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.

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

A BILL

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employmentbased 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".

SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN 2 STATE. 3 (a) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is 4 5 amended— 6 (1) in the paragraph heading, by striking "AND 7 EMPLOYMENT-BASED"; (2) by striking "(3), (4), and (5)," and insert-8 ing "(3) and (4),"; 9 (3) by striking "subsections (a) and (b) of sec-10 tion 203" and inserting "section 203(a)"; 11 (4) by striking "7" and inserting "15"; and 12 (5) by striking "such subsections" and inserting 13 "such section". 14 (b) Conforming Amendments.—Section 202 of the 15 Immigration and Nationality Act (8 U.S.C. 1152) is amended— 17 18 (1) in subsection (a)(3), by striking "both subsections (a) and (b) of section 203" and inserting 19 "section 203(a)"; 20 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.— 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
- (e))" and inserting "subsection (d))"; and
- 19 (2) by striking subsection (d) and redesignating
- 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

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

(2) Per-country Levels.—

(A) RESERVED VISAS.—With respect to the visas reserved under each of subparagraphs (A) through (C) of paragraph (1), the number of such visas 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.—

(i) In General.—With respect to the immigrant visas made available under such section 203(b) and not reserved under paragraph (1), for each of fiscal years 2012, 2013, and 2014, not more than the number of such visas calculated under clause (ii) shall be allotted to immigrants 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

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chargeable for purposes of this subsection.

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