



FEDERATION FOR AMERICAN IMMIGRATION REFORM

Short Summary of H.R. 2131

THE SKILLS ACT

Introduced by Reps. Darrell Issa (R-CA) and Bob Goodlatte (R-VA), the SKILLS Act proposes changes to both employment and family-based immigration. The bill increases the employment-based green card cap by 68% from 140,000 to 235,000. The bill specifically allocates 55,000 of the additional green cards to two new visa categories for aliens with advanced STEM degrees, EB-6 and EB-7. The bill also allocates up to 10,000 green cards annually for alien entrepreneurs who meet certain requirements. Regarding family-based immigration, the SKILLS Act eliminates the fourth-based preference category, allocates an additional 25,000 green cards per year to the spouses and unmarried children of green card holders, and raises the per-country cap for family-based immigration. Finally, the bill increases the H-1B nonimmigrant visa cap from 85,000 to 195,000, makes modest increases in wage requirements, and grants work authorization to spouses. Below is a summary of the major components of H.R. 2131.

The SKILLS Act creates three new employment-based green card categories.

- Allocates an additional 55,000 green cards to aliens with advanced STEM degrees through newly created EB-6 and EB-7 categories.
 - EB-6 green cards have priority for the allotment and go to aliens with a STEM Ph.D. from U.S. universities first.
 - EB-7 green cards go to aliens with STEM Master's degrees from U.S. universities who also earned a STEM Bachelor's degree (if there are an insufficient number of applicants meeting the EB-6 requirement).
- Provides that EB-6/EB-7 green cards are subject to the labor certification requirement (INA 212(a)(5)(A)), but note that the Department of Homeland Security (DHS) may waive that requirement if it deems it in "the national interest."
- Requires DHS to publish and update information on the employers and types of jobs for EB-6 and EB-7 green cards.
- Allocates 10,000 additional green cards for the newly created EB-8 category for alien entrepreneurs who raise \$500,000 (inflation-indexed) capital investment and create 5 U.S. jobs within 2 years.
- Increases the employment-based green card cap from 140,000 to 235,000 per year (current cap is 140,000 plus any unused family-based green cards from prior year (INA 201(d)(2)).
 - Allocates 170,000 green cards for the existing EB-1 through EB-5 visa categories:
 - EB-1 (priority workers): 40,040
 - EB-2 (professionals with advanced degrees/exceptional ability): 55,040
 - EB-3 (professionals and unskilled workers): 55,040
 - EB-4 (special immigrants): 9,940
 - EB-5 (employment creation): 9,940

- Allocates 65,000 green cards for the newly created EB-6, EB-7, and EB-8 visa categories:
 - EB-6 (STEM Ph.Ds)/EB-7 (STEM Master's degree): 55,000
 - EB-8 (entrepreneurs): 10,000

The SKILLS Act makes additional revisions to employment and family based green cards.

- Reduces the overall number of family-sponsored green cards available each year by 40,000.
- Eliminates the 4th preference category for brothers/sisters of U.S. citizens (65,000 green cards) and adds 25,000 green cards to the 2nd preference category for spouses and minors of legal permanent residents (from 114,200 to 139,200).
- Repeals the 55,000 green card visa lottery program.
- Eliminates the country cap for employment-based green cards. Increases the country cap for family-sponsored green cards from 7% to 15%.
- Permanently authorizes the Conrad-30 program for foreign doctors. Increases the number of slots available from 30 to 35. Creates a formula to determine the amount visas increase/decrease each year but sets the floor at 30.
 - Grants dual intent visas to foreign medical students.

The SKILLS Act also makes changes to nonimmigrant (guest worker) visa programs.

- More than doubles the H-1B cap from 65,000 to 155,000/year. Doubles the additional allocation for H-1B visas for advanced degree holders from 20,000 to 40,000/year.
- Grants work authorization to spouses of H-1B, H-1(b1), and E-3 nonimmigrants.
- Requires an employer to pay higher wages for an L nonimmigrant who has worked at least 6 months over a 3 year period for that employer.
- Creates 3 levels of prevailing wages employers must pay H-1B and L-nonimmigrants:
 - Level 1: 80% of mean of wages surveyed.
 - Level 2: mean of wages surveyed.
 - Level 3: highest 2/3 of wages surveyed.
- Grants O-1 visa holders the ability to change employers and extends the time of the renewal consultation requirement for actors and producers.
- Grants dual intent to students pursuing STEM degrees or Optional Practical Training (OPT) pursuant to a student visa. Requires employers of F or M students participating in OPT to pay the prevailing wage.

H.R. 2131 also proposes changes to certain guest worker (nonimmigrant) visas.

- Increases the fees for employers that file H-1B petitions (excluding schools and nonprofits). However, employers may include numerous employees on a single petition.
 - \$1,250 per petition if employer has 25 or fewer full-time employees.
 - \$2,500 per petition if employer has more than 25 full-time employees.
- Requires DHS to deposit \$750 from the small employer fee and \$1500 from the non-small employer fee into the H-1B nonimmigrant petitioner account (INA 286(s)). Requires DHS to deposit \$500 from the small employer fee and \$1000 from the non-small employer fee into the newly created Promoting American Ingenuity account (INA 286(x)).

- Adds \$1,000 to the fee for aliens who file I-140 petitions (to become an LPR).
 - Requires DHS to deposit the fund in the Promoting American Ingenuity account.
- Requires DHS to establish a pre-certification procedure for employers who file multiple petitions for nonimmigrant visas or employment sponsored green cards.