

47

Employment**Education****English & civics****Extended family (Applied if threshold of 55 in above categories.)***Agriculture National Interest**U.S. employment exp.**Home ownership**Medical Insurance*

`(B) The Secretary of Homeland Security, after consultation with the Secretaries of Commerce and Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

`(C) The Standing Commission on Immigration and Labor Markets established pursuant to Section 407 of the [Insert title of Act] shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

`(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the [Insert title of Act] should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) of this Act are eligible for an immigrant visa.

`(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

`(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date of such application. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to sections 204(c).'

(2) redesignating paragraph (4) as paragraph (2), by striking `7.1 percent' and inserting `4,200', and striking `5,000' and inserting `2,500';

(3) redesignating paragraph (5) as paragraph (3), by striking `7.1 percent' and inserting `2,800', and striking `3,000' and inserting `1,500';

(4) redesignating paragraph (6) as paragraph (4).

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS- Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by striking subparagraphs (E) and (F).

(d) EFFECTIVE DATE-

(1) IN GENERAL- Subject to paragraph (2), the amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment, unless such date is less than 270 days after the date of enactment, in which case the amendments shall take effect on the first day of the following fiscal year.

(2) PENDING AND APPROVED PETITIONS AND APPLICATIONS- Petitions for an employment-based visa filed for classification under section 203(b)(1), (2), or (3) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) that were filed prior to the date of the introduction of the [Insert title of Act] and were pending or approved at the time of the effective date of this section, shall be treated as if such provision remained effective and an approved petition may serve as the basis for issuance of an immigrant visa. Aliens with applications for a labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

(e) CONFORMING AMENDMENTS-

(1) Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by striking `employment-based' each place it appears and

inserting `merit-based'.

(2) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended by striking `employment-based' each place it appears and inserting `merit-based'.

(3) Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153 (b)) is amended by:

(A) striking the heading and first sentence and inserting the following:

`(b) Preference allocation for merit-based, special and employment creation immigrants. Aliens subject to the worldwide level specified in section 201(d) for merit-based, special and employment creation immigrants in a fiscal year shall be allotted visas as follows:';

(B) striking `employment based' and inserting `merit-based' and striking `paragraphs (1), (2), and (3)' and inserting `paragraph (1)' in subparagraph (6)(B)(i); and

(C) striking `employment based' and inserting `merit-based' and striking `each of paragraphs (1) through (3)' and inserting `paragraph (1)' in subparagraph (6)(B)(iii).

(4) Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended by striking subparagraph (D).

(5) Section 213A(f) of the Immigration and Nationality Act (8 U.S.C. 1183a (f)) is amended by:

(A) striking subparagraph (4);

(B) striking subparagraph (5) and inserting the following:

`(4) NON-PETITIONING CASES- Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who is a spouse, parent, mother in law, father in law, sibling, child (if at least 18 years of age), son, daughter, son in law, daughter in law, sister in law, brother in law, grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which--

`(A) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

`(B) the Secretary of Homeland Security has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.';

(C) redesignating subparagraph (6) as subparagraph (5); and

(D) striking `(6)' and inserting `(5)' in subparagraph (1)(E).

(6) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)) is amended by striking paragraph (5).

(7) Section 218(g)(3) of the Immigration and Nationality Act (8 U.S.C. 1188) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(8)(A) Section 207(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(3)) is amended by striking `(5),' in the first sentence.

(B) Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159 (c)) is amended by striking `(5),' in the second sentence.

(C) Section 210(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1160(c)(2)(A)) is amended by striking `paragraphs (5) and,' and inserting `paragraph'.

(D) Section 237(a)(1)(H)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)(i)(II)) is amended by striking `paragraphs (5) and,' and inserting `paragraph'.

(E) Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended by striking `(5)(a),'.

(F) Section 245A(d)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(d)(2)(A)) is amended by striking `paragraphs (5) and,' and inserting `paragraph'.

(G) Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6)) is amended by striking `and section 212(a)(5)(A)'.

(f) References to Secretary of Homeland Security-

(1) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking `Attorney General' each place it appears and inserting `Secretary of Homeland Security'.

(2) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by striking `Attorney General' each place it appears, except for section 204(f)(4)(B), and inserting `Secretary of Homeland Security'.

SEC. 503. REDUCING CHAIN MIGRATION AND PERMITTING PETITIONS BY NATIONALS.

(a) CAP EXEMPT CATEGORIES- Paragraph (1) of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended by adding the following two new subparagraphs at the end:

`(F) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

`(G) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.'.

(b) Immediate Relatives-

(1) IMMEDIATE RELATIVE REDEFINED- Paragraph (2) of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended to read as follows:

`(2) Immediate relatives-

`(A) IN GENERAL- For purposes of this subsection, the term `immediate relative' means a child or spouse of a citizen of the United States (and each child of such child or spouse who is accompanying or following to join the alien).

`(B) SPOUSE OF A DECEASED U.S. CITIZEN- An alien who was the spouse of a citizen of the United States and not legally separated from the citizen at the time of the citizen's death, who was married to the citizen for not less than 2 years at the time of the citizen's death (or, if married for less than 2 years at the time of the citizen's death, who proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit), and each child of such alien, may be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of--

`(i) 2 years after such date; or

` (ii) the date on which the spouse remarries.

` (C) BATTERED SPOUSE OR CHILD- An alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.'

(2) PETITION- Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(ii)) is amended by striking ` in the second sentence of section 201(b)(2)(A)(i)' and inserting ` in section 201(b)(2)(B)'

(c) PREFERENCE CATEGORIES- Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended:

(1) By striking paragraph (1) and inserting the following:

` (1) Parents of a citizen of the United States if the citizen is at least 21 years of age. Qualified immigrants who are the parents of a citizen of the United States where the citizen is at least 21 years of age shall be allocated visas in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraph (3), or'

(2) By striking paragraph (2) and inserting the following:

` (2) Spouses or children of an alien lawfully admitted for permanent residence or a national. Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or a noncitizen national of the United States as defined in section 101(a)(22)(B) of this Act who is resident in the United States shall be allocated visas in a number not to exceed 87,000, plus any visas not required for the class specified in paragraph (1)'

(3) By striking paragraph (3) and inserting the following:

` (3) Family-based visa petitions filed before January 1, 2007, for which visas will be available before January 1, 2027-

` (A) IN GENERAL- The allocation of immigrant visas described in paragraph (4) shall apply to an alien for whom--

` (i) a family-based visa petition was filed on or before January 1, 2007; and

` (ii) as of January 1, 2007, the Secretary of Homeland Security

calculates under subparagraph (B) that a visa can reasonably be expected to become available before January 1, 2027.

` (B) REASONABLE EXPECTATION OF AVAILABILITY OF VISAS- In calculating the date on which a family-based visa can reasonably be expected to become available for an alien described in subparagraph (A), the Secretary of Homeland Security shall take into account--

` (i) the number of visas allocated annually for the family preference class under which the alien's petition was filed;

` (ii) the effect of any per country ceilings applicable to the alien's petition;

` (iii) the number of petitions filed before the alien's petition was filed that were filed under the same family preference class; and

` (iv) the rate at which visas made available in the family preference class under which the alien's petition was filed were unclaimed in previous years.

` (4) ALLOCATION OF FAMILY-BASED IMMIGRANT VISAS- Immigrant visas totaling 440,000 shall be allotted visas as follows:

` (A) Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (D).

` (B) Qualified immigrants who are the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, shall be allocated visas totaling 110,000 immigrant visas, plus any visas not required for the class specified in (A).

` (C) Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (A) and (B).

` (D) Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas totaling 189,200 immigrant visas, plus any visas not required for the class specified in (A), (B), and (C).'

(4) By striking paragraph (4).

(d) PETITION- Section 204(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(i)) is amended by striking ` , (3), or (4)' after ` paragraph (1)'.

(e) Effective Date-

(1) IN GENERAL- The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

(2) PENDING AND APPROVED PETITIONS- Petitions for a family-sponsored visa filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) which were filed before May 1, 2005, regardless of whether the petitions have been approved before May 1, 2005, shall be treated as if such provision remained in effect, and an approved petition may be the basis of an immigrant visa pursuant to section 203(a)(3).

(f) Determinations of Number of Intending Lawful Permanent Residents-

(1) SURVEY OF PENDING AND APPROVED FAMILY-BASED PETITIONS- The Secretary of Homeland Security may require a submission from petitioners with approved or pending family-based petitions filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) filed on or before May 1, 2005 to determine that the petitioner and the beneficiary have a continuing commitment to the petition for the alien relative under the classification. In the event the Secretary requires a submission pursuant to this section, the Secretary shall take reasonable steps to provide notice of such a requirement. In the event that the petitioner or beneficiary is no longer committed to the beneficiary obtaining an immigrant visa under this classification or if the petitioner does not respond to the request for a submission, the Secretary of Homeland Security may deny the petition if the petition has not been adjudicated or revoke the petition without additional notice pursuant to section 205 if it has been approved.

(2) FIRST SURVEY OF Z NONIMMIGRANTS INTENDING TO ADJUST STATUS- The Secretary shall establish procedures by which nonimmigrants described in section 101(a)(15)(Z) who seek to become aliens lawfully admitted for permanent residence under the merit-based immigrant system shall establish their eligibility, pay any applicable fees and penalties, and file their petitions.