AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
1ST SESSION

S. 1746

To amend the Immigration and Nationality Act to stimulate international tourism to the United States.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2011

Mr. SCHUMER (for himself and Mr. LEE) 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 stimulate international tourism to the United States.

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 ''Visa Improvements to Stimulate International Tourism to the United States of America Act'' or the ''VISIT USA Act''.

SEC. 2. MULTIPLE ENTRY VISAS FOR NATIONALS OF CHINA.

Section 214(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(2)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

''(A)(i) Notwithstanding paragraph (1) and except as provided in clause (ii), the Secretary of State shall ensure that a nonimmigrant visa issued pursuant to section 101(a)(15)(B) to an alien described in clause (iii)—

''(I) is valid for a period of not less than 5 years; and

''(II) permits unlimited entry into and exit from the United States during such period.

''(ii) The Secretary of State may waive clause (i) with respect to an alien described in clause (iii) if the Secretary determines that a compelling national security reason exists for the waiver.

''(iii) An alien described in this clause is an alien who—

''(I) is a national of China;

''(II) meets the requirements for a visa under section 101(a)(15)(B); and

''(III) requests a visa pursuant to clause (i).

''(iv) An alien issued a visa pursuant to clause (i) shall be screened through the automated electronic travel authorization system implemented pursuant to section

217(h)(3) prior to being admitted into the United States.''.

SEC. 3. EXPEDITING PRIORITY VISITORS.

Section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)) is amended—

(1) by amending the subsection heading to read as follows:

''(u) PREMIUM PROCESSING FEE.—'';

(2) by striking ''The Attorney General'' and inserting the following:

''(1) EMPLOYMENT-BASED PETITIONS AND APPLICATIONS.—The Secretary of Homeland Security'';

(3) by striking ''This fee'' and inserting ''The fee authorized under this paragraph'';

(4) by striking ''The Attorney General may adjust this fee'' and inserting ''The Secretary may adjust the fee authorized under this paragraph''; and

(5) by adding at the end the following:

''(2) VISITOR VISAS.—The Secretary of State shall offer premium processing for visitor visas issued to nonimmigrants described in section 101(a)(15)(B) and shall ensure that applicants requesting premium processing for such visas are interviewed and the visa application is adjudicated

not later than 3 business days after the date of the applicant's request for a visa appointment, absent compelling security concerns. The Secretary shall charge a fee for premium processing services under this paragraph in an amount sufficient to recover the costs incurred—

"(A) to more quickly process such visas in India, China, and Brazil;

"(B) to procure the technology needed to conduct videoconferencing for visa interviews; and

"(C) to create mobile interview units to process visa applications and conduct visa interviews in cities with more than 1,000,000 people that do not have a United States embassy or consulate.".

SEC. 4. VIDEO CONFERENCE PILOT PROGRAM.

(a) AUTHORIZATION.—Except as provided in subsection (c), the Secretary of State—

(1) shall develop and conduct a pilot program for processing B–1 and B–2 visas using secure remote videoconferencing technology as a method for conducting visa interviews of applicants; and

(2) in consultation with other Federal agencies that use such secure communications, shall help en-

sure the security of the videoconferencing transmission and encryption conducted under paragraph (1).

(b) REPORT.—Not later than 90 days after the termination of the pilot program authorized under subsection (a), the Secretary of State shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives that contains—

(1) a detailed description of the results of such program, including an assessment of the efficacy, efficiency, and security of the remote videoconferencing technology as a method for conducting visa interviews of applicants; and

(2) recommendations for whether such program should be continued, broadened, or modified.

(c) LIMITATION.—

(1) IN GENERAL.—The pilot program authorized under subsection (a) may not be conducted if the Secretary of State determines that such program—

(A) poses an undue security risk; and

(B) cannot be conducted in a manner consistent with maintaining security controls.

(2) REPORT.—If the Secretary of State makes a determination under paragraph (1), the Secretary shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives that describes the reasons for such determination.

SEC. 5. ENCOURAGING CANADIAN TOURISM TO THE UNITED STATES.

(a) CANADIAN RETIREE VISAS.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (T)(iii), by striking the period at the end and inserting a semicolon;

(2) in subparagraph (U)(iii), by striking ''or'' and the end;

(3) in subparagraph (V), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(W) subject to section 214(s), an alien who the Secretary of Homeland Security determines—

''(i) is a citizen of Canada, is older than 50 years of age, owns a residence in the United States or has signed a rental agreement for accommodations in the

United States for the duration of the alien's stay in the United States; and

"(ii) the alien spouse and children of the alien described in clause (i) if accompanying or following to join the alien; or".

(b) VISA APPLICATION PROCEDURES.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(s) VISAS OF NONIMMIGRANTS DESCRIBED IN SECTION 101(a)(15)(W).—

"(1) The Secretary of Homeland Security shall authorize the issuance of a nonimmigrant visa to any alien described in section 101(a)(15)(W) who submits a petition to the Secretary that demonstrates, to the satisfaction of the Secretary, that the alien—

"(A) meets the eligibility requirements set forth in section 101(a)(15)(W);

"(B) is not inadmissible under section 212; and

"(C) will comply with the terms set forth in paragraph (2).

"(2) An alien who is issued a visa under this subsection—

"(A) is authorized to visit the United States during the 3-year period beginning on the date on which the visa is issued;

"(B) may remain in the United States during such authorized period for not more than 240 consecutive days;

"(C) may renew such visa every 3 years under the same terms and conditions;

"(D) is not authorized to engage in employment in the United States; and

"(E) is not eligible for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).".

SEC. 6. INCENTIVES FOR FOREIGN VISITORS VISITING THE UNITED STATES DURING LOW PEAK SEASONS.

(a) APPLICATION FEES.—The Secretary of State shall give foreign visitors an incentive to apply for a visa when the demand is lower by decreasing the visa application and issuance fees charged to nonimmigrants described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) in selected

countries during periods when there is low demand for visitor visas in such countries.

(b) LIMITATION.—In decreasing visa application and issuance fees under subsection (a), the Secretary shall—

(1) subject to paragraph (2), maximize the demand for such visa applications; and

(2) maintain the total amount collected from such fees.

SEC. 7. SECURE TRAVEL AND COUNTERTERRORISM PARTNERSHIP PROGRAM.

(a) DEFINITIONS.—Section 217(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(1)) is amended to read as follows:

"(1) AUTHORITY TO DESIGNATE.—

"(A) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of State, may designate any country as a program country if that country meets the requirements under paragraph (2).

"(B) DEFINITIONS.—

"(i) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(I) the Committee on Foreign Relations of the Senate;

"(II) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(III) the Committee on the Judiciary of the Senate;

"(IV) the Committee on Foreign Affairs of the House of Representatives;

"(V) the Committee on Homeland Security of the House of Representatives; and

"(VI) the Committee on the Judiciary of the House of Representatives.

"(ii) PROGRAM COUNTRY.—The term 'program country' means a country designated as a program country under subparagraph (A).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by striking "Attorney General" each place the term appears (except for subsection (c)(11)(B)) and inserting "Secretary of Homeland Security"; and

(2) in subsection (c)—

(A) in paragraph (2)(C)(iii), by striking ''Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate'' and inserting ''appropriate congressional committees'';

(B) in paragraph (5)(A)(i)(III), by striking ''Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Homeland Security, of the House of Representatives and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs of the Senate'' and inserting ''appropriate congressional committees''; and

(C) in paragraph (7), by striking subparagraph (E).

(c) DESIGNATION OF PROGRAM COUNTRIES.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended—

(1) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) GENERAL NUMERICAL LIMITATIONS.—Either—

"(i) the number of refusals of nonimmigrant visas under section 101(a)(15)(B) for nationals of that country during the previous fiscal year was not more than 3 percent; or

"(ii) the overstay rate for that country during the previous fiscal year was not more than 3 percent.";

(2) by amending paragraph (3) to read as follows:

"(3) QUALIFICATION CRITERIA.—After the initial period, a country may not be designated as a program country unless the Secretary of Homeland Security, in consultation with the Secretary of State, determines, pursuant to paragraph (5), that the designation will be continued.";

(3) in paragraph (5)(A)(i)(II), by striking "ought to be continued or terminated under subsection (d)" and inserting "under subsection (d) or (f), or probation under subsection (f), ought to be continued or terminated";

(4) by amending paragraph (6) to read as follows:

"(6) COMPUTATION OF VISA REFUSAL RATES; JUDICIAL REVIEW.—

"(A) COMPUTATION OF VISA REFUSAL RATES.—For purposes of determining the eligibility of a country to be designated as a program country, the calculation of visa refusal rates shall not include any visa refusals which incorporate any procedures based on, or are otherwise based on, race, sex, or disability, unless otherwise specifically authorized by law.

"(B) JUDICIAL REVIEW.—No court has jurisdiction under this section to review any visa refusal, the Secretary of State's computation of a visa refusal rate, the Secretary of Homeland Security's computation of an overstay rate, or the designation or nondesignation of a country as a program country.";

(5) in paragraph (7), as amended by subsection (b)(2)(C)—

(A) in subparagraph (A), by striking "(3) IN GENERAL.—"; and

(B) by striking subparagraphs (B), (C), and (D);

(6) by amending paragraph (8) to read as follows:

"(8) WAIVER AUTHORITY.—The Secretary of Homeland Security, in consultation with the Secretary of State, may waive the application of paragraph (2)(A)(i) for a country if—

"(A) the country meets all of the other requirements under paragraph (2);

"(B) the Secretary of Homeland Security determines that the totality of the country's security risk mitigation measures provide assurance that the country's participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States;

"(C) there has been a general downward trend in the rate of refusals for nonimmigrant visas under section 101(a)(15)(B) for nationals of the country;

"(D) the country has consistently cooperated with the Government of the United States on counterterrorism initiatives, information sharing, preventing terrorist travel, and extradition of the country's nationals to the United States before the date of its designation as a program country, and the Secretary of Home-

land Security and the Secretary of State assess that such cooperation is likely to continue; and

"(E) the rate of refusals for nonimmigrant visas under section 101(a)(15)(B) for nationals of the country during the previous fiscal year was not more than 10 percent."; and

(7) by adding at the end the following:

"(12) OVERSTAY RATE.—

"(A) INITIAL DESIGNATION.—With respect to a country being considered for designation as a program country under paragraph (1)(A), the overstay rate for a fiscal year is the ratio between—

"(i) the number of nationals of such country who were admitted to the United States as nonimmigrants described in section 101(a)(15)(B), whose periods of authorized stay under such section expired during such fiscal year, and who remained in the United States unlawfully after such expiration date; and

"(ii) the number of nationals of such country who were admitted to the United States as nonimmigrants described in section 101(a)(15)(B), whose periods of au-

thorized stay under such section expired during such fiscal year.

"(B) CONTINUING DESIGNATION.—With respect to any program country, the overstay rate for each fiscal year after the initial designation under paragraph (1)(A) is the ratio between—

"(i) the number of nationals of such country who were admitted to the United States under this section or as nonimmigrants described in section 101(a)(15)(B), whose periods of authorized stay expired during such fiscal year, and who remained in the United States unlawfully after such expiration date; and

"(ii) the number of nationals of such country who were admitted to the United States under this section or as nonimmigrants described in section 101(a)(15)(B), whose periods of authorized stay expired during such fiscal year.

"(C) COMPUTATION OF OVERSTAY RATE.—In determining the overstay rate for a country, the Secretary of Homeland Security may utilize

information from any available database to ensure the accuracy of such rate.''.

(d) TERMINATION OF DESIGNATION; PROBATION.—Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended to read as follows:

''(f) TERMINATION OF DESIGNATION; PROBATION.—

''(1) DEFINITIONS.—In this subsection:

''(A) PROBATIONARY PERIOD.—The term 'probationary period' means a fiscal year in which a country is place in probationary status under this subsection.

''(B) PROGRAM COUNTRY.—The term 'program country' means a country designated as a program country under subsection (c)(1).

''(2) DETERMINATION, NOTICE, AND INITIAL PROBATIONARY PERIOD.—

''(A) DETERMINATION OF PROBATIONARY STATUS AND NOTICE OF NONCOMPLIANCE.—As part of each program country's periodic evaluation required under subsection (c)(5)(A), the Secretary of Homeland Security shall determine whether the program country is in compliance with the requirements under subparagraphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2).

"(B) INITIAL PROBATIONARY PERIOD.—If the Secretary of Homeland Security determines that a program country is not in compliance with the requirements under subparagraphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2), the Secretary shall place the program country in probationary status for the fiscal year following the fiscal year in which the periodic evaluation is completed.

"(3) ACTIONS AT THE END OF THE INITIAL PROBATIONARY PERIOD.—

"(A) COMPLIANCE DURING INITIAL PROBATIONARY PERIOD.—If the Secretary of Homeland Security determines that all instances of noncompliance with the requirements under subparagraphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2) that were identified in the latest periodic evaluation have been remedied by the end of the country's initial probationary period under paragraph (2)(B), the Secretary shall discontinue the probationary period.

"(B) NONCOMPLIANCE DURING INITIAL PROBATIONARY PERIOD.—If the Secretary of Homeland Security determines that any instance of noncompliance with the requirements

under subparagraphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2) that were identified in the latest periodic evaluation has not been remedied by the end of the country's initial probationary period under paragraph (2)(B), the Secretary may—

"(i) terminate the country's participation in the program; or

"(ii) extend the country's probationary status for an additional fiscal year if the Secretary, in consultation with the Secretary of State, determines that the country's continued participation in the program is in the national interest of the United States.

"(4) ACTIONS AT THE END OF ADDITIONAL PROBATIONARY PERIODS.—

"(A) COMPLIANCE DURING ADDITIONAL PERIODS.—The Secretary of Homeland Security shall discontinue a country's probationary status if the Secretary determines, during the latest periodic evaluation required under subsection (c)(5)(A), that the country is in compliance with the requirements under subpara-

graphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2).

"(B) NONCOMPLIANCE DURING ADDITIONAL PERIODS.—The Secretary of Homeland Security shall terminate a country's participation in the program if the Secretary determines, during the latest periodic evaluation required under subsection (c)(5)(A), that the country is not in compliance with any of the requirements under subparagraphs (A)(ii), (B), (C), (D), (E), and (F) of subsection (c)(2).

"(5) EFFECTIVE DATE.—The termination of a country's participation in the program under paragraph (3)(B) or (4)(B) shall take effect on the first day of the first fiscal year following the fiscal year in which the Secretary of Homeland Security determines that such participation shall be terminated. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

"(6) TREATMENT OF NATIONALS AFTER TERMINATION.—For purposes of this subsection and subsection (d)—

"(A) nationals of a country whose designation is terminated under paragraph (3) or (4) shall remain eligible for a waiver under sub-

section (a) until the effective date of such termination; and

"(B) a waiver under this section that is provided to such a national for a period described in subsection (a)(1) shall not, by such termination, be deemed to have been rescinded or otherwise rendered invalid, if the waiver is granted prior to such termination.".

(e) REVIEW OF OVERSTAY TRACKING METHODOLOGY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the methods used by the Secretary of Homeland Security—

(1) to track aliens entering and exiting the United States; and

(2) to detect any such alien who stays longer than such alien's period of authorized admission.

SEC. 8. INCREASING HOME OWNERSHIP BY PRIORITY VISITORS.

(a) NONIMMIGRANT STATUS.—Section 101(a)(15) of the Immigration and Nationality Act, as amended by section 5(a), is further amended by adding at the end the following:

"(X) subject to section 214(t), an alien who, after the date of the enactment of the VISIT USA Act—

"(i)(I) uses at least $500,000 in cash to purchase 1 or more residences in the United States, which each sold for more than 100 percent of the most recent appraised value of such residence, as determined by the property assessor in the city or county in which the residence is located;

"(II) maintains ownership of residential property in the United States worth at least $500,000 during the entire period the alien remains in the United States as a nonimmigrant described in this subparagraph; and

"(III) resides for more than 180 days per year in a residence in the United States that is worth at least $250,000; and

"(ii) the alien spouse and children of the alien described in clause (i) if accompanying or following to join the alien.".

(b) VISA APPLICATION PROCEDURES.—Section 214 of the Immigration and Nationality Act, as amended by

1 section 5(b), is further amended by adding at the end the
2 following:

3 "(t) VISAS OF NONIMMIGRANTS DESCRIBED IN SEC-
4 TION 101(a)(15)(X).—

5 "(1) The Secretary of Homeland Security shall
6 authorize the issuance of a nonimmigrant visa to
7 any alien described in section 101(a)(15)(X) who
8 submits a petition to the Secretary that dem-
9 onstrates, to the satisfaction of the Secretary, that
10 the alien—

11 "(A) has purchased a residence in the
12 United States that meets the criteria set forth
13 in section 101(a)(15)(X)(i);

14 "(B) is not inadmissible under section 212;
15 and

16 "(C) will comply with the terms set forth
17 in paragraph (2).

18 "(2) An alien who is issued a visa under this
19 subsection—

20 "(A) shall reside in the United States at a
21 residence that meets the criteria set forth in
22 section 101(a)(15)(X)(i) for more than 180
23 days per year;

24 "(B) is not authorized to engage in em-
25 ployment in the United States, except for em-

ployment that is directly related to the management of the residential property described in section 101(X)(i)(II);

"(C) is not eligible for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)); and

"(D) may renew such visa every 3 years under the same terms and conditions.".

SEC. 9. EXPEDITING ENTRY FOR PRIORITY VISITORS.

Section 7208(k) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)) is amended by adding at the end the following:

"(4) EXPEDITING ENTRY FOR PRIORITY VISITORS.—

"(A) IN GENERAL.—The Secretary of Homeland Security shall expand the enrollment in the Global Entry Trusted Traveler Network (referred to in this paragraph as 'Global Entry') to include individuals employed by international organizations, selected by the Secretary, which maintain strong working relationships with the United States.

"(B) SPONSORS.—An individual may not be enrolled in Global Entry unless the individual is sponsored by—

"(i) an international organization selected by the Secretary under subparagraph (A); and

"(ii) the government that issued the passport that the individual is using to participate in Global Entry.

"(C) SECURITY REQUIREMENTS.—An individual may not be enrolled in Global Entry unless the individual has successfully completed all applicable security requirements established by the Secretary, including cooperation from the applicable foreign government, to ensure that the individual does not pose a risk to the United States.

"(D) DISCRETION.—The Secretary shall retain unreviewable discretion to offer or revoke enrollment in Global Entry to any individual.".

○