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S.169 - I-Squared Act of 2013, 113th Congress (2013-2014)

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[1]

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[Congressional Bills 113th Congress]
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113th CONGRESS
1st Session

S. 169

To amend the Immigration and Nationality Act to authorize additional visas for well-educated aliens to live and work in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 29, 2013

Mr. Hatch (for himself, Ms. Klobuchar, Mr. Rubio, Mr. Coons, Mr. Flake, Mrs. Shaheen, Mr. Heller, Mr. Blumenthal, Mr. Hoeven, Mr. Warner, Mr. Nelson, and Mr. Schatz) 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 authorize additional visas for well-educated aliens to live and work in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the ``Immigration Innovation Act of 2013'' or the ``I-Squared Act of 2013''.

SEC. 2. TABLE OF CONTENTS.

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Sec. 1. Short title.

Sec. 2. Table of contents.

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TITLE I--EMPLOYMENT-BASED NONIMMIGRANT VISAS

SEC. 101. MARKET-BASED H-1B VISA LIMITS.

(a) In General.--Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended--

(1) in paragraph (1)--

(A) in the matter preceding subparagraph (A), by striking ``(beginning with fiscal year 1992)''; and

(B) by amending subparagraph (A) to read as follows:

``(A) under section 101(a)(15)(H)(i)(b) may not exceed the sum of--

``(i) the base allocation calculated under paragraph (9)(A); and

``(ii) the allocation adjustment calculated under paragraph (9)(B); and'';

(2) in paragraph (5)--

(A) in subparagraph (B), by striking ``or'' at the end; and

(B) in subparagraph (C), by striking ``, until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.''' and inserting ``; or'';

(3) in paragraph (8), by striking subparagraphs (B)(iv) and (D);

(4) by redesignating paragraph (10) as subparagraph (D) of paragraph (9);

(5) by redesignating paragraph (9) as paragraph (10); and

(6) by inserting after paragraph (8) the following:

``(9)(A) The base allocation of nonimmigrant visas under section 101(a)(15)(H)(i)(b) for each fiscal year shall be equal to--

``(i) the sum of--

``(I) the base allocation for the most recently completed fiscal year; and

``(II) the allocation adjustment for the most recently completed fiscal year;

``(ii) if the number calculated under clause (i) is less than 115,000, 115,000; or

``(iii) if the number calculated under clause (i) is more

than 300,000, 300,000.

((B)(i) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) during the first 45 days petitions may be filed for a fiscal year is equal to the base allocation for such fiscal year, an additional 20,000 such visas shall be made available beginning on the 46th day on which petitions may be filed for such fiscal year.

((ii) If the base allocation of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 15-day period ending on the 60th day on which petitions may be filed for such fiscal year, an additional 15,000 such visas shall be made available beginning on the 61st day on which petitions may be filed for such fiscal year.

((iii) If the base allocation of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 30-day period ending on the 90th day on which petitions may be filed for such fiscal year, an additional 10,000 such visas shall be made available beginning on the 91st day on which petitions may be filed for such fiscal year.

((iv) If the base allocation of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 185-day period ending on the 275th day on which petitions may be filed for such fiscal year, an additional 5,000 such visas shall be made available beginning on the date on which such allocation is reached.

((v) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 5,000 fewer than the base allocation, but is not more than 9,999 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -5,000.

((vi) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 10,000 fewer than the base allocation, but not more than 14,999 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -10,000.

((vii) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 15,000 fewer than the base allocation, but not more than 19,999 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -15,000.

((viii) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 20,000 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -20,000.''

(b) Reporting Requirement.--The Secretary of Homeland Security shall--

(1) timely upload to a public website data that summarizes the adjudication of nonimmigrant petitions under section 101(a)(15)(H)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(b)) during each fiscal year; and

(2) allow the timely adjustment of visa allocations under section 214(g)(9)(B) of such Act, as added by subsection (a).

SEC. 102. EMPLOYMENT AUTHORIZATION FOR DEPENDENTS OF H-1B NONIMMIGRANTS.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended--

(1) by striking ``Attorney General'' each place such term appears and inserting ``Secretary of Homeland Security''; and

(2) in paragraph (2), by amending subparagraph (E) to read

as follows:

- ``(E) The Secretary of Homeland Security shall--
 - ``(i) authorize an alien spouse admitted under subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is accompanying or following to join the principal alien to engage in employment in the United States; and
 - ``(ii) provide the spouse with an 'employment authorized' endorsement or other appropriate work permit.''

SEC. 103. ELIMINATING IMPEDIMENTS TO WORKER MOBILITY.

(a) Deference to Prior Approvals.--Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

``(9) The Secretary of Homeland Security may not deny a petition to extend the status of a nonimmigrant admitted under subparagraph (H)(i)(b) or (L) of section 101(a)(15) in which the petition involves the same alien and petitioner unless the Secretary determines that--

``(A) there was a material error with regard to the previous petition approval;

``(B) a substantial change in circumstances has taken place that renders the nonimmigrant ineligible for such status under this Act; or

``(C) new material information has been discovered that adversely impacts the eligibility of the employer or the nonimmigrant.''

(b) Effect of Employment Termination.--Section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)) is amended by adding at the end the following:

``(3) A nonimmigrant admitted under section 101(a)(15)(H)(i)(b) whose employment relationship terminates before the expiration of the nonimmigrant's period of authorized admission shall be deemed to have retained such legal status throughout the entire 60-day period beginning on the date such employment is terminated if an employer files a petition to extend, change, or adjust the status of the nonimmigrant at any point during such period.''

(c) Visa Revalidation.--Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting 'The Secretary of State shall authorize an alien admitted under subparagraph (E), (H), (L), (O), or (P) of section 101(a)(15) to renew his or her nonimmigrant visa in the United States if the alien has remained eligible for such status.''

TITLE II--STUDENT VISAS

SEC. 201. AUTHORIZATION OF DUAL INTENT.

(a) Definition.--Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) is amended by striking 'which he has no intention of abandoning'.

(b) Presumption of Status; Intention To Abandon Foreign Residence.--Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended--

(1) in subsection (b), by striking '(L) or (V)' and inserting '(F), (L), or (V)'; and

(2) in subsection (h), by striking '(H)(i)(b) or (c)' and inserting '(F), (H)(i)(b), (H)(i)(c)'.

TITLE III--EMPLOYMENT-BASED IMMIGRANT VISAS

SEC. 301. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

(a) In General.--Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

``(2) Per country levels for family-sponsored immigrants.-- Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year

may not exceed 15 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 made available under such section in that fiscal year.''.

(b) Conforming Amendments.--Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended--

(1) in subsection (a)--

(A) in paragraph (3), by striking ``both subsections (a) and (b) of section 203'' and inserting ``section 203(a)''; and

(B) by striking paragraph (5); and

(2) by amending subsection (e) to read as follows:

``(e) Special Rules for Countries at Ceiling.--If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that state or area shall be allocated under section 203(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).''.

(c) Country-Specific Offset.--Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended--

(1) in subsection (a), by striking ``subsection (e)'' and inserting ``subsection (d)''; and

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

(d) Effective Date.--The amendments made by this section shall take effect on October 1, 2013, and shall apply to fiscal years beginning with fiscal year 2014.

SEC. 302. RECAPTURING LOST EMPLOYMENT-BASED IMMIGRANT VISAS.

Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

``(d) Worldwide Level of Employment-Based Immigrants.--

``(1) In general.--The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of--

``(A) 140,000; and

``(B) the number computed under paragraph (2).

``(2) Unused visas.--The number computed under this paragraph is the difference, if any, between--

``(A) the sum of the worldwide levels established under paragraph (1) for fiscal years 1992 through the current fiscal year; and

``(B) the number of visas actually issued under section 203(b), subject to this subsection, during such fiscal years.''.

SEC. 303. ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATION.

(a) In General.--Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

``(F) Aliens who are the spouse or a child of an alien admitted as an employment-based immigrant under section 203(b).

``(G) Aliens who have earned a master's or higher degree in a field listed on the STEM Designated Degree Program List published by the Department of Homeland Security on the Student and Exchange Visitor Program

website from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).

“(H) Aliens for whom a petition for an employment-based immigrant visa under paragraph (A) or (B) of section 203(b)(1) has been approved.”.

(b) Conforming Amendments.--Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended--

(1) in paragraph (1), by striking “28.6 percent” and inserting “12 percent”;

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “36.9 percent”; and

(3) in paragraph (3)--

(A) in subparagraph (A), by striking “28.6 percent” and inserting “36.9 percent”;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

TITLE IV--STEM EDUCATION FUNDING

SEC. 401. FUNDING FOR STEM EDUCATION AND TRAINING.

(a) Nonimmigrant Fee Adjustment and Allocation.--Section 214(c)(9) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(9)) is amended--

(1) by amending subparagraph (B) to read as follows:

“(B) The amount of the fee imposed under this paragraph shall be--

“(i) \$1,250 for each such petition filed by an employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer); and

“(ii) \$2,500 for each such petition filed by an employer with more than 25 such employees.”; and

(2) by amending subparagraph (C) to read as follows:

“(C) Fees collected under this paragraph shall be distributed as follows:

“(i) Of the amounts collected pursuant to subparagraph (B)(i)--

“(I) \$750 shall be deposited in the Treasury in accordance with section 286(s); and

“(II) \$500 shall be deposited in the Treasury in accordance with section 286(w).

“(ii) Of the amounts collected pursuant to subparagraph (B)(ii)--

“(I) \$1,500 shall be deposited in the Treasury in accordance with section 286(s); and

“(II) \$1,000 shall be deposited in the Treasury in accordance with section 286(w).”.

(b) Conforming Amendment.--Section 286(s)(1) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(1)) is amended by striking the last sentence and inserting “There shall be deposited as offsetting receipts into the account a portion of the fees collected under paragraphs (9) and (11) of section 214(c).”.

(c) Immigrant Fee.--Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended by adding at the end the following:

“(7) Funding for stem education and training.--The Secretary of Homeland Security shall impose a fee of \$1,000 on each I-140 immigrant visa petition filed under this subsection. Amounts collected under this paragraph shall be deposited into the Treasury in accordance with section 286(w).”.

SEC. 402. PROMOTING AMERICAN INGENUITY ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

“(w) Promoting American Ingenuity Account.--

“(1) In general.--There is established in the general fund of the Treasury a separate account, which shall be known as the ‘Promoting American Ingenuity Account’. There shall be deposited as offsetting receipts into the account fees collected under section 203(b)(7) and a portion of the fees collected under section 214(c)(9). Amounts deposited into the account shall remain available to the Secretary of Education until expended.

“(2) Purposes.--The purposes of the Promoting American Ingenuity Account are to enhance the economic competitiveness of the United States by--

“(A) strengthening STEM education, including in computer science, at all levels;

“(B) ensuring that schools have access to well-trained and effective STEM teachers;

“(C) supporting efforts to strengthen the elementary and secondary curriculum, including efforts to make courses in computer science more broadly available; and

“(D) helping colleges and universities produce more graduates in fields needed by American employers.

“(3) Allocation of funds.--

“(A) National activities.--The Secretary of Education may reserve up to 5 percent of the amounts deposited into the Promoting American Ingenuity Account for national research, development, demonstration, evaluation, and dissemination activities carried out directly or through grants, contracts, or cooperative agreements, including--

“(i) activities undertaken jointly with other Federal agencies, such as STEM mission agencies; and

“(ii) grants to non-profit organizations for nationally significant activities consistent with the purposes of the Immigration Innovation Act of 2013.

“(B) Allocations to states.--

“(i) In general.--Subject to clause (ii), the Secretary of Education shall proportionately allocate the remaining amounts deposited into the account to the States each fiscal year in an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year.

“(ii) Minimum allocations.--No State shall receive less than an amount equal to 0.5 percent of the total amount made available to all States from the Promoting American Ingenuity Account. If a State does not request an allocation from the Account for a fiscal

year, the Secretary shall reallocate the State's allocation to the remaining States in accordance with this section.''.

SEC. 403. STEM EDUCATION GRANT APPLICATION PROCESS.

(a) Application.--Each State desiring to receive an allocation from the Promoting American Ingenuity Account established under section 286(w) of the Immigration and Nationality Act (8 U.S.C. 1356(w)) submit an application to the Secretary of Education that describes how the State plans to improve STEM education to meet the needs of employers in the State, at such time, in such form, and including such information as the Secretary may prescribe.

(b) Approval.--The Secretary of Education shall approve any application submitted under subsection (a) that meets the requirements prescribed by the Secretary if the Secretary determines, after evaluating the recommendations of peer reviewers, that the State's plan for the use of funds would be successful in making progress toward meeting the purposes set forth in section 286(w)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(w)(2)).

SEC. 404. APPROVED ACTIVITIES.

A State or other entity that receives funding from the Promoting American Ingenuity Account may use such funding--

(1) to strengthen the State's academic achievement standards in science, technology, engineering, and mathematics (STEM);

(2) to implement strategies for the recruitment, training, placement, and retention of teachers in STEM fields, including computer science;

(3) to carry out initiatives designed to assist students in succeeding and graduating from postsecondary STEM programs;

(4) to improve the availability and access to STEM-related worker training programs, including community college courses and programs; and

(5) for other activities approved by the Secretary of Education to improve STEM education.

SEC. 405. NATIONAL EVALUATION.

(a) In General.--Using amounts reserved under section 286(w)(3)(A) of the Immigration and Nationality Act, as added by section 402, the Secretary of Education shall conduct, directly or through a grant or contract, an annual evaluation of the implementation and impact of the activities funded by the Promoting American Ingenuity Account.

(b) Annual Report.--The Secretary shall submit a report describing the results of each evaluation conducted under subsection (a) to--

(1) the President;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on the Judiciary of the House of Representatives;

(4) the Committee on Health, Education, Labor, and Pensions of the Senate; and

(5) the Committee on Education and the Workforce of the House of Representatives.

(c) Dissemination.--The Secretary shall make the findings of the evaluation widely available to educators, the business community, and the public.

SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title may be construed to permit the Secretary of Education or any other Federal official to approve the content or academic achievement standards of a State.

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