAL APPEALS.—The denial of
5 an application by a State to be a State-spon-
6 sored nonimmigrant or the request to terminate
7 the period of authorized status by a State—

8 “(i) is not reviewable by any Federal
9 department, agency, or court; and

10 “(ii) may not be grounds for an ap-
11 peal of a termination of a visa or status
12 for a State-sponsored nonimmigrant.

13 “(B) STATE APPEALS.—At the sole discre-
14 tion of the State and in a manner determined
15 by the State, a State that participates in the
16 State-sponsored nonimmigrant program may
17 create a process for a State-sponsored non-
18 immigrant or an alien that has applied for par-
19 ticipation in the State-sponsored nonimmigrant
20 program in the State to appeal an adjudication
21 of an application by the State or determination
22 by the State that the State-sponsored non-
23 immigrant violated the terms or conditions that
24 were created by the State for the participation

1 of the alien in the State-sponsored non-
2 immigrant program in the State.

3 “(9) WAIVER OF RIGHTS PROHIBITED.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (C), a State-sponsored non-
6 immigrant may not be required to waive any
7 substantive rights or protections under this Act.

8 “(B) CONSTRUCTION.—Nothing under this
9 paragraph may be construed to affect the inter-
10 pretation of any other law.

11 “(C) EXCEPTION.—Notwithstanding sub-
12 paragraph (A) or any other provision of law, an
13 alien may not be provided State-sponsored non-
14 immigrant status unless the alien has waived
15 any right—

16 “(i) to review or appeal under this Act
17 of an immigration officer’s determination
18 as to the admissibility of the alien at the
19 port of entry into the United States; or

20 “(ii) to contest or appeal, other than
21 on the basis of an application for asylum,
22 any action for removal of the alien.

23 “(10) TAX RESPONSIBILITIES.—An employer
24 shall comply with all applicable Federal, State, and

1 local tax laws with respect to each State-sponsored
2 nonimmigrant employed by the employer.

3 “(11) LABOR AND TAX LAWS.—State-sponsored
4 nonimmigrants shall be subject to all Federal, State,
5 and local laws regarding taxation, employment, or
6 hiring of persons in the State.

7 “(12) FEDERAL PUBLIC BENEFITS.—

8 “(A) IN GENERAL.—Beginning on the date
9 of participation in the State-sponsored non-
10 immigrant program, no State-sponsored non-
11 immigrant may apply for or receive any Federal
12 means-tested benefit or entitlement. For pur-
13 poses of this subparagraph, any benefits re-
14 ceived by a spouse, child, or dependent living in
15 the same household that is a United States cit-
16 izen or is otherwise eligible for such benefits
17 shall not be taken into account.

18 “(B) EMPLOYER FEE.—For purposes of
19 subsections (a)(2) and (b)(1)(B) of 4980H of
20 the Internal Revenue Code of 1986, a State-
21 sponsored nonimmigrant shall be treated as a
22 full-time employee certified as having enrolled
23 in a qualified health plan with respect to which
24 an applicable premium tax credit or cost-shar-

1 ing reduction is allowed or paid with respect to
2 the employee.

3 “(C) EMPLOYER PAYMENTS.—An employer
4 of a State-sponsored nonimmigrant shall pay
5 into the general fund of the Treasury an
6 amount equivalent to the Federal tax on the
7 wages paid to the nonimmigrants that the em-
8 ployer would be obligated to pay under chapters
9 21 and 23 of the Internal Revenue Code of
10 1986 had the nonimmigrants been subject to
11 such chapters, subject to the same penalties as
12 provided for failure to pay such tax.

13 “(D) INCLUSION OF NONIMMIGRANTS IN
14 SAVE.—Not later than 30 days after the date of
15 the enactment of the State-Sponsored Visa
16 Pilot Program Act of 2026, the Secretary shall
17 modify the Systematic Alien Verification for
18 Entitlements Program of U.S. Citizenship and
19 Immigration Services to add any status under
20 section 101(a)(15)(W) as an alien category that
21 is ineligible for the benefits and entitlements
22 described in subparagraph (A).

23 “(13) BONDS.—

24 “(A) IN GENERAL.—States may require
25 State-sponsored nonimmigrants to pay a bond

1 in an amount determined by the State to
2 incentivize voluntary compliance with the terms
3 and conditions of the State-sponsored non-
4 immigrant program.

5 “(B) STUDY.—

6 “(i) IN GENERAL.—At the end of each
7 fiscal year, the Inspector General of the
8 Department of Homeland Security and the
9 Comptroller General of the United States
10 shall each independently submit a report to
11 the congressional committees specified in
12 clause (iii) that identifies, for each State
13 that participates in the State-sponsored
14 nonimmigrant program, the percentage of
15 State-sponsored nonimmigrants that have
16 resided or worked illegally in a State other
17 than the State that sponsored them (not
18 including any State-sponsored non-
19 immigrants who are beneficiaries of ap-
20 proved immigration petitions).

21 “(ii) ASSIGNMENT.—A State-spon-
22 sored nonimmigrant who resides or works
23 illegally in a State other than the State
24 that sponsored the nonimmigrant shall be
25 assigned to the percentage of the State

1 that initially sponsored the nonimmigrant
 2 if the State participates in an interstate
 3 compact.

4 “(iii) CONGRESSIONAL COMMIT-
 5 TEES.—The congressional committees
 6 specified in this clause are—

7 “(I) the Committee on Homeland
 8 Security and Governmental Affairs of
 9 the Senate;

10 “(II) the Committee on the Judi-
 11 ciary of the Senate;

12 “(III) the Committee on Home-
 13 land Security of the House of Rep-
 14 resentatives; and

15 “(IV) the Committee on the Ju-
 16 diciary of the House of Representa-
 17 tives.

18 “(C) MANDATORY BONDS.—

19 “(i) IN GENERAL.—During the first
 20 fiscal year following a determination under
 21 subparagraph (B) by the Comptroller Gen-
 22 eral of the United States or the Inspector
 23 General of the Department of Homeland
 24 Security that more than 3 percent of the
 25 State-sponsored nonimmigrants sponsored

1 by a State violated the terms and condi-
2 tions of State-sponsored nonimmigrant sta-
3 tus in the most recently completed fiscal
4 year, the State shall require each State-
5 sponsored nonimmigrant in the State, as a
6 condition of participation in the State-
7 sponsored nonimmigrant program, to post
8 a bond equal to not less than \$4,000.

9 “(ii) SUBSEQUENT BONDS.—The bond
10 amount under clause (i) shall be raised by
11 \$1,000 during each fiscal year following a
12 subsequent determination under subpara-
13 graph (B) by the Comptroller General or
14 the Inspector General of the Department
15 of Homeland Security that more than 3
16 percent of the State-sponsored non-
17 immigrants sponsored by the State violated
18 the terms and conditions of State-spon-
19 sored nonimmigrant status in the most re-
20 cently completed fiscal year.

21 “(iii) INFLATION ADJUSTMENT.—Ef-
22 fective for the first fiscal year that begins
23 more than 6 months after the date of the
24 enactment of the State-Sponsored Visa
25 Pilot Program Act of 2026, and for each

1 fiscal year thereafter, the amounts de-
 2 scribed in this subparagraph shall be in-
 3 creased by the percentage (if any) by
 4 which the Consumer Price Index for the
 5 month of June preceding the date on
 6 which such increase takes effect exceeds
 7 the Consumer Price Index for all urban
 8 consumers published by the Department of
 9 Labor for the same month of the preceding
 10 calendar year.

11 “(D) REIMBURSEMENT OF BONDS.—

12 “(i) IN GENERAL.—Bonds paid to a
 13 State under this paragraph shall be reim-
 14 bursed to any State-sponsored non-
 15 immigrant that has not worked or resided
 16 in a State other than the State that spon-
 17 sored the nonimmigrant or otherwise re-
 18 sided in the United States without status
 19 under the immigration laws in accordance
 20 with this subparagraph.

21 “(ii) FULL REIMBURSEMENT.—The
 22 full amount of the bond shall be reim-
 23 bursed in full immediately after—

24 “(I)(aa) the alien applies to the
 25 Secretary of State (or the designee of

1 such Secretary) at a United States
2 embassy, consulate, or, if specified by
3 the Secretary, other locations outside
4 the United States; and

5 “(bb) in connection with the ap-
6 plication, the State-sponsored non-
7 immigrant confirms his or her iden-
8 tity, or verifies his or her departure at
9 such time from the United States pur-
10 suant to a biometric entry and exit
11 data system;

12 “(II) an approved petition for
13 lawful permanent residency is ap-
14 proved on behalf of the State-spon-
15 sored nonimmigrant; or

16 “(III) the State-sponsored non-
17 immigrant dies.

18 “(iii) PAYEE.—

19 “(I) DEATH OF NON-
20 IMMIGRANT.—Upon the death of a
21 State-sponsored nonimmigrant, pay-
22 ment shall be immediately paid to
23 such State-sponsored nonimmigrant’s
24 next of kin, as designated by such
25 State-sponsored nonimmigrant on the

1 application to be a State-sponsored
2 nonimmigrant.

3 “(II) BANK ACCOUNT.—A State-
4 sponsored nonimmigrant may specify
5 on the application to be a State-spon-
6 sored nonimmigrant a bank account
7 to which such amount be sent after
8 the satisfaction of a condition speci-
9 fied in clause (ii).

10 “(iv) DENIAL OF REIMBURSEMENT.—
11 Funds of a State-sponsored nonimmigrant
12 held under this paragraph may not be de-
13 nied by a State to the nonimmigrant un-
14 less the State demonstrates, by clear and
15 convincing evidence, that the non-
16 immigrant knowingly violated a term or
17 condition of State-sponsored nonimmigrant
18 status—

19 “(I) by failing to depart the
20 United States at the end of the period
21 of authorized status; or

22 “(II) working or residing in a
23 State that did not sponsor the non-
24 immigrant.

1 “(v) NOTICE.—The Secretary of
 2 State, in conjunction with the Secretary of
 3 Homeland Security, shall inform the State
 4 that the State-sponsored nonimmigrant
 5 has complied with clause (i).

6 “(14) PENALTIES.—If a State-sponsored non-
 7 immigrant works or resides outside of the State, or
 8 outside of any of the States under an interstate
 9 compact that sponsored the nonimmigrant or fails to
 10 comply with any term or condition of State-spon-
 11 sored nonimmigrant status, the Secretary shall—

12 “(A) revoke the employment authorization
 13 of such nonimmigrant; and

14 “(B) initiate removal in accordance with
 15 section 237.

16 “(15) STATE ADMINISTRATION OF PROGRAM.—

17 “(A) IN GENERAL.—Each State that par-
 18 ticipates in the State-sponsored nonimmigrant
 19 program shall establish, conduct, or maintain
 20 any assessments, programs, and enforcements
 21 related to the administration of the program, in
 22 accordance with subparagraphs (B) through
 23 (F).

24 “(B) RULES AND REGULATIONS.—The
 25 State shall enforce all the rules and regulations

1 of the State against employers who employ a
2 State-sponsored nonimmigrant to the same ex-
3 tent as the enforcement of any other labor laws
4 under State law.

5 “(C) LABOR NEEDS ASSESSMENTS.—The
6 State shall establish procedures for periodically
7 assessing labor needs in the State and the
8 State’s participation in the State-sponsored
9 nonimmigrant program.

10 “(D) WAGE ASSESSMENTS.—The State
11 shall periodically conduct occupational wage as-
12 sessments in the State to ensure the State-
13 sponsored nonimmigrant program does not de-
14 press wage levels in the State.

15 “(E) COMPLAINTS.—The State shall estab-
16 lish a mechanism for receiving and investigating
17 complaints of domestic worker displacement in
18 the State and workplace discrimination.

19 “(F) OCCUPATIONAL LICENSES.—The
20 State shall establish mechanisms for State-
21 sponsored nonimmigrants to apply for and ob-
22 tain occupational licenses regulated by the
23 State or applicable compact, certificates, cre-
24 dential evaluations, and skills assessments.

1 “(16) SUSPENSION OF PROGRAM APPROVAL.—

2 The Secretary shall suspend admissions under the
3 State-sponsored nonimmigrant program for any
4 State that fails—

5 “(A) to reimburse another State or a Fed-
6 eral agency under paragraph (15)(B) not later
7 than 1 year after a final judgment against the
8 State; or

9 “(B) to reimburse, in accordance with
10 paragraph (13)(D), a State-sponsored non-
11 immigrant who—

12 “(i) has departed the United States;

13 “(ii) did not seek employment without
14 authorization in a State that did not spon-
15 sor the nonimmigrant; and

16 “(iii) did not otherwise reside in the
17 United States without status under the im-
18 migration laws.

19 “(17) FEES.—

20 “(A) FEDERAL FEES.—A State shall pay a
21 fee to the Secretary for each year in which the
22 State participates in the State-sponsored non-
23 immigrant program in an amount determined
24 by the Secretary to be necessary to cover the

1 Federal costs of overseeing the State-sponsored
2 nonimmigrant program in the State.

3 “(B) STATE FEES.—Nothing in this sub-
4 section may be construed to limit or regulate
5 fees required by the State for State-sponsored
6 nonimmigrants or employers of State-sponsored
7 nonimmigrants.

8 “(18) NUMERICAL LIMITATIONS.—

9 “(A) IN GENERAL.—The total number of
10 aliens who may be issued visas or otherwise
11 provided State-sponsored nonimmigrant status
12 under this subsection during any fiscal year
13 may not exceed the total number of visas com-
14 puted under subparagraph (B).

15 “(B) DISTRIBUTION.—Subject to subpara-
16 graphs (C), (D), and (E), the number of State-
17 sponsored nonimmigrant visas made available in
18 a fiscal year to a State that participates in the
19 State-sponsored nonimmigrant program shall be
20 the sum of—

21 “(i) 5,000;

22 “(ii) the sum of the amounts com-
23 puted under subparagraphs (C) and (D) in
24 the most recently concluded year; and

1 “(iii) the percentage of the total popu-
2 lation in all States participating in the
3 State-sponsored nonimmigrant program
4 represented by the population of that State
5 multiplied by the sum of—

6 “(I) 245,000;

7 “(II) the number of nonpartici-
8 pating States multiplied by 5,000; and

9 “(III) the total number of visas
10 available in the previous fiscal year
11 that were revoked or not used.

12 “(C) ECONOMIC GROWTH.—The amounts
13 computed under subparagraphs (A) and (B) for
14 the most recently concluded fiscal year shall be
15 adjusted annually in proportion to the percent-
16 age increase or decrease in the Gross Domestic
17 Product of the United States in the prior year,
18 as determined by the Bureau of Economic
19 Analysis of the Department of Commerce.

20 “(D) COMPLIANCE.—

21 “(i) INCREASES.—The number of
22 State-sponsored nonimmigrant visas made
23 available to a State under subparagraph
24 (C) shall be increased by 10 percent com-
25 pared to the most recently concluded fiscal

1 year in each fiscal year immediately fol-
2 lowing a fiscal year in which fewer than 3
3 percent of the State-sponsored non-
4 immigrants sponsored by the State violated
5 the terms and conditions of State-spon-
6 sored nonimmigrant status, as determined
7 by the Inspector General of the Depart-
8 ment of Homeland Security or the Comp-
9 troller General of the United States in the
10 reports required under paragraph (13)(B).

11 “(ii) DECREASES.—The number of
12 State-sponsored nonimmigrant visas made
13 available to a State under subparagraph
14 (C) shall be decreased by 50 percent in
15 each fiscal year immediately following a
16 fiscal year in which more than 3 percent of
17 the State-sponsored nonimmigrants spon-
18 sored by the State violated the terms and
19 conditions of State-sponsored non-
20 immigrant status, as determined by the In-
21 spector General of the Department of
22 Homeland Security or the Comptroller
23 General of the United States in the reports
24 required under paragraph (13)(B).

1 “(iii) SUSPENSION.—State-sponsored
2 nonimmigrant visas shall not be made
3 available for a State during the 5-year pe-
4 riod following 4 consecutive fiscal years in
5 which more than 3 percent of the State-
6 sponsored nonimmigrants sponsored by the
7 State violated the terms and conditions of
8 State-sponsored nonimmigrant status, as
9 determined by the Inspector General of the
10 Department of Homeland Security or the
11 Comptroller General of the United States
12 in the reports required under paragraph
13 (13)(B).

14 “(E) PRINCIPAL ALIENS.—

15 “(i) IN GENERAL.—The numerical
16 limitations under this paragraph shall only
17 apply to principal aliens being admitted to
18 the United States from another country
19 and not to aliens accompanying or fol-
20 lowing to join the principal alien under sec-
21 tion 101(a)(15)(W)(ii) or aliens who were
22 previously admitted.

23 “(ii) STATE EXCLUSION.—The Sec-
24 retary may not grant a visa or non-
25 immigrant status to an alien who is not

1 the principal alien sponsored by a State if
2 the State request that no such aliens be
3 admitted.

4 “(19) ADMISSIBILITY DETERMINATION.—

5 “(A) IN GENERAL.—At the request of a
6 State that participates in the State-based non-
7 immigrant program, the Secretary shall waive
8 the grounds of inadmissibility under subpara-
9 graphs (A), (B), (C), and (G) of section
10 212(a)(6), paragraphs (7) and (9) of section
11 212(a), and sections 240B(d)(1)(B) and
12 241(a)(5) and the grounds of deportability
13 under subparagraphs (A) through (D) of sec-
14 tion 237(a)(1) and section 237(a)(3) on behalf
15 of an alien described in subparagraph (B).

16 “(B) ALIENS DESCRIBED.—An alien de-
17 scribed in this subparagraph is an alien who—

18 “(i) was physically present in the
19 United States on December 31, 2016;

20 “(ii) is sponsored by a State under
21 the State-based nonimmigrant program;

22 “(iii) otherwise meets the require-
23 ments of State-based nonimmigrant status
24 under paragraph (5); and

1 “(iv) fulfills the requirements under
2 paragraph (20).

3 “(C) SAVINGS PROVISION.—Nothing in
4 this paragraph may be construed to exempt an
5 alien described in subparagraph (B) or exempt
6 a State from the numerical limitation under
7 paragraph (18).

8 “(20) REQUIREMENTS.—

9 “(A) APPLICATION.—An alien may apply
10 to the Secretary for a waiver of inadmissibility
11 or deportability under paragraph (19)(A) con-
12 currently with an application for a visa or
13 State-sponsored nonimmigrant status under
14 section 101(a)(15)(W).

15 “(B) EVIDENCE OF PRESENCE OR EM-
16 PLOYMENT.—

17 “(i) CONCLUSIVE DOCUMENTS.—An
18 alien may conclusively demonstrate pres-
19 ence in the United States in compliance
20 with paragraph (19)(B)(i) by submitting
21 records demonstrating such presence that
22 have been maintained by the Social Secu-
23 rity Administration, the Internal Revenue
24 Service, or any other Federal, State, or

1 local government agency or educational in-
2 stitution.

3 “(ii) OTHER DOCUMENTS.—An alien
4 who is unable to submit a document de-
5 scribed in subparagraph (A) may satisfy
6 the requirements under this section by sub-
7 mitting at least 3 other types of reliable
8 documents that provide evidence of pres-
9 ence, employment, or study in the United
10 States, including—

11 “(I) bank or remittance records;

12 “(II) business or employer
13 records;

14 “(III) records of any organiza-
15 tion that assists workers in employ-
16 ment;

17 “(IV) education records; and

18 “(V) deeds, mortgages, or con-
19 tracts to which the alien has been a
20 party.

21 “(C) FEES.—

22 “(i) IN GENERAL.—An alien submit-
23 ting an application pursuant to subpara-
24 graph (A) shall pay a fee in an amount de-
25 termined by the Secretary to be necessary

1 to cover the cost of adjudicating the appli-
2 cation and reviewing the application for
3 fraud.

4 “(ii) PENALTY.—In addition to the
5 fee under clause (i), an alien seeking a
6 waiver under paragraph (19) shall pay a
7 penalty of not less than \$1,000, which
8 shall be deposited into the general fund of
9 the Treasury of the United States after the
10 approval of the application under subpara-
11 graph (A).

12 “(D) CRIMINAL PENALTY.—

13 “(i) VIOLATION.—It shall be unlawful
14 for any person to knowingly—

15 “(I) file, or assist in filing, an
16 application under this paragraph if
17 such application—

18 “(aa) falsifies, misrepres-
19 ents, conceals, or covers up a
20 material fact;

21 “(bb) makes any false, ficti-
22 tious, or fraudulent statements or
23 representations; or

24 “(cc) makes or uses any
25 false writing or document know-

1 ing the same to contain any false,
2 fictitious, or fraudulent state-
3 ment or entry; or

4 “(II) create or supply a false
5 writing or document for use in mak-
6 ing such an application.

7 “(ii) PENALTY.—Any person who vio-
8 lates clause (i) shall be fined in accordance
9 with title 18, United States Code, impris-
10 oned not more than 5 years, or both.

11 “(iii) INADMISSIBILITY.—An alien
12 who is convicted of violating clause (i) shall
13 be considered to be inadmissible to the
14 United States on the ground described in
15 section 212(a)(6)(C)(i) and shall be subject
16 to immediate removal from the United
17 States.

18 “(E) FRAUD PREVENTION PROGRAM.—The
19 Secretary and the Attorney General shall jointly
20 develop an administrative program to prevent
21 fraud with respect to applications submitted
22 under this paragraph that provides for—

23 “(i) fraud prevention training for ad-
24 ministrative adjudicators;

1 “(ii) the regular audit of pending and
 2 approved applications for examples and
 3 patterns of fraud or abuse;

4 “(iii) the receipt and evaluation of re-
 5 ports of fraud or abuse;

6 “(iv) the identification of deficiencies
 7 in administrative practice or procedure
 8 that encourage fraud or abuse;

9 “(v) the remedy of any identified defi-
 10 ciencies; and

11 “(vi) the referral of cases of identified
 12 or suspected fraud or other misconduct for
 13 investigation.

14 “(F) INELIGIBLE ALIENS.—

15 “(i) REMOVAL AUTHORIZED.—Except
 16 as provided in clause (ii), if the Secretary
 17 makes a final determination to deny an ap-
 18 plication under this subsection, the Sec-
 19 retary shall place the applicant in removal
 20 proceedings to which the alien would other-
 21 wise be subject.

22 “(ii) ALIENS WITH PRIOR ORDERS.—
 23 If the final determination to deny an appli-
 24 cation under this subsection concerns an
 25 alien with an existing order of exclusion,

1 deportation, removal, or voluntary depar-
2 ture from the United States, such order
3 shall be enforced to the same extent as if
4 such application had not been made.

5 “(G) EMPLOYMENT RECORDS.—Copies of
6 employment records or other evidence of em-
7 ployment provided by an alien or by an alien’s
8 employer in support of an alien’s application
9 under this subsection may not be used in a civil
10 or criminal prosecution or investigation of that
11 employer under section 247A or the tax laws of
12 the United States for the prior unlawful em-
13 ployment of such alien, regardless of the adju-
14 dication of such application or reconsideration
15 by the Secretary of such alien’s prima facie eli-
16 gibility determination. Employers that provide
17 unauthorized aliens with copies of employment
18 records or other evidence of employment pursu-
19 ant to an application under this title shall not
20 be subject to civil and criminal liability pursu-
21 ant to such section 274A for employing such
22 unauthorized aliens. The protections for em-
23 ployers and aliens shall not apply if the aliens
24 or employers submit employment records that
25 are deemed to be fraudulent.

1 “(H) RULE OF CONSTRUCTION.—Nothing
 2 in this subsection may be construed to limit the
 3 authority of a State to require additional mone-
 4 tary penalties, other evidence of physical pres-
 5 ence, or any other requirement for aliens de-
 6 scribed in paragraph (19)(B) to participate in
 7 the State-based nonimmigrant program in such
 8 State.”.

9 (b) JUDICIAL REVIEW.—Section 242(a)(2) of the Im-
 10 migration and Nationality Act (8 U.S.C. 1252(a)(2)) is
 11 amended by adding at the end the following:

12 “(E) JUDICIAL REVIEW OF CERTAIN ELIGI-
 13 BILITY DETERMINATIONS.—If an alien’s appli-
 14 cation under section 214(s)(20) is denied or re-
 15 voked, judicial review—

16 “(i) shall be instituted in the United
 17 States District Court for the District of
 18 Columbia; and

19 “(ii) shall be limited to determinations
 20 of the constitutionality of section 214(s),
 21 or any regulations implemented pursuant
 22 to such section.”.

23 (c) NONIMMIGRANTS WITH APPROVED IMMIGRANT
 24 PETITIONS.—Section 245 of the Immigration and Nation-
 25 ality Act (8 U.S.C. 1255) is amended—

1 (1) in subsection (a)—

2 (A) by striking “if (1) the alien” and in-
3 serting the following: “if—

4 “(1) the alien”;

5 (B) by striking “adjustment, (2) the alien”
6 and inserting the following: “adjustment;

7 “(2) the alien”;

8 (C) by striking “residence, and (3) an im-
9 migrant visa” and inserting the following: “resi-
10 dence; and

11 “(3) an immigrant visa”; and

12 (D) in paragraph (3), by striking “him at
13 the time his application is filed” and inserting
14 “the alien at the time the alien’s application is
15 adjudicated”; and

16 (2) by adding at the end the following:

17 “(o) ADJUSTMENT OF STATUS APPLICATION AFTER
18 AN APPROVED IMMIGRANT PETITION.—

19 “(1) APPLICATION.—An alien who has an ap-
20 proved immigrant petition may file an adjustment of
21 status application under subsection (a), which shall
22 remain pending until a visa number becomes avail-
23 able.

24 “(2) STATUS.—An alien who has properly filed
25 an adjustment of status application pursuant to sub-

1 section (a) shall, throughout the pendency of such
2 application—

3 “(A) have a lawful status and be consid-
4 ered lawfully present for purposes of section
5 212; and

6 “(B) following a biometric background
7 check, be eligible for employment and travel au-
8 thorization incident to such status.”.

9 **SEC. 4. RULEMAKING.**

10 Not later than 180 days after the date of the enact-
11 ment of this Act, the Secretary of Homeland Security, in
12 consultation with the Secretary of Labor and the Attorney
13 General, shall promulgate regulations to carry out and im-
14 plement the State-sponsored nonimmigrant program au-
15 thorized under section 214(s) of the Immigration and Na-
16 tionality Act, as added by section 3 of this Act.

17 **SEC. 5. EFFECTIVE DATE.**

18 The amendments made by this Act shall take effect
19 on the first day of the first fiscal year that begins after
20 the date of the enactment of this Act.

