

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To modify the W nonimmigrant visa program.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 744**

To provide for comprehensive immigration reform and for  
other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. SCHUMER

Viz:

1       On page 806, between lines 4 and 5, insert the fol-  
2       lowing:

3               “(9) INITIAL W NONIMMIGRANT.—The term  
4       ‘initial W nonimmigrant’ means a certified alien  
5       issued a W nonimmigrant visa by the Secretary of  
6       State pursuant to section 101(a)(15)(W)(i) in order  
7       to seek initial admission to the United States to  
8       commence employment for a registered employer in  
9       a registered position subject to the numerical limit  
10      at section 220(g).

11      On page 807, between lines 18 and 19, insert the fol-  
12      lowing:

1           “(17) W NONIMMIGRANT VISA.—The term ‘W  
2           nonimmigrant visa’ means a visa issued to a cer-  
3           tified alien by the Secretary of State pursuant to  
4           section 101(a)(15)(W)(i).

5           On page 818, line 2, strike “(g)(4)(C),” and insert  
6           “(g)(4)(C)(i),”.

7           On page 821, between lines 21 and 22, insert the fol-  
8           lowing:

9                   “(F) REGISTRY OF REGISTERED POSI-  
10                  TIONS.—

11                   “(i) MAINTENANCE OF REGISTRY.—  
12                   The Secretary shall develop and maintain  
13                   a registry of approved registered positions  
14                   for which the Secretary has issued a per-  
15                   mit under subparagraph (D).

16                   “(ii) AVAILABILITY ON WEBSITE.—  
17                   The registry required by clause (i) shall be  
18                   accessible on a website maintained by the  
19                   Secretary.

20                   “(iii) AVAILABILITY ON STATE WORK-  
21                   FORCE AGENCY WEBSITES.—Each State  
22                   workforce agency shall be linked to such  
23                   registry and provide access to such registry

1 through the website maintained by such  
2 agency.

3 “(iv) CONDITIONS OF AVAILABILITY  
4 ON WEBSITE.—

5 “(I) IN GENERAL.—Each ap-  
6 proved registered position for which  
7 the Secretary has issued a permit  
8 shall be included in the registry of  
9 registered positions maintained by the  
10 Secretary and shall remain available  
11 for viewing on such registry through-  
12 out the term of registration referred  
13 to in subparagraph (E) or paragraph  
14 (5).

15 “(II) INDICATION OF VACANCY.—  
16 The Secretary shall ensure that such  
17 registry indicates whether each ap-  
18 proved registered position in the reg-  
19 istry is filled or unfilled.

20 “(III) REQUIREMENT FOR 10 DAY  
21 POSTING.—If a W nonimmigrant’s  
22 employment in a registered position  
23 ends, either voluntarily or involun-  
24 tarily, the Secretary shall ensure that  
25 such registry indicates that the reg-

1                   istered position is unfilled for a period  
2                   of 10 calendar days, unless such reg-  
3                   istered position is filled by a United  
4                   States worker.

5           On page 822, line 18, strike “(g)(4)(A)(ii),” and in-  
6   sert “(g)(4)(B)(i),”.

7           On page 826, strike lines 10 through 17, and insert  
8   the following:

9                   “(4) FILLING OF VACANCIES.—If a W non-  
10           immigrant’s employment in a registered position  
11           ends, such employer may fill that vacancy—

12                           “(A) by hiring a United States worker; or

13                           “(B) after the 10 calendar day posting pe-  
14                   riod in subsection (e)(1)(F)(iv)(III) by hiring—

15                                   “(i) a W nonimmigrant; or

16                                   “(ii) if available under subsection  
17                                   (g)(4), a certified alien.

18           On page 827, beginning on line 21, strike “a reg-  
19   istered position is approved for a registered employer,”  
20   and insert “a W nonimmigrant commences employment  
21   in the registered position for a registered employer,”.

1       On page 828, line 8, strike “employer” and insert  
2 “employer, at the time a W nonimmigrant commences em-  
3 ployment in the registered position for the registered em-  
4 ployer,”.

5       On page 828, line 9, after “each”, insert “such”.

6       On page 828, beginning on line 12, strike “employer”  
7 insert “employer, at the time of filing the application for  
8 the registered position,”.

9       On page 828, beginning on line 19, strike “employer”  
10 and insert “employer, at the time of filing the application  
11 for the registered position,”.

12       On page 829, line 1, strike “employer” and insert  
13 “employer, at the time of filing the application for the reg-  
14 istered position,”.

15       Beginning on page 834, strike line 19, and all that  
16 follows through page 837, line 6, and insert the following:

17               “(4) SPECIAL ALLOCATIONS OF REGISTERED  
18 POSITIONS.—

19               “(A) AUTHORITY TO MAKE AVAILABLE.—

20               In addition to the number of registered posi-

1           tions made available for a year under para-  
2           graph (1) or (3), the Secretary shall make addi-  
3           tional registered positions available for the year  
4           for a specific registered employer as described  
5           in this paragraph, if—

6                   “(i) the maximum number of reg-  
7                   istered positions available under paragraph  
8                   (1) have been approved for the year and  
9                   none remain available for allocation; or

10                   “(ii) such registered employer is lo-  
11                   cated in a metropolitan statistical area  
12                   that has an unemployment rate that is  
13                   more than 8½ percent as reported in the  
14                   most recent month preceding the date that  
15                   the application is submitted to the Sec-  
16                   retary.

17           “(B) RECRUITMENT.—

18                   “(i) IN GENERAL.—Except as pro-  
19                   vided in clause (ii), an initial W non-  
20                   immigrant may only enter the United  
21                   States for initial employment pursuant to  
22                   a special allocation under this paragraph if  
23                   the registered employer has carried out at  
24                   least 7 of the recruiting activities described  
25                   in subsection (e)(2)(C).

1                   “(ii) REQUIREMENT TO RECRUIT W  
2                   NONIMMIGRANTS IN THE UNITED  
3                   STATES.—A registered employer may reg-  
4                   ister a position pursuant to a special allo-  
5                   cation under this paragraph by conducting  
6                   at least 3 of the recruiting activities de-  
7                   scribed in subsection (e)(2)(C), however a  
8                   position registered pursuant to this clause  
9                   may not be filled by an initial W non-  
10                  immigrant entering the United States for  
11                  initial employment.

12               “(iii) 30 DAY POSTING.—

13                   “(I) REQUIREMENT.—Any reg-  
14                   istered employer registering any posi-  
15                   tion under the special allocation au-  
16                   thority shall post the position, includ-  
17                   ing the wage range, location, and ini-  
18                   tial date of employment, for not less  
19                   than 30 days—

20                   “(aa) on the Internet  
21                   website maintained by the Sec-  
22                   retary of Labor for the purpose  
23                   of such advertising; and

1 “(bb) with the workforce  
2 agency of the State where the po-  
3 sition will be located.

4 “(II) CONTEMPORANEOUS POST-  
5 ING.—The 30 day periods required by  
6 items (aa) and (bb) of subclause (I)  
7 may occur at the same time.

8 “(C) WAGES.—

9 “(i) INITIAL W NONIMMIGRANTS.—An  
10 initial W nonimmigrant entering the  
11 United States for initial employment pur-  
12 suant to a registered position made avail-  
13 able under this paragraph may not be paid  
14 less than the greater of—

15 “(I) the level 4 wage set out in  
16 the Foreign Labor Certification Data  
17 Center Online Wage Library (or simi-  
18 lar successor website) maintained by  
19 the Secretary of Labor for such occu-  
20 pation in that metropolitan statistical  
21 area; or

22 “(II) the mean of the highest  
23 two-thirds of wages surveyed for such  
24 occupation in that metropolitan statis-  
25 tical area.



1                   “(ii) OTHER W NONIMMIGRANTS.—A  
2                   W nonimmigrant employed in a registered  
3                   position referred to in subsection  
4                   (e)(4)(B)(ii) may not be paid less than the  
5                   wages required under subsection  
6                   (e)(1)(B)(iv).

7                   “(D) REDUCTION OF FUTURE REGISTERED  
8                   POSITIONS.—Each registered position made  
9                   available for a year subject to the wage condi-  
10                  tions of subparagraph (C)(i) shall reduce by 1  
11                  the number of registered positions made avail-  
12                  able under paragraph (g)(1) for the following  
13                  year or the earliest possible year for which a  
14                  registered position is available. The limitation  
15                  contained in paragraph (h)(4) shall not be re-  
16                  duced by any registered position made available  
17                  under this paragraph.

18                  On page 837, strike lines 7 through 10.

19                  On page 837, line 18, strike “subsection (g)(1).” and  
20                  insert “paragraph (1) or (2) of subsection (g).”.

21                  On page 837, line 25, strike “subsection (g)(1)” and  
22                  insert “paragraph (1) or (2) of subsection (g).”.

1       On page 839, beginning on line 15, strike “subsection  
2 (g)(1)” and insert “paragraph (1) or (2) of subsection  
3 (g)”.

4       On page 849, strike lines 1 through 8, and insert the  
5 following:

6           “(2) ELECTRONIC MONITORING SYSTEM.—

7               “(A) REQUIREMENT FOR SYSTEM.—The  
8               Secretary, through U.S. Citizenship and Immi-  
9               gration Services, shall implement an electronic  
10              monitoring system to monitor presence and em-  
11              ployment of W nonimmigrants, including a re-  
12              quirement that registered employers update the  
13              system when W nonimmigrants start and end  
14              employment in registered positions.

15           “(B) SYSTEM DESCRIPTION.—Such system  
16           shall be modeled on the Student and Exchange  
17           Visitor Information System (SEVIS) and  
18           SEVIS II tracking system of U.S. Immigration  
19           and Customs Enforcement.

20           “(C) INTERACTION WITH REGISTRY.—  
21           Such system shall interact with the registry re-  
22           ferred to in subsection (e)(1)(F) to ensure that  
23           the Secretary designates and updates approved  
24           registered positions as being filled or unfilled.”.