

112TH CONGRESS  
1ST SESSION

# H. R. 3012

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.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2011

Mr. CHAFFETZ (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## 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”.

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—

6 (1) in the paragraph heading, by striking “AND  
7 EMPLOYMENT-BASED”;

8 (2) by striking “(3), (4), and (5),” and insert-  
9 ing “(3) and (4),”;

10 (3) by striking “subsections (a) and (b) of sec-  
11 tion 203” and inserting “section 203(a)”;

12 (4) by striking “7” and inserting “15”; and

13 (5) by striking “such subsections” and inserting  
14 “such section”.

15 (b) CONFORMING AMENDMENTS.—Section 202 of the  
16 Immigration and Nationality Act (8 U.S.C. 1152) is  
17 amended—

18 (1) in subsection (a)(3), by striking “both sub-  
19 sections (a) and (b) of section 203” and inserting  
20 “section 203(a)”;

21 (2) by striking subsection (a)(5); and

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

24 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—  
25 If it is determined that the total number of immigrant  
26 visas made available under section 203(a) to natives of

1 any single foreign state or dependent area will exceed the  
2 numerical limitation specified in subsection (a)(2) in any  
3 fiscal year, in determining the allotment of immigrant visa  
4 numbers to natives under section 203(a), visa numbers  
5 with respect to natives of that state or area shall be allo-  
6 cated (to the extent practicable and otherwise consistent  
7 with this section and section 203) in a manner so that,  
8 except as provided in subsection (a)(4), the proportion of  
9 the visa numbers made available under each of paragraphs  
10 (1) through (4) of section 203(a) is equal to the ratio of  
11 the total number of visas made available under the respec-  
12 tive paragraph to the total number of visas made available  
13 under section 203(a).”.

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

17 (1) in subsection (a), by striking “subsection  
18 (e))” and inserting “subsection (d))”; and

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

21 (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect as if enacted on September  
23 30, 2011, and shall apply to fiscal years beginning with  
24 fiscal year 2012.

1 (e) TRANSITION RULES FOR EMPLOYMENT-BASED  
2 IMMIGRANTS.—

3 (1) IN GENERAL.—Subject to the succeeding  
4 paragraphs of this subsection and notwithstanding  
5 title II of the Immigration and Nationality Act (8  
6 U.S.C. 1151 et seq.), the following rules shall apply:

7 (A) For fiscal year 2012, 15 percent of the  
8 total number of immigrant visas made available  
9 under section 203(b) of such Act (8 U.S.C.  
10 1153(b)) shall be allotted to immigrants who  
11 are natives of a foreign state or dependent area  
12 that was not one of the two states with the  
13 largest numbers of natives obtaining lawful per-  
14 manent resident status during fiscal year 2010  
15 under such section 203(b).

16 (B) For fiscal year 2013, 10 percent of the  
17 total number of immigrant visas made available  
18 under such section 203(b) shall be allotted to  
19 immigrants who are natives of a foreign state  
20 or dependent area that was not one of the two  
21 states with the largest numbers of natives ob-  
22 taining lawful permanent resident status during  
23 fiscal year 2011 under such section 203(b).

24 (C) For fiscal year 2014, 10 percent of the  
25 total number of immigrant visas made available

1 under such section 203(b) shall be allotted to  
2 immigrants who are natives of a foreign state  
3 or dependent area that was not one of the two  
4 states with the largest numbers of natives ob-  
5 taining lawful permanent resident status during  
6 fiscal year 2012 under such section 203(b).

7 (2) PER-COUNTRY LEVELS.—

8 (A) RESERVED VISAS.—With respect to  
9 the visas reserved under each of subparagraphs  
10 (A) through (C) of paragraph (1), the number  
11 of such visas made available to natives of any  
12 single foreign state or dependent area in the ap-  
13 propriate fiscal year may not exceed 25 percent  
14 (in the case of a single foreign state) or 2 per-  
15 cent (in the case of a dependent area) of the  
16 total number of such visas.

17 (B) UNRESERVED VISAS.—

18 (i) IN GENERAL.—With respect to the  
19 immigrant visas made available under such  
20 section 203(b) and not reserved under  
21 paragraph (1), for each of fiscal years  
22 2012, 2013, and 2014, not more than the  
23 number of such visas calculated under  
24 clause (ii) shall be allotted to immigrants  
25 who are natives of any single foreign state.

1                   (ii) CALCULATION OF NUMBER.—The  
2                   numbers of visas calculated under this  
3                   clause for a fiscal year is the number that  
4                   is equal to 70 percent of the total number  
5                   of immigrant visas made available under  
6                   such section 203(b) for such fiscal year.

7                   (3) RULES FOR CHARGEABILITY.—Section  
8                   202(b) of such Act (8 U.S.C. 1152(b)) shall apply  
9                   in determining the foreign state to which an alien is  
10                  chargeable for purposes of this subsection.

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