

117TH CONGRESS
1ST SESSION

H. R. 4681

To amend the Immigration and Nationality Act to establish a new class of nonimmigrant visas for entrepreneurs and essential employees affiliated with start-up entities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2021

Ms. LOFGREN 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 new class of nonimmigrant visas for entrepreneurs and essential employees affiliated with start-up entities, 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 “Let Immigrants
5 Kickstart Employment Act of 2021” or the “LIKE Act”.

6 **SEC. 2. W VISAS.**

7 Section 101(a)(15) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101(a)(15)) is amended—

1 (1) in subparagraph (U)(iii), by striking “or”
2 at the end;

3 (2) in subparagraph (V)(ii)(II), by striking the
4 period at the end and inserting “; or”; and

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

6 “(W) START-UP ENTITIES.—

7 “(i) ENTREPRENEURS.—Subject to
8 section 218A(a), an alien who is an entre-
9 preneur with an ownership interest in a
10 start-up entity.

11 “(ii) EMPLOYEES.—Subject to section
12 218A(b), an alien who is or will be an es-
13 sential employee of a start-up entity.

14 “(iii) DERIVATIVES.—Subject to sec-
15 tion 218A(c), the spouse or child of an
16 alien described in clause (i) or (ii) who is
17 accompanying, or following to join, the
18 alien.”.

19 **SEC. 3. START-UP ENTITIES; NONIMMIGRANT ENTRE-**
20 **PRENEURS AND EMPLOYEES.**

21 Chapter 2 of title II of the Immigration and Nation-
22 ality Act (8 U.S.C. 1181 et seq.) is amended by adding
23 after section 218 the following:

1 **“SEC. 218A. START-UP ENTITIES; ADMISSION OF NON-**
2 **IMMIGRANT ENTREPRENEURS AND EMPLOY-**
3 **EES.**

4 “(a) NONIMMIGRANT ENTREPRENEURS.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish procedures for an alien to self-petition for classi-
7 fication as a nonimmigrant under section
8 101(a)(15)(W)(i). Status under such section shall be
9 valid for an initial period of 3 years and may be ex-
10 tended thereafter in accordance with this subsection.
11 The Secretary may approve the petition of an alien
12 for initial classification as such a nonimmigrant if
13 the Secretary determines—

14 “(A) the alien possesses an ownership in-
15 terest in a start-up entity of not less than 10
16 percent;

17 “(B) the alien will play a central and ac-
18 tive role in the management or operations of
19 the start-up entity;

20 “(C) the alien possesses the knowledge,
21 skills, or experience to substantially assist the
22 start-up entity with the growth and success of
23 its business; and

24 “(D) subject to paragraph (4), the start-up
25 entity, during the 18-month period preceding
26 the filing of the petition, received—

1 “(i) at least \$250,000 in qualifying
2 investments from one or more qualified in-
3 vestors; or

4 “(ii) at least \$100,000 in qualifying
5 government awards or grants.

6 “(2) 3-YEAR EXTENSION ELIGIBILITY CRI-
7 TERIA.—The Secretary may approve a petition to
8 extend the status of an alien as a nonimmigrant
9 under section 101(a)(15)(W)(i) for an additional 3-
10 year period, if the Secretary determines—

11 “(A) the alien—

12 “(i) possesses an ownership interest of
13 not less than 5 percent in the start-up en-
14 tity that formed the basis for the alien’s
15 initial petition for classification as a non-
16 immigrant under section 101(a)(15)(W)(i);
17 and

18 “(ii) will continue to play a central
19 and active role in the management or oper-
20 ations of the start-up entity; and

21 “(B) subject to paragraph (4), during the
22 alien’s initial period of status as a non-
23 immigrant under section 101(a)(15)(W)(i), the
24 start-up entity—

1 “(i) received at least \$500,000 in ad-
2 ditional qualifying investments from one or
3 more qualified investors, qualifying govern-
4 ment awards or grants, or a combination
5 of such funding;

6 “(ii) created at least 5 qualified jobs;
7 or

8 “(iii) generated not less than
9 \$500,000 in annual revenue in the United
10 States and averaged 20 percent in annual
11 revenue growth.

12 “(3) ADDITIONAL EXTENSIONS IN 1-YEAR IN-
13 CREMENTS.—With respect to an alien whose status
14 as a nonimmigrant under section 101(a)(15)(W)(i)
15 was extended under paragraph (2), the Secretary
16 may approve a petition to further extend such status
17 in 1-year increments, for up to 2 years, if the Sec-
18 retary determines—

19 “(A) the alien—

20 “(i) possesses an ownership interest in
21 the start-up entity that formed the basis
22 for the alien’s initial petition for classifica-
23 tion as a nonimmigrant under section
24 101(a)(15)(W)(i); and

1 “(ii) will continue to play a central
2 and active role in the management or oper-
3 ations of the start-up entity; and

4 “(B) the start-up entity has made substan-
5 tial progress in satisfying the requirements
6 under paragraphs (2) and (3) of section
7 218B(c) and is reasonably expected to satisfy
8 such requirements within the 1 year period fol-
9 lowing the expiration of the alien’s status as a
10 nonimmigrant under section 101(a)(15)(W)(i).

11 “(4) OTHER COMPARABLE EVIDENCE.—The
12 Secretary may grant a petition to classify an alien
13 as a nonimmigrant under section 101(a)(15)(W)(i) if
14 the start-up entity partially meets one or more of
15 the criteria described in paragraphs (1)(D) or (2)(B)
16 and the Secretary determines, based on other reli-
17 able and compelling evidence, that the start-up enti-
18 ty has substantial potential for rapid growth and job
19 creation.

20 “(5) REPORTING OF MATERIAL CHANGES.—

21 “(A) IN GENERAL.—An alien with status
22 under section 101(a)(15)(W)(i) shall imme-
23 diately notify the Secretary in writing, in ac-
24 cordance with procedures established by the
25 Secretary, if he or she will no longer play a cen-

1 tral and active role in the management or oper-
2 ations of the start-up entity or ceases to possess
3 a qualifying ownership interest in the start-up
4 entity.

5 “(B) QUALIFYING OWNERSHIP INTER-
6 EST.—For purposes of subparagraph (A), the
7 alien will cease to possess a qualifying owner-
8 ship interest in the start-up entity if—

9 “(i) during the initial 3-year period of
10 status described under paragraph (1), the
11 alien’s ownership interest falls below 5 per-
12 cent; or

13 “(ii) during the periods of status de-
14 scribed under paragraphs (2) or (3), the
15 alien ceases to maintain any ownership in-
16 terest.

17 “(6) CLARIFICATION.—With respect to an alien
18 who establishes a qualifying ownership interest in a
19 start-up entity and is otherwise eligible for status
20 under section 101(a)(15)(W)(i) based on such own-
21 ership, the Secretary shall grant the alien such sta-
22 tus in accordance with this subsection notwith-
23 standing any time previously spent in such status
24 with a different start-up entity.

25 “(b) NONIMMIGRANT ESSENTIAL EMPLOYEES.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish procedures for a start-up entity that serves as
3 the basis for an approved petition under subsection
4 (a) to file a petition to classify an alien as a non-
5 immigrant under section 101(a)(15)(W)(ii). Status
6 under such section shall be valid for an initial period
7 of 3 years and may be extended thereafter in accord-
8 ance with paragraph (3). The Secretary may ap-
9 prove the petition of an alien for initial classification
10 as such a nonimmigrant if the Secretary determines
11 the alien—

12 “(A) has an offer from the start-up entity
13 for employment in an executive capacity or
14 managerial capacity; and

15 “(B) possesses knowledge, skills, or experi-
16 ence that are essential to the growth and suc-
17 cess of the start-up entity.

18 “(2) NUMERICAL LIMITATIONS.—The number
19 of aliens with status under section 101(a)(15)(W)(ii)
20 that may be employed by a start-up entity at any
21 one time may not exceed—

22 “(A) 2 such aliens if such entity has 10 or
23 fewer full-time employees in the United States;

1 “(B) 3 such aliens if such entity has at
2 least 11 and not more than 30 full-time employ-
3 ees in the United States;

4 “(C) 4 such aliens if such entity has at
5 least 31 and not more than 70 full-time employ-
6 ees in the United States; and

7 “(D) 5 such aliens if such entity has more
8 than 70 full-time employees in the United
9 States.

10 “(3) 3-YEAR EXTENSION.—The Secretary may
11 approve a petition to extend the status of an alien
12 as a nonimmigrant under section 101(a)(15)(W)(ii)
13 for an additional 3-year period, if the Secretary de-
14 termines the alien continues to meet the criteria for
15 initial classification as such a nonimmigrant de-
16 scribed in paragraph (1).

17 “(4) TERMINATION OF ELIGIBILITY TO PETI-
18 TION FOR W-2 NONIMMIGRANTS.—A start-up entity’s
19 eligibility to submit new petitions for aliens under
20 paragraph (1) shall terminate on the date the start-
21 up entity no longer serves as the basis for status of
22 nonimmigrants under section 101(a)(15)(W)(i).

23 “(c) SPOUSES AND CHILDREN.—

24 “(1) IN GENERAL.—The spouse and children
25 accompanying or following to join an alien with sta-

1 tus as a nonimmigrant under clause (i) or (ii) of sec-
2 tion 101(a)(15)(W) shall be entitled to classification
3 as nonimmigrants under clause (iii) of such section.

4 “(2) EMPLOYMENT AUTHORIZATION.—In the
5 case of an alien spouse with status as a non-
6 immigrant under section 101(a)(15)(W)(iii), the
7 Secretary shall authorize such spouse to engage in
8 employment in the United States and provide the
9 spouse with an ‘employment authorized’ endorse-
10 ment or other appropriate work permit.

11 “(d) TERMINATION OF NONIMMIGRANT STATUS.—

12 “(1) IN GENERAL.—The Secretary shall provide
13 written notice of the Secretary’s intent to terminate
14 status under clause (i) or (ii) of section
15 101(a)(15)(W) if the Secretary has reasonable
16 grounds to believe that—

17 “(A) the facts or information contained in
18 the petition for such status were not true and
19 accurate;

20 “(B) the alien failed to timely file or other-
21 wise comply with the material change reporting
22 requirement in subsection (a)(5), if applicable;
23 or

24 “(C) the petition was erroneously granted.

1 “(2) NOTICE AND DECISION.—A notice of in-
2 tent to terminate issued under paragraph (1) shall
3 identify the grounds for termination and provide at
4 least 60 days for the alien to submit rebuttal evi-
5 dence.

6 “(e) GRACE PERIOD.—An alien admitted or other-
7 wise provided status under section 101(a)(15)(W) shall be
8 considered to be maintaining such status for a period of
9 not less than 60 days upon expiration or termination of
10 such status.

11 “(f) DUAL INTENT.—Notwithstanding section
12 214(b), an alien may obtain a visa or be granted status
13 under section 101(a)(15)(W) even if such alien intends to
14 seek lawful permanent resident status in the United
15 States.

16 “(g) DEFINITIONS.—In this section:

17 “(1) EXECUTIVE CAPACITY.—The term ‘execu-
18 tive capacity’ has the meaning given such term in
19 section 101(a)(44)(B).

20 “(2) FULL-TIME EMPLOYEE.—The term ‘full-
21 time employee’ means an individual performing serv-
22 ices in a position that requires a minimum of 35
23 working hours per week, and does not include inde-
24 pendent contractors or combinations of part-time
25 employees.

1 “(3) MANAGERIAL CAPACITY.—The term ‘man-
2 agerial capacity’ has the meaning given such term in
3 section 101(a)(44)(A).

4 “(4) QUALIFIED INVESTOR.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B) and consistent with subpara-
7 graph (C), the term ‘qualified investor’
8 means—

9 “(i) an individual who is a United
10 States citizen or lawful permanent resident
11 of the United States; or

12 “(ii) an organization that is located in
13 the United States and operates through a
14 legal entity that has its principal place of
15 business in the United States, that is ma-
16 jority owned and controlled by United
17 States citizens or lawful permanent resi-
18 dents of the United States,

19 which individual or organization regularly
20 makes substantial investments in start-up enti-
21 ties that subsequently exhibit substantial
22 growth in revenue generation or job creation.

23 “(B) EXCEPTIONS.—The term ‘qualified
24 investor’ does not include an individual or orga-
25 nization that has been—

1 “(i) permanently or temporarily en-
2 joined from participating in the offer or
3 sale of a security or in the provision of
4 services as an investment adviser, broker,
5 dealer, municipal securities dealer, govern-
6 ment securities broker, government securi-
7 ties dealer, bank, transfer agent or credit
8 rating agency;

9 “(ii) barred from association with any
10 entity involved in the offer or sale of secu-
11 rities or the provision of such services; or

12 “(iii) otherwise found to have partici-
13 pated in the offer or sale of securities or
14 the provision of such services in violation
15 of law.

16 “(C) SUBSTANTIAL INVESTMENT HIS-
17 TORY.—An individual or organization shall be
18 considered to regularly make substantial invest-
19 ments in start-up entities that subsequently ex-
20 hibit substantial growth in revenue generation
21 or job creation if—

22 “(i) during the preceding 5 years, the
23 individual or organization invested a total
24 of not less than \$600,000 in start-up enti-
25 ties in exchange for equity, convertible

1 debt, or other security convertible into eq-
2 uity commonly used in financing trans-
3 actions within their respective industries;
4 and

5 “(ii) subsequent to such investment,
6 at least 2 such entities each created at
7 least 5 qualified jobs or generated at least
8 \$500,000 in revenue with average
9 annualized revenue growth of at least 20
10 percent.

11 “(5) QUALIFIED JOB.—The term ‘qualified job’
12 means a job located in the United States that re-
13 quires a minimum of 35 working hours per week
14 that has been filled for at least 1 year by one or
15 more qualifying employees.

16 “(6) QUALIFYING EMPLOYEE.—The term
17 ‘qualifying employee’ means a United States citizen,
18 a lawful permanent resident, or other immigrant
19 lawfully authorized to be employed in the United
20 States. Such term does not include independent con-
21 tractors, nonimmigrant entrepreneurs or essential
22 start-up employees of the start-up entity, or the par-
23 ents, spouses, brothers, sisters, sons, or daughters of
24 such nonimmigrant entrepreneurs.

1 “(7) QUALIFYING GOVERNMENT AWARD OR
2 GRANT.—The term ‘qualifying government award or
3 grant’ means an award or grant for economic devel-
4 opment, research and development, or job creation
5 (or other similar monetary award typically given to
6 start-up entities) made by a Federal, State, or local
7 government entity (not including foreign government
8 entities) that regularly provides such awards or
9 grants to start-up entities. The term does not in-
10 clude any contractual commitment for goods or serv-
11 ices.

12 “(8) QUALIFYING INVESTMENT.—

13 “(A) IN GENERAL.—The term ‘qualifying
14 investment’ means an investment of lawfully de-
15 rived capital made in good faith in a start-up
16 entity that is a purchase from such entity of its
17 equity, convertible debt, or other security con-
18 vertible into its equity that is or becomes com-
19 monly used in financing transactions within
20 such entity’s industry.

21 “(B) EXCLUSIONS.—The term ‘qualifying
22 investment’ does not include a direct or indirect
23 investment from the entrepreneur, the parents,
24 spouse, brother, sister, son, or daughter of such
25 entrepreneur, or any corporation, limited liabil-

1 ity company, partnership, or other entity in
2 which such entrepreneur or the parents, spouse,
3 brother, sister, son, or daughter of such entre-
4 preneur has any direct or indirect ownership in-
5 terest.

6 “(9) SECRETARY.—The term ‘Secretary’ means
7 the Secretary of Homeland Security.

8 “(10) START-UP ENTITY.—The term ‘start-up
9 entity’ means a United States business entity that
10 has lawfully conducted business during any period of
11 operation since its formation, and that was formed
12 within the 5-year period immediately preceding the
13 date the alien files a petition for classification under
14 section 101(a)(15)(W)(i).

15 “(11) UNITED STATES BUSINESS ENTITY.—The
16 term ‘United States business entity’ means any cor-
17 poration, limited liability company, partnership, or
18 other entity that is organized under Federal law or
19 the laws of any State, and that conducts business in
20 the United States, that is not an investment vehicle
21 primarily engaged in the offer, purchase, sale or
22 trading of securities, futures contracts, derivatives or
23 similar instruments.

1 **“SEC. 218B. ADMISSION OF IMMIGRANT ENTREPRENEURS.**

2 “(a) IN GENERAL.—The Secretary shall establish
3 procedures for an alien who is eligible under subsection
4 (c) to self-petition for classification as an immigrant entre-
5 preneur.

6 “(b) EXCLUSION FROM NUMERICAL LIMITATIONS.—
7 An alien classified as an immigrant entrepreneur under
8 this section, and the spouse and children of such alien,
9 shall be immediately eligible for immigrant visas and such
10 visas shall not be subject to or counted against the numer-
11 ical limitations under section 201, 202, or 203.

12 “(c) ELIGIBILITY CRITERIA.—The Secretary may ap-
13 prove a petition filed by an alien for classification as an
14 immigrant entrepreneur under this section if the Secretary
15 determines—

16 “(1) the alien—

17 “(A) is present in the United States and
18 has maintained status as a nonimmigrant under
19 section 101(a)(15)(W)(i) or other non-
20 immigrant status that forms the basis for em-
21 ployment with a start-up entity (as such term
22 is defined in section 218A(g)(10));

23 “(B) has maintained an ownership interest
24 in the start-up entity since its formation; and

1 “(C) plays an active and central role in the
2 management or operations of the start-up enti-
3 ty;

4 “(2) the start-up entity has created at least 10
5 qualified jobs (as such term is defined in section
6 218A); and

7 “(3) the start-up entity has—

8 “(A) raised not less than a total of
9 \$1,250,000 in qualifying investments, quali-
10 fying government grants or awards, or a com-
11 bination of such funding; or

12 “(B) generated not less than \$1,000,000
13 in annual revenue in the United States in the
14 2-year period preceding the filing of the peti-
15 tion.

16 “(d) IMMIGRANT VISA PROCESSING OR ADJUSTMENT
17 OF STATUS.—An alien classified as an immigrant entre-
18 preneur under this section, and the spouse and children
19 of such alien, may apply for an immigrant visa in accord-
20 ance with the procedures described in section 221 or for
21 adjustment of status under section 245 if such individuals
22 are otherwise eligible for adjustment of status.

23 **“SEC. 218C. INFLATION ADJUSTMENT; FEES.**

24 “(a) INFLATION ADJUSTMENT.—The Secretary may
25 adjust the monetary amounts described in paragraphs

1 (1)(D) and (2)(B) of section 218A(a) and section
2 218B(c)(3) on a biennial basis by the percentage (if any)
3 by which the Consumer Price Index for All Urban Con-
4 sumers for the month of June preceding the date on which
5 such adjustment takes effect exceeds the Consumer Price
6 Index for All Urban Consumers for the same month of
7 the second preceding calendar year. Any such increase
8 shall apply to aliens filing petitions on or after the date
9 on which the increase takes effect.

10 “(b) FEES.—

11 “(1) IN GENERAL.—The Secretary may require
12 an alien petitioning or applying for any benefit
13 under section 218A or 218B to pay a reasonable fee
14 that is commensurate with the cost of processing the
15 petition or application.

16 “(2) SUPPLEMENTAL FEE FOR STEM SCHOLAR-
17 SHIPS.—In addition to any required processing fee,
18 the Secretary shall collect a \$1,000 fee in connection
19 with each petition for classification as a non-
20 immigrant under section 101(a)(15)(W)(i) or as an
21 immigrant under section 219B. Such funds shall be
22 made available to programs described in section
23 286(s)(3).

24 “(3) PREMIUM PROCESSING.—Subject to any
25 reasonable conditions, the Secretary shall establish

1 premium processing procedures for petitions or ap-
2 plications filed under sections 218A and 218B in ac-
3 cordance with section 286(u) and the Emergency
4 Stopgap USCIS Stabilization Act (Public Law No.
5 116–159, Div. D, Title I).”.

6 **SEC. 4. RULEMAKING.**

7 (a) **IN GENERAL.**—Not later than 180 days after the
8 date of the enactment of this Act, the Secretary, in con-
9 sultation with the Secretary of State and the Secretary
10 of Commerce, shall publish in the Federal Register, an
11 interim final rule implementing the provisions of this Act.
12 Notwithstanding section 553 of title 5, United States
13 Code, the rule shall be effective, on an interim basis, im-
14 mediately upon publication, but may be subject to change
15 and revision after public notice and opportunity for com-
16 ment. The Secretary shall finalize such rule not later than
17 1 year after the date of the enactment of this Act.

18 (b) **DESIGNATED QUALIFIED INVESTORS.**—The rules
19 described in subsection (a) shall include—

20 (1) procedures for individuals and organizations
21 to request designation as qualified investors (as such
22 term is defined in section 218A(g) of the Immigra-
23 tion and Nationality Act); and

24 (2) streamlined filing procedures for petitions
25 to classify an alien as an nonimmigrant under sec-

1 tion 101(A)(15)(W)(i) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1101(a)(15)(W)(i)) or as an
3 immigrant under section 218B of such Act based on
4 such alien founding a start-up entity that has re-
5 ceived investment capital from one or more qualified
6 investors that have been designated as such pursu-
7 ant to the procedures described in paragraph (1).

○