

119TH CONGRESS
2D SESSION

H. R. 10460

To amend the Immigration and Nationality Act to establish a skills-based immigration points system, to focus family-sponsored immigration on spouses and minor children, to eliminate the Diversity Visa Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2026

Mr. SCHWEIKERT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to establish a skills-based immigration points system, to focus family-sponsored immigration on spouses and minor children, to eliminate the Diversity Visa Program, 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 “Securing Migration,
5 Addressing Reform, and Talent Enhancement and Reten-
6 tion Act” or the “SMARTER Act”.

1 **SEC. 2. ELIMINATION OF DIVERSITY VISA PROGRAM.**

2 (a) IN GENERAL.—Section 203 of the Immigration
3 and Nationality Act (8 U.S.C. 1153) is amended by strik-
4 ing subsection (c).

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

6 (1) IMMIGRATION AND NATIONALITY ACT.—The
7 Immigration and Nationality Act (8 U.S.C. 1101 et
8 seq.) is amended—

9 (A) in section 101(a)(15)(V), by striking
10 “section 203(d)” and inserting “section
11 203(c)”;

12 (B) in section 201—

13 (i) in subsection (a)—

14 (I) in paragraph (1), by adding
15 “and” at the end; and

16 (II) by striking paragraph (3);
17 and

18 (ii) by striking subsection (e);

19 (C) in section 203—

20 (i) in subsection (b)(2)(B)(ii)(IV), by
21 striking “section 203(b)(2)(B)” each place
22 such term appears and inserting “clause
23 (i)”;

24 (ii) by redesignating subsections (d),
25 (e), (f), (g), and (h) as subsections (c), (d),
26 (e), (f), and (g), respectively;

1 (iii) in subsection (c), as redesignated,
2 by striking “subsection (a), (b), or (c)”
3 and inserting “subsection (a) or (b)”;

4 (iv) in subsection (d), as redesign-
5 nated—

6 (I) by striking paragraph (2);

7 and

8 (II) by redesignating paragraph
9 (3) as paragraph (2);

10 (v) in subsection (e), as redesignated,
11 by striking “subsection (a), (b), or (c) of
12 this section” and inserting “subsection (a)
13 or (b)”;

14 (vi) in subsection (f), as redesignated,
15 by striking “subsections (a), (b), and (c)”
16 and inserting “subsections (a) and (b)”;
17 and

18 (vii) in subsection (g), as redesign-
19 nated—

20 (I) by striking “(d)” each place
21 such term appears and inserting
22 “(c)”;

23 (II) in paragraph (2)(B), by
24 striking “subsection (a), (b), or (c)”
25 and inserting “subsection (a) or (b)”;

1 (D) in section 204—

2 (i) in subsection (a)(1), by striking
3 subparagraph (I);

4 (ii) in subsection (e), by striking “sub-
5 section (a), (b), or (c) of section 203” and
6 inserting “subsection (a) or (b) of section
7 203”; and

8 (iii) in subsection (l)(2)—

9 (I) in subparagraph (B), by
10 striking “section 203 (a) or (d)” and
11 inserting “subsection (a) or (c) of sec-
12 tion 203”; and

13 (II) in subparagraph (C), by
14 striking “section 203(d)” and insert-
15 ing “section 203(c)”;

16 (E) in section 214(q)(1)(B)(i), by striking
17 “section 203(d)” and inserting “section
18 203(c)”;

19 (F) in section 216(h)(1), in the undesig-
20 nated matter following subparagraph (C), by
21 striking “section 203(d)” and inserting “section
22 203(c)”;

23 (G) in section 245(i)(1)(B), by striking
24 “section 203(d)” and inserting “section
25 203(c)”.

1 (2) IMMIGRANT INVESTOR PILOT PROGRAM.—

2 Section 610(d) of the Departments of Commerce,
3 Justice, and State, the Judiciary, and Related Agen-
4 cies Appropriations Act, 1993 (Public Law 102–
5 395) is amended by striking “section 203(e) of such
6 Act (8 U.S.C. 1153(e))” and inserting “section
7 203(d) of such Act (8 U.S.C. 1153(d))”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the first day of the first
10 fiscal year beginning on or after the date of the enactment
11 of this Act.

12 **SEC. 3. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

13 (a) IMMEDIATE RELATIVE REDEFINED.—The Immi-
14 gration and Nationality Act (8 U.S.C. 1101 et seq.) is
15 amended—

16 (1) in section 101(b)(1) (8 U.S.C. 1101(b)(1)),
17 in the matter preceding subparagraph (A), by strik-
18 ing “means an unmarried person under twenty-one
19 years of age” and inserting “means, for an indi-
20 vidual with a petition pending as of the date of en-
21 actment of the SMARTER Act, an unmarried per-
22 son under twenty-one years of age, or for an indi-
23 vidual who was not the subject of a pending immi-
24 gration petition on the date of enactment of the

1 SMARTER Act, an unmarried person under the age
 2 of 18”; and

3 (2) in section 201 (8 U.S.C. 1151)—

4 (A) in subsection (b)(2)(A)—

5 (i) in clause (i), by striking “children,
 6 spouses, and parents of a citizen of the
 7 United States, except that, in the case of
 8 parents, such citizens shall be at least 21
 9 years of age.” and inserting “children and
 10 spouse of a citizen of the United States.”;
 11 and

12 (ii) in clause (ii), by striking “such an
 13 immediate relative” and inserting “the im-
 14 mediate relative spouse of a United States
 15 citizen”;

16 (B) by striking subsection (c) and insert-
 17 ing the following:

18 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
 19 IMMIGRANTS.—(1) The worldwide level of family-spon-
 20 sored immigrants under this subsection for a fiscal year
 21 is equal to 88,000 minus the number computed under
 22 paragraph (2).

23 “(2) The number computed under this paragraph for
 24 a fiscal year is the number of aliens who were paroled into

1 the United States under section 212(d)(5) in the second
2 preceding fiscal year who—

3 “(A) did not depart from the United States
4 (without advance parole) within 365 days; and

5 “(B)(i) did not acquire the status of an alien
6 lawfully admitted to the United States for perma-
7 nent residence during the two preceding fiscal years;
8 or

9 “(ii) acquired such status during such period
10 under a provision of law (other than subsection (b))
11 that exempts adjustment to such status from the nu-
12 merical limitation on the worldwide level of immigra-
13 tion under this section.”; and

14 (C) in subsection (f)—

15 (i) in paragraph (2), by striking “sec-
16 tion 203(a)(2)(A)” and inserting “section
17 203(a)”;

18 (ii) by striking paragraph (3);

19 (iii) by redesignating paragraph (4) as
20 paragraph (3); and

21 (iv) in paragraph (3), as redesignated,
22 by striking “(1) through (3)” and inserting
23 “(1) and (2)”.

1 (b) FAMILY-BASED VISA PREFERENCES.—Section
 2 203(a) of the Immigration and Nationality Act (8 U.S.C.
 3 1153(a)) is amended to read as follows:

4 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
 5 NENT RESIDENT ALIENS.—Family-sponsored immigrants
 6 described in this subsection are qualified immigrants who
 7 are the spouse or a child of an alien lawfully admitted
 8 for permanent residence.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) DEFINITION OF V NONIMMIGRANT.—Section
 11 101(a)(15)(V) of the Immigration and Nationality
 12 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-
 13 ing “section 203(a)(2)(A)” each place such term ap-
 14 pears and inserting “section 203(a)”.

15 (2) RULES FOR DETERMINING WHETHER CER-
 16 TAIN ALIENS ARE CHILDREN.—Section 203(h) of
 17 such Act (8 U.S.C. 1153(h)) is amended by striking
 18 “(a)(2)(A)” each place such term appears and in-
 19 serting “(a)(2)”.

20 (3) PROCEDURE FOR GRANTING IMMIGRANT
 21 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
 22 is amended—

23 (A) in subsection (a)(1)—

24 (i) in subparagraph (A)(i), by striking
 25 “to classification by reason of a relation-

1 ship described in paragraph (1), (3), or (4)
2 of section 203(a) or”;

3 (ii) in subparagraph (B)—

4 (I) in clause (i), by redesignating
5 the second subclause (I) as subclause
6 (II); and

7 (II) by striking “203(a)(2)(A)”
8 each place such terms appear and in-
9 serting “203(a)”;

10 (iii) in subparagraph (D)(i)(I), by
11 striking “a petitioner” and all that follows
12 through “(a)(1)(B)(iii).” and inserting “an
13 individual younger than 21 years of age for
14 purposes of adjudicating such petition and
15 for purposes of admission as an immediate
16 relative under section 201(b)(2)(A)(i) or a
17 family-sponsored immigrant under section
18 203(a), as appropriate, notwithstanding
19 the actual age of the individual.”;

20 (B) in subsection (f)(1), by striking “,
21 203(a)(1), or 203(a)(3), as appropriate”; and

22 (C) by striking subsection (k).

23 (4) WAIVERS OF INADMISSIBILITY.—Section
24 212 of such Act (8 U.S.C. 1182) is amended—

1 (A) in subsection (a)(6)(E)(ii), by striking
 2 “section 203(a)(2)” and inserting “section
 3 203(a)”; and

4 (B) in subsection (d)(11), by striking
 5 “(other than paragraph (4) thereof)”.

6 (5) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
 7 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
 8 1184(q)(1)(B)(i)) is amended by striking “section
 9 203(a)(2)(A)” each place such term appears and in-
 10 serting “section 203(a)”.

11 (6) DEFINITION OF ALIEN SPOUSE.—Section
 12 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
 13 is amended by striking “section 203(a)(2)” and in-
 14 serting “section 203(a)”.

15 (7) CLASSES OF DEPORTABLE ALIENS.—Sec-
 16 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
 17 1227(a)(1)(E)(ii)) is amended by striking “section
 18 203(a)(2)” and inserting “section 203(a)”.

19 (d) EFFECTIVE DATE; APPLICABILITY.—

20 (1) EFFECTIVE DATE.—The amendments made
 21 by this section shall take effect on the first day of
 22 the first fiscal year that begins after the date of the
 23 enactment of this Act.

24 (2) INVALIDITY OF CERTAIN PETITIONS AND
 25 APPLICATIONS.—Excepted as provided in paragraph

1 (3), any petition under section 204 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1154) seeking
3 classification of an alien under a family-sponsored
4 immigrant category that was eliminated by the
5 amendments made by this section and filed after the
6 date on which this Act was introduced and any ap-
7 plication for an immigrant visa based on such a peti-
8 tion shall be considered invalid.

9 (3) VALID OFFER OF ADMISSION.—Notwith-
10 standing the termination by this Act of the family-
11 sponsored and employment-based immigrant visa
12 categories, any alien who was granted admission to
13 the United States under subsection (a) or (b) of sec-
14 tion 203 of the Immigration and Nationality Act, as
15 in effect on the day before the date of the enactment
16 of this Act, and is scheduled to receive an immigrant
17 visa in the applicable preference category not later
18 than 1 year after the date of the enactment of this
19 Act, shall be entitled to such visa if the alien enters
20 the United States within 1 year after such date of
21 enactment.

22 **SEC. 4. DETERMINATION OF INDUSTRIAL NEED FOR IMMI-**
23 **GRANT LABOR.**

24 Title II of the Immigration and Nationality Act is
25 amended by inserting after section 203 the following:

1 **“SEC. 203A. DETERMINATION OF INDUSTRIAL NEED FOR**
2 **LABOR.**

3 “(a) ESTABLISHMENT OF BOARD.—There is estab-
4 lished within the Office of the Under Secretary for Eco-
5 nomic Affairs at the Department of Commerce the Skilled
6 Migration and Recruitment of Talent Board (referred to
7 in this section as the ‘SMART Board’ or the ‘Board’) to
8 determine levels for certain categories of immigrants with
9 the purpose of improving real wage growth, economic
10 growth, innovation, and the long-term fiscal outlook of the
11 United States, without undermining the labor market for
12 Americans.

13 “(1) APPOINTMENT.—The Board shall have
14 five voting members appointed by the President, by
15 and with the advice and consent of the Senate.

16 “(2) QUALIFICATIONS.—To be eligible to be ap-
17 pointed as a member of the Board, an individual
18 shall have the expertise necessary to evaluate the
19 economic, fiscal, and labor market effects of immi-
20 grant and nonimmigrant aliens in the United States
21 and to make the determinations required under this
22 section, including expertise in public finance, eco-
23 nomic growth, labor economics, or the economics of
24 innovation.

25 “(3) TERMS.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this section, each member of the
3 Board shall be appointed to a term of 5 years.

4 “(B) INITIAL STAGGERED TERMS.—Of the
5 members first appointed to the Board—

6 “(i) the members each shall be ap-
7 pointed to a term expiring in the first, sec-
8 ond, third, fourth, and fifth calendar years
9 beginning after the date of enactment of
10 this Act, respectively; and

11 “(ii) each term shall expire on Decem-
12 ber 31 of the applicable calendar year.

13 “(C) VACANCIES.—If a vacancy occurs, the
14 President may only appoint a new member of
15 the Board to fill the vacancy and serve the re-
16 mainder of the term by advice and consent of
17 the Senate.

18 “(4) COMPENSATION.—Each member of the
19 Board shall be a full-time employee and shall be
20 compensated at a rate equal to the annual rate of
21 basic pay prescribed for level III of the Executive
22 Schedule under section 5314 of title 5, United
23 States Code.

1 “(5) VOTING.—Each member of the Board
2 shall have an equal vote in all decisions of the
3 Board.

4 “(6) QUORUM.—4 members of the Board shall
5 constitute a quorum.

6 “(7) DECISIONS.—Unless otherwise specified,
7 decisions of the Board shall be made by majority
8 vote of the members constituting a quorum.

9 “(b) AGGREGATE AND INDUSTRIAL NUMERICAL LIM-
10 ITATIONS.—

11 “(1) AGGREGATE NUMERICAL LIMITATIONS.—
12 For the first covered fiscal year and each fiscal year
13 thereafter, there shall be established in accordance
14 with this subsection—

15 “(A) an aggregate numerical limitation for
16 employment-based immigrants under section
17 201(d); and

18 “(B) an aggregate numerical limitation for
19 nonimmigrant workers described in section
20 101(a)(15)(H)(i)(b).

21 “(2) INDUSTRIAL NUMERICAL LIMITATIONS.—

22 “(A) IN GENERAL.—For the second cov-
23 ered fiscal year and each fiscal year thereafter,
24 the Board shall allocate each aggregate numer-

1 ical limitation among industries by determining,
2 for each industry—

3 “(i) an industrial numerical limitation
4 for employment-based immigrants under
5 section 201(d); and

6 “(ii) an industrial numerical limita-
7 tion for nonimmigrant workers described in
8 section 101(a)(15)(H)(i)(b).

9 “(B) ALLOCATION REQUIREMENT.—For
10 each fiscal year for which industrial numerical
11 limitations are in effect, the sum of the indus-
12 trial numerical limitations determined under
13 clause (i) of subparagraph (A) shall equal the
14 aggregate numerical limitation described in
15 paragraph (1)(A), and the sum of the industrial
16 numerical limitations determined under clause
17 (ii) of subparagraph (A) shall equal the aggre-
18 gate numerical limitation described in para-
19 graph (1)(B).

20 “(C) FIRST COVERED FISCAL YEAR.—No
21 industrial numerical limitation shall apply with
22 respect to the first covered fiscal year, and
23 numbers subject to an aggregate numerical lim-
24 itation shall be available during that fiscal year
25 without regard to industry.

1 “(3) INITIAL DETERMINATION.—

2 “(A) IN GENERAL.—Not later than 1 year
3 after the date on which a quorum of the Board
4 is first appointed, the Board shall determine,
5 and publish in the Federal Register, the aggregate
6 numerical limitations described in paragraph
7 (1) for the first covered fiscal year.

8 “(B) NONIMMIGRANT LEVEL.—The aggregate
9 numerical limitation described in paragraph
10 (1)(B) for the first covered fiscal year
11 shall be 85,000.

12 “(C) STABLE EMPLOYMENT-BASED
13 LEVEL.—The aggregate numerical limitation
14 described in paragraph (1)(A) for the first covered
15 fiscal year shall be the level that the Board
16 estimates is necessary to ensure that net lawful
17 migration to the United States during the first
18 covered fiscal year is equal to the sum of—

19 “(i) the annual baseline; and

20 “(ii) the transitional shortfall, if any.

21 “(D) ANNUAL BASELINE.—In this paragraph,
22 the term ‘annual baseline’ means the average
23 annual net lawful migration to the United
24 States during the three complete fiscal years
25 preceding the date of enactment of this Act.

1 “(E) TRANSITIONAL SHORTFALL.—In this
2 paragraph, the term ‘transitional shortfall’
3 means the amount (if any), as estimated by the
4 Board, by which—

5 “(i) the product obtained by multi-
6 plying the annual baseline by the number
7 of fiscal years in the period consisting of
8 each fiscal year that begins after the date
9 of enactment of this Act and ends before
10 the first day of the first covered fiscal
11 year; exceeds

12 “(ii) net lawful migration to the
13 United States during the period consisting
14 of each fiscal year that begins after the
15 date of enactment of this Act and ends be-
16 fore the first day of the first covered fiscal
17 year.

18 “(F) INTERIM RULE.—For any fiscal year
19 beginning before the first day of the first cov-
20 ered fiscal year, the numerical limitations in ef-
21 fect under sections 201(d) and 214(g)(1)(A) on
22 the day before the date of enactment of this Act
23 shall continue to apply.

24 “(G) BASELINE FOR SUBSEQUENT DETER-
25 MINATIONS.—For purposes of paragraph

(6)(A), the aggregate numerical limitation described in paragraph (1)(A) for the first covered fiscal year shall be treated as being equal to the level that the Board estimates is necessary to ensure that net lawful migration to the United States during the first covered fiscal year is equal to the annual baseline, determined without regard to the transitional shortfall, and the Board shall include that level in the publication required under subparagraph (A).

“(4) ANNUAL DETERMINATIONS.—

“(A) IN GENERAL.—Not later than July 1 of the calendar year in which the second covered fiscal year begins, and not later than July 1 of each calendar year thereafter, the Board shall determine, and publish in the Federal Register, the aggregate numerical limitations under paragraph (1), and the industrial numerical limitations under paragraph (2), for the fiscal year beginning on October 1 of that calendar year.

“(B) LATE DETERMINATIONS.—A determination made after July 1 shall take effect at the beginning of the second succeeding fiscal year, and the numerical limitations in effect for

1 the current fiscal year shall remain in effect for
2 the intervening fiscal year.

3 “(C) CONTINUATION IN THE ABSENCE OF
4 A DETERMINATION.—If, for any fiscal year, the
5 Board does not make a determination required
6 under this subsection, including by reason of
7 the absence of a quorum, the aggregate and in-
8 dustrial numerical limitations in effect for the
9 preceding fiscal year shall remain in effect and
10 shall be treated as the limitations determined
11 for that fiscal year for purposes of this sub-
12 section.

13 “(5) INDUSTRIAL LIMITATIONS FOR THE SEC-
14 OND COVERED FISCAL YEAR.—For the second cov-
15 ered fiscal year, the industrial numerical limitation
16 for an industry under clause (i) or (ii) of paragraph
17 (2)(A) shall equal the product of—

18 “(A) the corresponding aggregate numer-
19 ical limitation determined for the second cov-
20 ered fiscal year; and

21 “(B) that industry’s share of the total
22 number of visas issued, and grants or adjust-
23 ments of status made, subject to the cor-
24 responding aggregate numerical limitation dur-
25 ing the first three quarters of the first covered

1 fiscal year, determined on the basis of the in-
2 dustry of the petitioning employer.

3 “(6) LIMITATIONS ON DETERMINATIONS.—

4 “(A) AGGREGATE LIMITATIONS.—An ag-
5 gregate numerical limitation determined under
6 this subsection shall not exceed the cor-
7 responding aggregate numerical limitation for
8 the previous fiscal year by more than ten per-
9 cent and shall not be lower than the cor-
10 responding aggregate numerical limitation for
11 the previous fiscal year by more than ten per-
12 cent.

13 “(B) INDUSTRIAL LIMITATIONS.—Begin-
14 ning with determinations for the third covered
15 fiscal year, an industrial numerical limitation
16 determined under this subsection shall not ex-
17 ceed the corresponding industrial numerical lim-
18 itation for the previous fiscal year by more than
19 one tenth of the corresponding aggregate nu-
20 merical limitation, and shall not be lower than
21 the corresponding industrial numerical limita-
22 tion for the previous fiscal year by more than
23 one tenth of the corresponding aggregate nu-
24 merical limitation.

1 “(C) UNDERSUBSCRIBED LIMITATIONS.—

2 An industrial numerical limitation for an indus-
3 try shall not be increased compared to the pre-
4 vious fiscal year’s limitation if the number of
5 applicants with respect to that industry was
6 less than the industrial numerical limitation for
7 that industry in the most recently completed
8 fiscal year for which an industrial numerical
9 limitation was in effect.

10 “(7) CONSIDERATION OF INFORMATION.—In
11 making determinations under this subsection, the
12 Board shall consider the following:

13 “(A) Annual industry-specific and national
14 unemployment rates identified in the American
15 Community Survey conducted by the United
16 States Census Bureau, for the purpose of re-
17 ducing the national unemployment rate if such
18 rates exceed a level considered healthy for the
19 Nation.

20 “(B) Annual industry-specific and national
21 vacancy rates identified in the Job Openings
22 and Labor Turnover Survey program of the Bu-
23 reau of Labor Statistics, for the purpose of re-
24 ducing such rates if such rates exceed a level
25 considered healthy for the Nation.

1 “(C) Industry centrality and domestic sup-
2 ply of commodities identified in the Interactive
3 Access to Input-Output Accounts Data tool of
4 the Bureau of Economic Analysis, for the pur-
5 pose of maximizing national gross domestic
6 product.

7 “(D) Wage growth and suppression trends
8 identified in the American Community Survey
9 conducted by the United States Census Bureau
10 or by the Bureau of Labor Statistics, for the
11 purpose of maximizing the national average
12 wage growth.

13 “(E) Industry contributions to total factor
14 productivity growth identified in data series
15 published by the Bureau of Labor Statistics’
16 Office of Productivity and Technology.

17 “(F) Employment rates, wages, entrepre-
18 neurship rates, and contributions to public and
19 private sector research and development identi-
20 fied in the National Survey of College Grad-
21 uates, Current Population Survey, American
22 Community Survey, the National Center for
23 Education Statistics’ and decennial Census.

24 “(G) Immigrants’ contributions to research
25 in critical and emerging science and technology

1 fields identified in the National Survey of Col-
 2 lege Graduates and the National Science Foun-
 3 dation’s Science and Engineering Indicators.

4 “(H) Peer-reviewed journal publications on
 5 immigration’s effects on productivity, innova-
 6 tion, industry formation, economic growth, and
 7 Federal, State and local government budgets.

8 “(I) Other relevant data sources related to
 9 the effects of immigration on economic growth,
 10 labor market outcomes, scientific or techno-
 11 logical innovation, or fiscal policy.

12 “(8) DEFINITIONS.—In this subsection:

13 “(A) FIRST COVERED FISCAL YEAR.—The
 14 term ‘first covered fiscal year’ means the first
 15 fiscal year beginning not less than 90 days after
 16 the date on which the Board publishes the ini-
 17 tial determination under paragraph (3).

18 “(B) SECOND COVERED FISCAL YEAR;
 19 THIRD COVERED FISCAL YEAR.—The terms
 20 ‘second covered fiscal year’ and ‘third covered
 21 fiscal year’ mean the first fiscal year and the
 22 second fiscal year, respectively, beginning after
 23 the end of the first covered fiscal year.

24 “(c) SPECIAL RULES FOR CLERGY.—

1 “(1) NUMERICAL LIMITATION.—The numerical
2 limitation for each fiscal year for special immigrants
3 described in section 101(a)(27)(C) shall be 2,500.

4 “(2) EXCLUSION FROM CALCULATION.—The
5 calculation of the numerical limitation for employ-
6 ment-based immigrants under section 201(d) under
7 subsection (b) shall not include a calculation for
8 such special immigrants, and visas allocated under
9 this subsection shall not be counted toward such nu-
10 merical limitation.

11 “(d) INFORMATION GATHERING REGARDING LABOR
12 SUPPLY.—The Board may collect interest information
13 from aliens residing outside the United States to deter-
14 mine the supply of foreign labor in the industries identi-
15 fied by the Board as having a need under subsection (b).

16 “(e) REPORTING REQUIREMENTS.—Annual deter-
17 minations shall be accompanied by a report to the leader-
18 ship of both Houses of Congress, and the House and Sen-
19 ate Committees on the Budget and Judiciary, each detail-
20 ing—

21 “(1) the estimated fiscal impact of the deter-
22 mination compared with the fiscal impact of no ad-
23 justment to industrial and aggregate numerical limi-
24 tations; and

1 “(2) the characteristics of the applicants and
2 selected immigrants and nonimmigrants in aggre-
3 gate and for each industry, including the offered
4 wage, occupation, education, age, and the number of
5 points earned under the points system.

6 “(f) PROVISION OF DATA.—On request of the Board,
7 and notwithstanding any other provision of law, the Sec-
8 retary of Homeland Security and the Secretary of State
9 shall provide to the Board, not later than 60 days after
10 the request, such data regarding petitions, applications,
11 registrations, and visa issuances under sections 201(d),
12 203(b), and 101(a)(15)(H)(i)(b), including the offered
13 wage, occupation, industry, educational attainment, and
14 age of beneficiaries, as the Board determines necessary
15 to carry out this section, in a form that does not include
16 personally identifiable information.

17 “(g) STAFF.—

18 “(1) IN GENERAL.—The Board may, without
19 regard to the provisions of title 5, United States
20 Code, governing appointments in the competitive
21 service, appoint an Executive Director and such ad-
22 ditional personnel as may be necessary to enable the
23 Board to perform its duties. The Board may fix the
24 compensation of the Executive Director and other
25 personnel without regard to chapter 51 and sub-

1 chapter III of chapter 53 of such title, except that
2 the rate of pay may not exceed the rate payable for
3 level V of the Executive Schedule under section 5316
4 of such title.

5 “(2) ADMINISTRATIVE SUPPORT.—The Sec-
6 retary of Commerce shall provide the Board, on a
7 reimbursable or non-reimbursable basis, such admin-
8 istrative support services, office space, and equip-
9 ment as the Board may require to carry out its du-
10 ties.

11 “(3) DETAILEES.—On request of the Board,
12 the head of any Federal department or agency may
13 detail, on a reimbursable or non-reimbursable basis,
14 any personnel of that department or agency to the
15 Board to assist it in carrying out its duties.

16 “(h) MEETINGS.—

17 “(1) IN GENERAL.—The Board shall meet not
18 less frequently than twice each calendar year.

19 “(2) CLOSED SESSIONS.—Meetings of the
20 Board shall not be open to the public. The Board
21 shall not be considered an advisory committee for
22 purposes of chapter 10 of title 5, United States
23 Code (also known as the ‘Federal Advisory Com-
24 mittee Act’), and its meetings shall not be subject to
25 section 552b of title 5, United States Code (com-

1 monly known as the ‘Government in the Sunshine
2 Act’).

3 “(3) MINUTES.—The Board shall keep minutes
4 of each meeting, including a record of all votes
5 taken, and shall publish a summary of each meeting
6 within 90 days, redacted as necessary to protect con-
7 fidential commercial or statistical information.

8 “(i) JUDICIAL REVIEW.—A determination made by
9 the Board under this section—

10 “(1) shall not be subject to subchapter II of
11 chapter 5 of title 5, United States Code, also known
12 as the ‘Administrative Procedure Act’; and

13 “(2) shall not be subject to review in any court,
14 except that an action may be brought under chapter
15 7 of such title to review whether a determination ex-
16 ceeds the limitations described in subsection (b)(6).

17 “(j) DEFINITION.—In this section, the term ‘indus-
18 try’ means the two-digit level identified by the North
19 American Industry Classification System that was in ef-
20 fect for the preceding fiscal year.”.

21 **SEC. 5. CREATION OF IMMIGRATION POINTS SYSTEM.**

22 (a) WORLDWIDE LEVEL OF IMMIGRATION.—Section
23 201 of the Immigration and Nationality Act (8 U.S.C.
24 1151) is amended—

1 (1) in subsection (a), as amended by section
 2 2(b)(1)(B), by amending paragraph (2) to read as
 3 follows:

4 “(2) employment-based immigrants described in
 5 section 203(b), in a number not to exceed the num-
 6 ber specified in subsection (d) during any fiscal
 7 year.”; and

8 (2) by amending subsection (d) to read as fol-
 9 lows:

10 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED
 11 IMMIGRANTS.—The worldwide level of employment-based
 12 immigrants under this subsection for a fiscal year is equal
 13 to such number as the SMART Board determines in ac-
 14 cordance with section 203A(a) plus the number specified
 15 in section 203A(d).”.

16 (b) NUMERICAL LIMITATIONS ON INDIVIDUAL FOR-
 17 EIGN STATES.—

18 (1) REPEAL.—Section 202 of the Immigration
 19 and Nationality Act (8 U.S.C. 1152) is repealed.

20 (2) CONFORMING AMENDMENTS.—

21 (A) IMMIGRATION AND NATIONALITY
 22 ACT.—The Immigration and Nationality Act (8
 23 U.S.C. 1101 et seq.) is amended—

24 (i) in section 203(b)(6)—

1 (I) subparagraph (A), by striking
2 “or of section 202(a)”; and

3 (II) in subparagraph (B), by
4 striking clauses (ii) and (iii);

5 (ii) in section 210(c)(1), by striking
6 “and 202”;

7 (iii) in section 245(b), by striking
8 “sections 202 and 203” and inserting
9 “section 203”; and

10 (iv) in section 245A(d), by striking
11 “sections 201 and 202” and inserting
12 “section 201”.

13 (B) ADDITIONAL CONFORMING AMEND-
14 MENT.—Section 13(c) of the Act of September
15 11, 1957 (8 U.S.C. 1255b(c)), is amended by
16 striking the third and fourth sentences.

17 (c) APPLICATION PROCESS FOR EMPLOYMENT-
18 BASED IMMIGRANTS.—Section 203 of the Immigration
19 and Nationality Act (8 U.S.C. 1153) is amended—

20 (1) by amending subsection (b) to read as fol-
21 lows:

22 “(b) APPLICATION PROCESS FOR EMPLOYMENT-
23 BASED IMMIGRANT VISAS.—

24 “(1) IN GENERAL.—Employment-based visas
25 under section 201(d) shall be made available in the

1 number determined under section 203A for each in-
2 dustry to qualified immigrants in the order of points
3 attained by each immigrant under section 220, be-
4 ginning with the highest number of points.

5 “(2) APPLICATION.—An alien seeking an em-
6 ployment-based visa under section 201(d) shall sub-
7 mit to the Secretary of Homeland Security an appli-
8 cation that contains the following:

9 “(A) The number of points for which the
10 applicant is eligible under section 220, includ-
11 ing an attestation by the applicant, under pen-
12 alty of disqualification, that the applicant has
13 sufficient documentation to verify such points.

14 “(B) The electronic submission of an appli-
15 cation fee in the amount of \$160.

16 “(C) An attestation from the prospective
17 employer—

18 “(i) of the annual salary being offered
19 to the applicant; and

20 “(ii) that the job being offered to the
21 applicant does not displace a United States
22 worker and will not lead to the layoff of a
23 United States worker in an essentially
24 equivalent job.

1 “(D)(i) Proof that the applicant’s United
2 States employer has secured health insurance
3 that meet all applicable regulations; or

4 “(ii) evidence that the applicant has posted
5 a bond to be used to purchase the health insur-
6 ance described in clause (i).

7 “(E) Any other information required by
8 the Director of U.S. Citizenship and Immigra-
9 tion Services, by regulation.

10 “(3) TIE-BREAKING FACTORS.—Applications
11 with equal points will be sorted based on the fol-
12 lowing tie-breaking factors:

13 “(A) Applicants whose highest educational
14 degree is a doctorate degree (or equivalent for-
15 eign degree) shall be ranked higher than appli-
16 cants whose highest educational degree is a pro-
17 fessional degree (as defined in section 220(a))
18 or equivalent foreign degree, who shall be
19 ranked higher than applicants whose highest
20 educational degree is a master’s degree (or
21 equivalent foreign degree), who shall be ranked
22 higher than applicants whose highest edu-
23 cational degree is a bachelor’s degree (or equiv-
24 alent foreign degree), who shall be ranked high-
25 er than applicants whose highest educational

1 degree is a high school diploma (as defined in
2 section 220(a)) or equivalent foreign diploma,
3 who shall be ranked higher than applicants
4 without a high school diploma, with United
5 States degrees ranked higher than their foreign
6 counterparts.

7 “(B) Applicants with equal points and
8 equal educational attainment shall be ranked
9 according to their respective English language
10 proficiency test rankings (as defined in section
11 220(a)).

12 “(C) Applicants with equal points, equal
13 educational attainment, and equal English lan-
14 guage proficiency test rankings shall be ranked
15 according to their age, with applicants who are
16 nearest their 25th birthdays being ranked high-
17 er.

18 “(4) DURATION.—The application of an appli-
19 cant who is not allocated a visa under this section
20 during a fiscal year will be considered during suc-
21 ceeding fiscal years if the applicant’s job offer re-
22 mains valid, except that the point total for the appli-
23 cant shall be adjusted based on the applicant’s age
24 and any change to the applicant’s English language
25 proficiency test (which the applicant shall repeat and

1 resubmit for any succeeding fiscal year during which
2 the applicant seeks admission).

3 “(5) RE-APPLICATION PERMITTED.—An appli-
4 cant who is not allocated a visa under this section
5 during a fiscal year and seeks to increase their point
6 total may reapply for any succeeding fiscal year
7 based on any increase in points for which the alien
8 is eligible.

9 “(6) VISAS FOR SPOUSES AND CHILDREN.—

10 “(A) SPOUSE.—The legal spouse of an ap-
11 plicant under this subsection who is accom-
12 panying or following to join the applicant in the
13 United States shall be issued an immigrant visa
14 under section 201(d) upon the approval of the
15 spouse’s petition under paragraph (2).

16 “(B) MINOR CHILDREN.—Any children of
17 an applicant under this subsection who have not
18 reached 18 years of age as of the date on which
19 a petition is filed under paragraph (2) and are
20 accompanying or following to join the applicant
21 in the United States shall be issued an immi-
22 grant visa under section 201(d) upon the ap-
23 proval of the spouse’s petition under paragraph
24 (2).

1 “(C) DEPENDENT ADULT CHILDREN.—

2 Any adult child of an applicant under this sub-
3 section who is unable to care for himself or her-
4 self may be admitted into the United States, on
5 a temporary basis, until he or she is capable to
6 care for himself or herself, but may not be au-
7 thorized to work in the United States or to re-
8 ceive any other benefits of permanent residence.

9 “(D) NOT COUNTED AGAINST NUMERICAL
10 LIMITATIONS.—Spouses and children admitted
11 under this paragraph shall not be counted to-
12 ward the numerical limitation of employment-
13 based immigrants under section 201(d).

14 “(7) FEE ADJUSTMENTS FOR INFLATION.—The
15 Director shall adjust the amount of the fee required
16 under paragraph (2)(B) every 2 years, as appro-
17 priate, to reflect inflation.

18 “(8) INELIGIBILITY FOR PUBLIC BENEFITS.—
19 An alien who has been issued an employment-based
20 immigrant visa under section 201(d), and every
21 member of the household of such alien, shall not be
22 eligible for any Federal means-tested public benefit
23 (as defined and implemented in section 403 of the
24 Personal Responsibility and Work Opportunity Rec-
25 onciliation Act of 1996 (8 U.S.C. 1613)).

1 “(9) SPECIAL RULES FOR CLERGY.—

2 “(A) PAYMENT REQUIREMENT.—The reli-
3 gious organization in the United States spon-
4 soring a special immigrant described in section
5 101(a)(27)(C) shall include in the petition a
6 certification that the salary for such position
7 will be at a level such that the alien will not
8 qualify for any means-tested Federal public
9 benefit.

10 “(B) NO FAMILY MEMBERS.—Notwith-
11 standing section 101(a)(27), the spouse and
12 children of a special immigrant admitted under
13 this subsection may not accompany or follow to
14 join the immigrant.

15 “(C) POINT CALCULATION.—Visas speci-
16 fied in section 203A(d) shall be made available
17 to special immigrants described in section
18 101(a)(27)(C) in the order of points attained by
19 each immigrant under section 220, except that
20 points accrued for salary shall not be included,
21 beginning with the highest number of points.

22 “(D) LIMITATION PER RELIGIOUS DENOMI-
23 NATION.—Beginning in the second fiscal year
24 that begins after the date of enactment of this
25 paragraph, the number of visas that may be

issued for special immigrants performing the work described in section 101(a)(27)(C)(ii) in a religious denomination may not exceed the number of visas that is 5 percent greater than the number of such visas issued for such religious denomination during the previous fiscal year.”; and

(2) in subsection (d)(1), as redesignated by section 2(b)(1)(C)(ii), by striking “or (b)”.

(d) ESTABLISHMENT OF IMMIGRATION POINTS SYSTEM.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

“SEC. 220. IMMIGRATION POINTS SYSTEM.

“(a) DEFINITIONS.—In this section:

“(1) APPLICANT.—The term ‘applicant’ means an applicant for an employment-based immigrant visa under section 201(d).

“(2) ENGLISH LANGUAGE PROFICIENCY TEST.—The term ‘English language proficiency test’ means—

“(A) the International English Language Testing System (IELTS), as administered by a partnership between the British Council, IDP

1 Education, and Cambridge English Language
2 Assessment;

3 “(B) the Test of English as a Foreign
4 Language (TOEFL), as administered by the
5 Educational Testing Service; or

6 “(C) any other test to measure English
7 proficiency that has been approved by the Di-
8 rector of U.S. Citizenship and Immigration
9 Services for purposes of subsection (e) that
10 meets the standards of English language ability
11 measurement and anti-fraud integrity set by the
12 IELTS or the TOEFL.

13 “(3) ENGLISH LANGUAGE PROFICIENCY TEST
14 RANKING.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), the term ‘English language pro-
17 ficiency test ranking’ means the decile rank of
18 the applicant’s English language proficiency
19 test score, when compared with all of the other
20 people who took the same test during the same
21 period.

22 “(B) ADJUSTMENT.—The Director of U.S.
23 Citizenship and Immigration Services, in con-
24 sultation with the Secretary of Education, may
25 adjust the decile rank of an applicant’s English

1 language proficiency test score if the number of
2 people taking such test is too small or unusu-
3 ally skewed to make such decile rank incon-
4 sistent with the decile rank the applicant would
5 have received if he or she had taken the IELTS
6 or TOEFL.

7 “(4) HIGH SCHOOL.—The term ‘high school’
8 has the meaning given such term in section 8101 of
9 the Elementary and Secondary Education Act of
10 1965 (20 U.S.C. 7801).

11 “(5) IELTS.—The term ‘IELTS’ means the
12 International English Language Testing System.

13 “(6) INSTITUTION OF HIGHER EDUCATION.—
14 The term ‘institution of higher education’ has the
15 same meaning given that term in section 101 of the
16 Higher Education Act of 1965 (20 U.S.C. 1001).

17 “(7) PROFESSIONAL DEGREE.—The term ‘pro-
18 fessional degree’ includes the following degrees:

19 “(A) Master’s of Business Administration.

20 “(B) Doctor of Medicine.

21 “(8) STEM.—The term ‘STEM’ means the
22 academic discipline of science, technology, engineer-
23 ing, or mathematics.

24 “(9) TOEFL.—The term ‘TOEFL’ means the
25 Test of English as a Foreign Language.

1 “(b) AGE.—

2 “(1) IN GENERAL.—An applicant may accrue
3 points for age under this subsection based on the
4 age of the applicant on the date on which the appli-
5 cant submits an application under section 203(b)(1).

6 “(2) AGES 0 THROUGH 17.—An alien who has
7 not reached 18 years of age may not submit an ap-
8 plication under section 203(b)(1).

9 “(3) AGES 18 THROUGH 21.—An applicant who
10 is at least 18 years of age and younger than 22
11 years of age shall accrue 6 points.

12 “(4) AGES 22 THROUGH 25.—An applicant who
13 is at least 22 years of age and younger than 26
14 years of age shall accrue 8 points.

15 “(5) AGES 26 THROUGH 30.—An applicant who
16 is at least 26 years of age and younger than 31
17 years of age shall accrue 10 points.

18 “(6) AGES 31 THROUGH 35.—An applicant who
19 is at least 31 years of age and younger than 36
20 years of age shall accrue 8 points.

21 “(7) AGES 36 THROUGH 40.—An applicant who
22 is at least 36 years of age and younger than 41
23 years of age shall accrue 6 points.

1 “(8) AGES 41 THROUGH 45.—An applicant who
2 is at least 41 years of age and younger than 46
3 years of age shall accrue 4 points.

4 “(9) AGES 46 THROUGH 50.—An applicant who
5 is at least 46 years of age and younger than 51
6 years of age shall accrue 2 points.

7 “(10) AGE 51 AND OLDER.—An applicant who
8 is at least 51 years of age may submit an applica-
9 tion under section 203(b), but shall not accrue any
10 points on account of age.

11 “(c) EDUCATION.—

12 “(1) IN GENERAL.—An applicant may only ac-
13 crue points for educational attainment under this
14 section based on the highest degree obtained by the
15 applicant as of the date on which the applicant sub-
16 mits an application under section 203(b).

17 “(2) UNITED STATES OR FOREIGN HIGH
18 SCHOOL DEGREE.—An applicant whose highest de-
19 gree is a diploma from a high school in the United
20 States, or the foreign equivalent of such a degree, as
21 determined by the Secretary of Education, shall ac-
22 crue 1 point.

23 “(3) FOREIGN BACHELOR’S DEGREE OR
24 UNITED STATES BACHELOR’S DEGREE WITH INSUF-

1 FICIENT RESEARCH AND DEVELOPMENT.—An appli-
2 cant who—

3 “(A) has received—

4 “(i) the foreign equivalent of a bach-
5 elor’s degree from an institution of higher
6 education, as determined by the Secretary
7 of Education; or

8 “(ii) a bachelor’s degree from an insti-
9 tution of higher education—

10 “(I) that did not expend at least
11 \$100,000 in federally financed re-
12 search and development during each
13 of the previous four fiscal years (as
14 determined by the Higher Education
15 Research and Development Survey
16 conducted by the National Center for
17 Science and Engineering Statistics);
18 or

19 “(II) at which fewer than 60 per-
20 cent of students are United States
21 citizens; and

22 “(B) has not received a degree described in
23 paragraphs (5) through (8),
24 shall accrue 2 points.

1 “(4) UNITED STATES BACHELOR’S DEGREE
2 WITH SUFFICIENT RESEARCH AND DEVELOPMENT.—

3 An applicant who—

4 “(A) has received a bachelor’s degree from
5 an institution of higher education—

6 “(i) that has expended at least
7 \$100,000 in federally financed research
8 and development during each of the pre-
9 vious four fiscal years; and

10 “(ii) at which at least 60 percent of
11 students are United States citizens; and

12 “(B) has not received a degree described in
13 paragraphs (5) through (8),
14 shall accrue 3 points.

15 “(5) FOREIGN MASTER’S DEGREE IN STEM OR
16 UNITED STATES DEGREE WITH INSUFFICIENT RE-
17 SEARCH AND DEVELOPMENT.—An applicant whose
18 highest degree is a master’s degree in STEM from—

19 “(A) a foreign college or university, ap-
20 proved by the Secretary of Education; or

21 “(B) an institution of higher education—

22 “(i) that did not expend at least
23 \$100,000 in federally financed research
24 and development during each of the pre-
25 vious four fiscal years; or

1 “(ii) at which fewer than 60 percent
2 of students are United States citizens,
3 shall accrue 4 points.

4 “(6) UNITED STATES MASTER’S DEGREE IN
5 STEM WITH SUFFICIENT RESEARCH AND DEVELOP-
6 MENT.—An applicant whose highest degree is a mas-
7 ter’s degree in STEM from an institution of higher
8 education—

9 “(A) that has expended at least \$100,000
10 in federally financed research and development
11 during each of the previous four fiscal years;
12 and

13 “(B) at which at least 60 percent of stu-
14 dents are United States citizens,
15 shall accrue 5 points.

16 “(7) FOREIGN PROFESSIONAL DEGREE OR DOC-
17 TORATE DEGREE IN STEM OR UNITED STATES DE-
18 GREE WITH INSUFFICIENT RESEARCH AND DEVEL-
19 OPMENT.—An applicant whose highest degree is—

20 “(A) a foreign professional degree or a
21 doctorate degree in STEM, approved by the
22 Secretary of Education; or

23 “(B) a United States professional degree
24 or a doctorate degree in STEM from an institu-
25 tion of higher education—

1 “(i) that did not expend at least
2 \$100,000 in federally financed research
3 and development during each of the pre-
4 vious four fiscal years; or

5 “(ii) at which fewer than 60 percent
6 of students are United States citizens,
7 shall accrue 6 points.

8 “(8) UNITED STATES PROFESSIONAL DEGREE
9 OR DOCTORATE DEGREE IN STEM WITH SUFFICIENT
10 RESEARCH AND DEVELOPMENT.—An applicant
11 whose highest degree is a United States professional
12 degree or a doctorate degree in STEM from an in-
13 stitution of higher education—

14 “(A) that has expended at least \$100,000
15 in federally financed research and development
16 during each of the previous four fiscal years;
17 and

18 “(B) at which at least 60 percent of stu-
19 dents are United States citizens,
20 shall accrue 7 points.

21 “(9) APPROVED FOREIGN EDUCATIONAL INSTI-
22 TUTIONS AND DEGREES.—The Director of U.S. Citi-
23 zenship and Immigration Services, in cooperation
24 with the Secretary of Education, shall maintain and
25 regularly update a list of foreign educational institu-

1 tions and degrees that meet accreditation standards
2 equivalent to those recognized by major United
3 States accrediting agencies and are approved for the
4 purpose of accruing points under this subsection.

5 “(d) ENGLISH LANGUAGE PROFICIENCY.—

6 “(1) IN GENERAL.—An applicant may accrue
7 points for English language proficiency in accord-
8 ance with this subsection based on the highest
9 English language assessment test ranking of the ap-
10 applicant as of the date on which the applicant submits
11 an application under section 203(b).

12 “(2) 1ST THROUGH 5TH DECILES.—An appli-
13 cant whose English language proficiency test score is
14 lower than the 6th decile rank shall not accrue any
15 points under this subsection.

16 “(3) 6TH AND 7TH DECILES.—An applicant
17 whose English language proficiency test score is in
18 the 6th or 7th decile ranks shall accrue 6 points.

19 “(4) 8TH DECILE.—An applicant whose English
20 language proficiency test score is in the 8th decile
21 rank shall accrue 10 points.

22 “(5) 9TH DECILE.—An applicant whose English
23 language proficiency test score is in the 9th decile
24 rank shall accrue 11 points.

1 “(6) 10TH DECILE.—An applicant whose
2 English language proficiency test score is in the
3 10th decile rank shall accrue 12 points.

4 “(e) EXTRAORDINARY ACHIEVEMENT.—An applicant
5 may accrue, for extraordinary achievement under this sub-
6 section 25 points if the applicant is a Nobel Laureate or
7 has received comparable recognition in a field of scientific
8 or social scientific study, as determined by the Director
9 of U.S. Citizenship and Immigration Services.

10 “(f) JOB OFFER.—An applicant may accrue, for
11 highly compensated employment under this subsection—

12 “(1) 10 points if the annual salary being of-
13 ferred by the applicant’s prospective employer is at
14 least 150 percent of the median household income in
15 the State in which the applicant will be employed, as
16 determined by the Secretary of Labor, and less than
17 175 percent of such median household income;

18 “(2) 13 points if the annual salary being of-
19 ferred is at least 175 percent of such median house-
20 hold income and less than 200 percent of such me-
21 dian household income;

22 “(3) 16 points if the annual salary being of-
23 ferred is at least 200 percent of such median house-
24 hold income and less than 225 percent of such me-
25 dian household income;

1 “(4) 19 points if the annual salary being of-
2 ferred is at least 225 percent of such median house-
3 hold income and less than 250 percent of such me-
4 dian household income;

5 “(5) 22 points if the annual salary being of-
6 ferred is at least 250 percent of such median house-
7 hold income and less than 275 percent of such me-
8 dian household income;

9 “(6) 25 points if the annual salary being of-
10 ferred is at least 275 percent of such median house-
11 hold income and less than 300 percent of such me-
12 dian household income; and

13 “(7) 28 points if the annual salary being of-
14 ferred is at least 300 percent of such median house-
15 hold income.

16 “(g) VALID OFFER OF ADMISSION UNDER FAMILY
17 PREFERENCE CATEGORY.—Any alien who was granted
18 admission to the United States under section 203(a) of
19 the Immigration and Nationality Act, as in effect on the
20 day before the date of enactment of this Act, shall be enti-
21 tled to 2 points if—

22 “(1) the applicant was scheduled to receive an
23 immigrant visa under that preference category; and

1 “(2) the applicant did not receive an immigrant
2 visa during the 1-year period beginning on the date
3 of the enactment of this Act.

4 “(h) DEPENDENT CHILDREN.—An applicant may ac-
5 crue 2 points for each dependent child who will be accom-
6 panying or following to join the applicant in the United
7 States.

8 “(i) EFFECT OF SPOUSE ON ACCRUAL OF POINTS.—

9 “(1) IN GENERAL.—If an applicant has a
10 spouse who will be accompanying or following to join
11 the applicant in the United States, the applicant will
12 identify the points that the spouse would accrue
13 under each of subsections (c) through (e) if he or
14 she were applying for a points-based immigrant visa.

15 “(2) POINTS ADJUSTMENT.—For each of the
16 categories set forth in subsections (c) through (e)—

17 “(A) if the number of points that would be
18 accrued by the spouse is the same or higher as
19 the points accrued by the applicant, the number
20 of points shall not be adjusted;

21 “(B) if the number of points that would be
22 accrued by the spouse is lower than the number
23 of points accrued by the applicant, the number
24 of points accrued by the applicant shall be ad-
25 justed so that it is equal to the sum of—

1 “(i) the number of points accrued by
 2 the applicant under such category multi-
 3 plied by 70 percent; and

4 “(ii) the number of points accrued by
 5 the spouse under such category multiplied
 6 by 30 percent.”.

7 (2) CLERICAL AMENDMENT.—The table of con-
 8 tents for the Immigration and Nationality Act (8
 9 U.S.C. 1101 et seq.) is amended by inserting after
 10 the item relating to section 219 the following:

“Sec. 220. Immigration points system.”.

11 **SEC. 6. REFORM AND REPLACE H-1B NONIMMIGRANTS**
 12 **WITH SMARTER NONIMMIGRANTS.**

13 (a) NUMERICAL LIMITATION BASED ON INDUSTRIAL
 14 NEED.—Subparagraph (A) of section 214(g)(1) of the Im-
 15 migration and Nationality Act (8 U.S.C. 1184(g)(1)) is
 16 amended to read as follows:

17 “(A) under section 101(a)(15)(H)(i)(b),
 18 shall be such number as the SMART Board de-
 19 termines in accordance with section 203A; or”.

20 (b) ELIMINATION OF FOREIGN FASHION MODEL
 21 VISAS.—Section 101(a)(15)(H)(i)(b) of the Immigration
 22 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) is
 23 amended—

24 (1) by striking “or as a fashion model”; and

1 (2) by striking “or, in the case of a fashion
2 model, is of distinguished merit and ability,”.

3 (c) REPLACEMENT.—Section 212(n) of the Immigra-
4 tion and Nationality Act is amended—

5 (1) by striking “an H-1B nonimmigrant” each
6 place it appears and inserting “SMARTER non-
7 immigrant”; and

8 (2) by striking “H-1B nonimmigrants” each
9 place it appears and inserting “SMARTER non-
10 immigrants”.

11 (d) PORTABILITY.—Section 214(n) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1184 (n)) is amended
13 by adding at the end the following:

14 “(3) A nonimmigrant alien may accept new em-
15 ployment under this subsection, regardless of wheth-
16 er the new employment is in the industry in which
17 alien was originally authorized to work under section
18 101(a)(15)(H)(i)(b).

19 “(4) For purposes of paragraph (2)(B), a non-
20 immigrant alien shall be considered to have been in
21 a period of stay authorized at the time of filing a
22 petition described in paragraph (1) if such petition
23 was properly filed while a prior nonfrivolous petition
24 was pending.

1 “(5) A new petition filed under this subsection
2 by an employer (as such term is defined in section
3 203A) with respect to an alien may not be denied
4 solely on the basis that a previous petition filed
5 under this subsection by an employer with respect to
6 that alien was denied.

7 “(6) If a petition filed pursuant to this sub-
8 section is denied, the nonimmigrant alien’s period of
9 authorized stay shall continue until the sooner of—

10 “(A) 120 days; or

11 “(B) the end of the previously approved
12 validity period.”.

13 (e) JOB FLEXIBILITY FOR LONG DELAYED APPLI-
14 CANTS FOR ADJUSTMENT OF STATUS TO PERMANENT
15 RESIDENCE.—Section 204(j) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1154(j)) is amended—

17 (1) by striking “subsection (a)(1)(D)” and in-
18 serting “subsection (a)(1)(F)”; and

19 (2) by inserting after “unadjudicated for 180
20 days or more” the following: “, or with respect to
21 whom the petition has been approved for more than
22 365 days without a visa number being immediately
23 available to allow the filing of an application under
24 section 245,”.

1 (f) AWARDING OF VISAS.—Section 214(g) of the Im-
 2 migration and Nationality Act (8 U.S.C. 1184(g)(3)) is
 3 amended by inserting after the first sentence the fol-
 4 lowing: “In the case of petitions received on the final re-
 5 ceipt date or in the case of petitions registered during the
 6 initial registration period, such petitions shall be consid-
 7 ered simultaneously filed and visas or status shall be pro-
 8 vided in the order that will most increase long-term tax
 9 revenue, including any adjustment deemed appropriate to
 10 account for applicable geographic differences.”.

11 (g) EXTENSION OF EXISTING H-1B NONIMMIGRANT
 12 VISA.—An individual who is present in the United States
 13 on the date of enactment of this Act under section
 14 101(a)(H)(i)(b) of the Immigration and Nationality Act
 15 (8 U.S.C. 1101(a)(H)(i)(b)) shall not be required to de-
 16 part the United States prior to renewing such visa pursu-
 17 ant to the amendments made by this Act.

18 **SEC. 7. COMPUTATION OF PREVAILING WAGE.**

19 Section 212(p) of the Immigration and Nationality
 20 Act (8 U.S.C. 1182(p)) is amended—

21 (1) in paragraph (3), by adding at the end the
 22 following: “In computing the prevailing wage level
 23 for an occupational classification in an area of em-
 24 ployment for purposes of subsections (a)(5)(A),
 25 (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II), such prevailing

1 wage shall be commensurate with experience, edu-
 2 cation, and the level of supervision and shall be the
 3 median compensation received by United States
 4 workers with the same education and experience as
 5 the alien being hired and seeking admission to work
 6 in the same occupation and area of employment.”;
 7 and

8 (2) by striking paragraph (4).

9 **SEC. 8. PREREQUISITE FOR NATURALIZATION.**

10 Section 318 of the Immigration and Nationality Act
 11 (8 U.S.C. 1429 et seq.) is amended—

12 (1) by striking “Except” and inserting the fol-
 13 lowing:

14 “(a) PERMANENT RESIDENT.—Except”;

15 (2) by striking “he” each place such term ap-
 16 pears and inserting “he or she”;

17 (3) by striking “his” and inserting “his or her”;

18 (4) by striking “Attorney General” each place
 19 such term appears and inserting “Secretary of
 20 Homeland Security”;

21 (5) by striking “the Service” and inserting “the
 22 Department of Homeland Security”;

23 (6) by striking “Notwithstanding” and insert-
 24 ing the following:

25 “(b) WARRANT OF ARREST.—Notwithstanding”;

1 (7) by striking “Act: *Provided*, That the find-
2 ings” and inserting “Act. The findings”; and

3 (8) by adding at the end the following:

4 “(c) OUTSTANDING DEBTS.—No person may be nat-
5 uralized under this title if the individual who executed an
6 affidavit of support with respect to the person has failed
7 to reimburse the Federal Government, in accordance with
8 section 213A(b), for all means-tested public benefits re-
9 ceived by the person.”.

10 **SEC. 9. USE OF ARTIFICIAL INTELLIGENCE TO IDENTIFY**
11 **VISA OVERSTAYS.**

12 The Secretary of Homeland Security shall develop
13 and implement a process to use artificial intelligence to
14 analyze the records of the Department of Homeland Secu-
15 rity related to immigration, alien travel records, and other
16 relevant data, to identify aliens who were admitted to the
17 United States on the basis of a nonimmigrant visa whose
18 periods of authorized stays ended but who remained un-
19 lawfully in the United States beyond such periods.

20 **SEC. 10. GOLD-CARD IMMIGRANT VISA PROGRAM.**

21 (a) IN GENERAL.—For each of fiscal years 2026
22 through 2035, 25,000 immigrant visas shall be made
23 available for immigrants seeking to enter the United
24 States—

1 (1) who pay a fee to the Secretary of Commerce
2 in an amount of \$1,000,000 plus a processing fee of
3 \$15,000; or

4 (2) on whose behalf a corporation pays a fee to
5 the Secretary of Commerce in an amount of
6 \$2,000,000 plus a processing fee of \$15,000.

7 (b) BACKGROUND CHECKS.—The Secretary of
8 Homeland Security shall conduct background checks on
9 each applicant under this section to ensure that each such
10 applicant is otherwise admissible under the immigration
11 laws.

12 (c) EMPLOYMENT AUTHORIZATION.—The Secretary
13 of Homeland Security shall provide aliens admitted to the
14 United States under this section with employment author-
15 ization.

16 (d) NUMERICAL LIMITATIONS.—Visas described in
17 this section are not subject to the worldwide levels or nu-
18 merical limitations under the immigration laws.

19 (e) FEE ADJUSTMENTS FOR INFLATION.—The Sec-
20 retary of Commerce shall adjust the amount of the fee
21 required under subsection (a) every 2 years, as appro-
22 priate, to reflect inflation.

23 (f) DEFINITIONS.—In this section, the terms have the
24 meanings given such terms in the Immigration and Na-
25 tionality Act (8 U.S.C. 1101 et seq.).

1 **SEC. 11. REPORTS.**

2 (a) ANNUAL REPORT.—Not later than 1 year after
3 the date of the enactment of this Act, and annually there-
4 after, the Secretary of Homeland Security shall submit a
5 report to Congress that includes, for the previous fiscal
6 year—

7 (1) the number of visas issued under section
8 203(b) of the Immigration and Nationality Act;

9 (2) with respect to alien recipients of such
10 visas—

11 (A) the percentage of such aliens seeking
12 residence in each State;

13 (B) the percentage of such aliens in each
14 of the educational attainment categories set
15 forth in section 220(c) of such Act;

16 (C) the percentage of such aliens in each
17 of the English language proficiency categories
18 set forth in section 220(d) of such Act; and

19 (D) the initial United States employers of
20 such aliens and the average starting annual sal-
21 ary offered by such employers in the United
22 States; and

23 (3) the number of aliens admitted under the
24 gold card visa program under section 9, and the
25 countries of nationality of such aliens.

26 (b) QUADRENNIAL REPORT.—

1 (1) IN GENERAL.—Not later than 4 years after
2 the date of the enactment of this Act, and every 4
3 years thereafter, the Secretary of Homeland Secu-
4 rity, in consultation with the Secretary of Labor, the
5 Secretary of Commerce, and the Secretary of State,
6 shall submit a report to the Committee on the Judi-
7 ciary of the Senate, the Committee on Foreign Rela-
8 tions of the Senate, the Committee on the Judiciary
9 of the House of Representatives, and the Committee
10 on Foreign Affairs of the House of Representatives
11 that includes any recommendations for revisions to
12 the immigration points system set forth in section
13 220 of the Immigration and Nationality Act—

14 (A) by reallocating points within or among
15 the categories set forth in such section; and

16 (B) by adding or subtracting additional
17 points categories.

18 (2) CRITERIA FOR RECOMMENDATIONS.—The
19 recommendations included in the report required
20 under paragraph (1) shall be designed to achieve the
21 goals of—

22 (A) increasing per capita growth in the
23 gross domestic product of the United States;

1 (B) enhancing prospects for the economic
2 success of immigrants issued employment-based
3 immigrant visas;

4 (C) improving the fiscal health of the
5 United States; and

6 (D) protecting or increasing the wages of
7 working Americans.

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