

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3012

---

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2011

Received

DECEMBER 17, 2011

Read the first time

---

## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fairness for High-  
3 Skilled Immigrants Act of 2011”.

4 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**  
5 **STATE.**

6 (a) IN GENERAL.—Section 202(a)(2) of the Immi-  
7 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is  
8 amended—

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

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

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

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

16 (5) by striking “such subsections” and inserting  
17 “such section”.

18 (b) CONFORMING AMENDMENTS.—Section 202 of the  
19 Immigration and Nationality Act (8 U.S.C. 1152) is  
20 amended—

21 (1) in subsection (a)(3), by striking “both sub-  
22 sections (a) and (b) of section 203” and inserting  
23 “section 203(a)”;

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

25 (3) by amending subsection (e) to read as fol-  
26 lows:

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

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

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

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

24       (d) EFFECTIVE DATE.—The amendments made by  
25 this section shall take effect as if enacted on September

1 30, 2011, and shall apply to fiscal years beginning with  
2 fiscal year 2012.

3 (e) TRANSITION RULES FOR EMPLOYMENT-BASED  
4 IMMIGRANTS.—

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

9 (A) For fiscal year 2012, 15 percent of the  
10 immigrant visas made available under each of  
11 paragraphs (2) and (3) of section 203(b) of  
12 such Act (8 U.S.C. 1153(b)) shall be allotted to  
13 immigrants who are natives of a foreign state  
14 or dependent area that was not one of the two  
15 states with the largest aggregate numbers of  
16 natives obtaining immigrant visas during fiscal  
17 year 2010 under such paragraphs.

18 (B) For fiscal year 2013, 10 percent of the  
19 immigrant visas made available under each of  
20 such paragraphs shall be allotted to immigrants  
21 who are natives of a foreign state or dependent  
22 area that was not one of the two states with the  
23 largest aggregate numbers of natives obtaining  
24 immigrant visas during fiscal year 2011 under  
25 such paragraphs.

1 (C) For fiscal year 2014, 10 percent of the  
2 immigrant visas made available under each of  
3 such paragraphs shall be allotted to immigrants  
4 who are natives of a foreign state or dependent  
5 area that was not one of the two states with the  
6 largest aggregate numbers of natives obtaining  
7 immigrant visas during fiscal year 2012 under  
8 such paragraphs.

9 (2) PER-COUNTRY LEVELS.—

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

19 (B) UNRESERVED VISAS.—With respect to  
20 the immigrant visas made available under each  
21 of paragraphs (2) and (3) of section 203(b) of  
22 such Act (8 U.S.C. 1153(b)) and not reserved  
23 under paragraph (1), for each of fiscal years  
24 2012, 2013, and 2014, not more than 85 per-

1 cent shall be allotted to immigrants who are na-  
2 tives of any single foreign state.

3 (3) SPECIAL RULE TO PREVENT UNUSED  
4 VISAS.—If, with respect to fiscal year 2012, 2013, or  
5 2014, the operation of paragraphs (1) and (2) of  
6 this subsection would prevent the total number of  
7 immigrant visas made available under paragraph (2)  
8 or (3) of section 203(b) of such Act (8 U.S.C.  
9 1153(b)) from being issued, such visas may be  
10 issued during the remainder of such fiscal year with-  
11 out regard to paragraphs (1) and (2) of this sub-  
12 section.

13 (4) RULES FOR CHARGEABILITY.—Section  
14 202(b) of such Act (8 U.S.C. 1152(b)) shall apply  
15 in determining the foreign state to which an alien is  
16 chargeable for purposes of this subsection.

Passed the House of Representatives November 29,  
2011.

Attest:

KAREN L. HAAS,

*Clerk.*