

116TH CONGRESS
1ST SESSION

S. 386

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.

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 2019”.

1 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**
 2 **STATE.**

3 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
 4 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
 5 amended to read as follows:

6 “(2) PER COUNTRY LEVELS FOR FAMILY-SPON-
 7 SORED IMMIGRANTS.—Subject to paragraphs (3)
 8 and (4), the total number of immigrant visas made
 9 available to natives of any single foreign state or de-
 10 pendent area under section 203(a) in any fiscal year
 11 may not exceed 15 percent (in the case of a single
 12 foreign state) or 2 percent (in the case of a depend-
 13 ent area) of the total number of such visas made
 14 available under such section in that fiscal year.”.

15 (b) CONFORMING AMENDMENTS.—Section 202 of
 16 such Act (8 U.S.C. 1152) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (3), by striking “both
 19 subsections (a) and (b) of section 203” and in-
 20 serting “section 203(a)”; and

21 (B) by striking paragraph (5); and

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

24 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
 25 If the total number of immigrant visas made available
 26 under section 203(a) to natives of any single foreign state

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

11 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
 12 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
 13 note) is amended—

14 (1) in subsection (a), by striking “(as defined
 15 in subsection (e))”;

16 (2) by striking subsection (d); and

17 (3) by redesignating subsection (e) as sub-
 18 section (d).

19 (d) EFFECTIVE DATE.—The amendments made by
 20 this section shall take effect as if enacted on September
 21 30, 2019, and shall apply to fiscal year 2020 and each
 22 subsequent fiscal year.

23 (e) TRANSITION RULES FOR EMPLOYMENT-BASED
 24 IMMIGRANTS.—

1 (1) IN GENERAL.—Subject to paragraphs (2)
2 through (5), and notwithstanding title II of the Im-
3 migration and Nationality Act (8 U.S.C. 1151 et
4 seq.), the following rules shall apply:

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

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

21 (C) For fiscal year 2022, 10 percent of the
22 immigrant visas made available under each of
23 such paragraphs shall be allotted to immigrants
24 who are natives of a foreign state or dependent
25 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

1 203(b) of the Immigration and Nationality Act (8
2 U.S.C. 1153(b)) from being issued, such visas may
3 be issued during the remainder of such fiscal year
4 without regard to paragraphs (1) and (2).

5 (4) TRANSITION RULE FOR CURRENTLY AP-
6 PROVED BENEFICIARIES.—

7 (A) IN GENERAL.—Notwithstanding sec-
8 tion 202 of the Immigration and Nationality
9 Act, as amended by this Act, immigrant visas
10 under section 203(b) of the Immigration and
11 Nationality Act (8 U.S.C. 1153(b)) shall be al-
12 located such that no alien described in subpara-
13 graph (B) receives a visa later than the alien
14 otherwise would have received said visa had this
15 Act not been enacted.

16 (B) ALIEN DESCRIBED.—An alien is de-
17 scribed in this subparagraph if the alien is the
18 beneficiary of a petition for an immigrant visa
19 under section 203(b) of the Immigration and
20 Nationality Act (8 U.S.C. 1153(b)) that was
21 approved prior to the date of enactment of this
22 Act.

23 (5) RULES FOR CHARGEABILITY.—Section
24 202(b) of such Act (8 U.S.C. 1152(b)) shall apply

- 1 in determining the foreign state to which an alien is
- 2 chargeable for purposes of this subsection.

