

113TH CONGRESS
1ST SESSION

S. 189

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2013

Mr. UDALL of Colorado (for himself, Mr. FLAKE, Mrs. GILLIBRAND, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

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 “StartUp Visa Act of
5 2013”.

6 **SEC. 2. STARTUP VISAS.**

7 (a) IN GENERAL.—Section 203(b) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 203(b)) is amended—

1 (1) by redesignating paragraph (6) as para-
2 graph (7); and

3 (2) by inserting after paragraph (5) the fol-
4 lowing:

5 “(6) SPONSORED ENTREPRENEURS.—

6 “(A) IN GENERAL.—StartUp visas shall be
7 made available, from the number of visas allo-
8 cated under paragraph (5), to qualified immi-
9 grant entrepreneurs—

10 “(i)(I) who have proven that a quali-
11 fied venture capitalist, a qualified super
12 angel investor, or a qualified government
13 entity, as determined by the Secretary of
14 Homeland Security, has invested not less
15 than \$100,000 on behalf of each such en-
16 trepreneur; and

17 “(II) whose commercial activities will,
18 during the 2-year period beginning on the
19 date on which the visa is issued under this
20 subparagraph—

21 “(aa) create not fewer than 5
22 new full-time jobs in the United
23 States employing people other than
24 the immigrant’s spouse, sons, or
25 daughters;

1 “(bb) raise not less than
2 \$500,000 in capital investment in fur-
3 therance of a commercial entity based
4 in the United States; or

5 “(cc) generate not less than
6 \$500,000 in revenue;

7 “(ii)(I) who—

8 “(aa) hold an unexpired H1–B
9 visa; or

10 “(bb) have completed a graduate
11 level degree in science, technology, en-
12 gineering, math, computer science, or
13 other relevant academic discipline
14 from an accredited United States col-
15 lege, university, or other institution of
16 higher education;

17 “(II) who demonstrate—

18 “(aa) annual income of not less
19 than 250 percent of the Federal pov-
20 erty level; or

21 “(bb) the possession of assets
22 equivalent to not less than 2 years of
23 income at 250 percent of the Federal
24 poverty level; and

1 “(III) who have proven that a quali-
2 fied venture capitalist, a qualified super
3 angel investor, or a qualified government
4 entity, as determined by the Secretary of
5 Homeland Security, has invested not less
6 than \$20,000 on behalf of each such entre-
7 preneur; or

8 “(iii) who have a controlling interest
9 in a foreign company—

10 “(I) that has generated, during
11 the most recent 12-month period, not
12 less than \$100,000 in revenue from
13 sales in the United States; and

14 “(II) whose commercial activities,
15 during the 2-year period beginning on
16 the date on which the visa is issued
17 under this subparagraph, will—

18 “(aa) create not fewer than
19 3 new full-time jobs in the
20 United States that employ people
21 other than the immigrant’s
22 spouse, sons, or daughters;

23 “(bb) raise not less than
24 \$100,000 in capital investment in

1 furtherance of a commercial enti-
2 ty based in the United States; or

3 “(cc) generate not less than
4 \$100,000 in revenue.

5 “(B) REVOCATION.—If the Secretary of
6 Homeland Security determines that the com-
7 mercial activities of an alien who received a
8 StartUp visa pursuant to subparagraph
9 (A)(i)(II) fail to meet the requirements under
10 such subparagraph, the Secretary shall, not
11 later than 1 year after the end of the applicable
12 2-year period described in such subparagraph—

13 “(i) revoke such visa; and

14 “(ii) notify the alien that he or she—

15 “(I) may voluntarily depart from
16 the United States in accordance to
17 section 240B; or

18 “(II) will be subject to removal
19 proceedings under section 240 if the
20 alien does not depart from the United
21 States not later than 6 months after
22 receiving such notification.

23 “(C) DEFINITIONS.—In this paragraph:

1 “(i) QUALIFIED SUPER ANGEL INVES-
2 TOR.—The term ‘qualified super angel in-
3 vestor’ means an individual who—

4 “(I) is an accredited investor (as
5 defined in section 230.501(a) of title
6 17, Code of Federal Regulations);

7 “(II) is a United States citizen;
8 and

9 “(III) has made at least 2 equity
10 investments of not less than \$50,000
11 in each of the previous 3 years.

12 “(ii) QUALIFIED VENTURE CAPI-
13 TALIST.—The term ‘qualified venture capi-
14 talist’ means an entity that—

15 “(I) is classified as a ‘venture
16 capital operating company’ under sec-
17 tion 2510.3–101(d) of title 29, Code
18 of Federal Regulations;

19 “(II) is based in the United
20 States;

21 “(III) is comprised of partners,
22 the majority of whom are United
23 States citizens;

24 “(IV) has capital commitments of
25 not less than \$10,000,000;

1 “(V) has been operating for at
2 least 2 years; and

3 “(VI) has made at least 2 invest-
4 ments of not less than \$500,000 dur-
5 ing each of the most recent 2 years.”.

6 (b) CONDITIONAL PERMANENT RESIDENT STA-
7 TUS.—Section 216A of the Immigration and Nationality
8 Act (8 U.S.C. 1186b) is amended—

9 (1) by striking “Attorney General” each place
10 such term appears and inserting “Secretary of
11 Homeland Security”;

12 (2) in subsection (a)—

13 (A) in paragraph (1)—

14 (i) by striking “(as defined in sub-
15 section (f)(1))” and inserting “, sponsored
16 entrepreneur”; and

17 (ii) by striking “(as defined in sub-
18 section (f)(2)) shall” and inserting “shall
19 each”; and

20 (B) in paragraph (2)(A), by inserting
21 “sponsored entrepreneur,” after “alien entre-
22 preneur,”;

23 (3) in subsection (b), by adding at the end the
24 following:

1 “(3) SPONSORED ENTREPRENEURS.—The Sec-
2 retary of Homeland Security shall terminate the per-
3 manent resident status of a sponsored entrepreneur
4 and the alien spouse and children of such entre-
5 preneur if the Secretary determines, not later than
6 3 years after the date on which such permanent resi-
7 dent status was conferred, that—

8 “(A) the qualified venture capitalist or
9 qualified super angel investor who sponsored
10 the entrepreneur failed to meet the investment
11 requirements under section 203(b)(6)(A)(i); or

12 “(B) the entrepreneur failed to meet the
13 job creation, capital investment, or revenue gen-
14 eration requirements under section
15 203(b)(6)(A)(ii).”;

16 (4) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) in the matter preceding subpara-
19 graph (A), by inserting “sponsored entre-
20 preneur,” after “alien entrepreneur,”; and

21 (ii) by striking “alien entrepreneur
22 must” each place such term appears and
23 inserting “entrepreneur shall”; and

24 (B) in paragraph (3)—

1 (i) in subparagraph (A)(ii), by insert-
2 ing “or sponsored entrepreneur” after
3 “alien entrepreneur”; and

4 (ii) in subparagraph (C), by inserting
5 “sponsored entrepreneur,” after “alien en-
6 trepreneur”;

7 (5) in subsection (d)(1)—

8 (A) in the matter preceding subparagraph
9 (A), by striking “alien” and inserting “alien en-
10 trepreneur or sponsored entrepreneur, as appli-
11 cable”;

12 (B) in clause (i), by striking “invested, or
13 is actively in the process of investing,” and in-
14 serting “has invested, is actively in the process
15 of investing, or has been sponsored by a quali-
16 fied super angel investor or qualified venture
17 capitalist who has invested,”; and

18 (C) in clause (ii), by inserting “or
19 203(b)(6), as applicable” before the period at
20 the end; and

21 (6) in subsection (f), by adding at the end the
22 following:

23 “(4) The term ‘sponsored entrepreneur’ means
24 an alien who obtains the status of an alien lawfully

1 admitted for permanent residence under section
2 203(b)(6).”.

3 **SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

4 (a) IN GENERAL.—Not later than 2 years after the
5 date of the enactment of this Act, the Comptroller General
6 of the United States shall submit a report to Congress
7 on the StartUp Visa Program, authorized under section
8 203(b)(6) of the Immigration and Nationality Act, as
9 added by section 2.

10 (b) CONTENTS.—The report described in subsection
11 (a) shall include information regarding—

12 (1) the number of immigrant entrepreneurs who
13 have received a visa under the immigrant entre-
14 preneurs program established under section
15 203(b)(6) of the Immigration and Nationality Act,
16 listed by country of origin;

17 (2) the localities in which such immigrant en-
18 trepreneurs have initially settled;

19 (3) whether such immigrant entrepreneurs gen-
20 erally remain in the localities in which they initially
21 settle;

22 (4) the types of commercial enterprises that
23 such immigrant entrepreneurs have established; and

- 1 (5) the types and number of jobs created by
- 2 such immigrant entrepreneurs.

○