



Bill Summary: The State Sponsored Visa Pilot Program Act

The State Sponsored Visa Pilot Program Act of 2019, or [H.R. 5174](#), seeks to pilot a new temporary visa allowing states to establish and implement their own unique nonimmigrant visa criteria. The bill would allow each state an optional baseline of 5,000 “W” visas to create a program regulating the employment and residence of potential recipients. Additional visas would then vary based on state population, GDP growth, and compliance rate from the previous year. This visa program would exist in addition to the current worker-based immigration system.

The Act, introduced by Representative John Curtis (R-Utah) on November 19, 2019, would:

- **Create a series of guidelines for the new state-based W visa.**
 - Under the bill, criteria for the W visas would be drawn up and approved by state legislatures and then presented to the Secretary of Homeland Security (Secretary) for approval. State applications would be approved as long as they regulated employment or investment and residence of nonimmigrants within their state, and if they included procedures to inform the Secretary of the address and employment of all recipients residing in the state and of noncompliance with the requirements established under the program.
 - States would be allowed to give W visas to current unauthorized workers and waive certain inadmissibility and deportability guidelines in order to make that possible. W visa recipients would be otherwise required to comply with existing federal guidelines regulating nonimmigrants and excluded if they have been convicted of any felony, crime of violence, or certain motor vehicle violations such as DUI. The Secretary would be responsible for screening applicants for admissibility. Employers would be afforded safe harbor to provide prior employment records supporting an unauthorized worker’s application for a W visa.
 - W visa recipients would not be allowed access to certain government benefits such as Section 8 housing vouchers, Pell grants, SNAP, TANF, Medicaid or Social Security.
 - States would be allowed to create regional compacts with other states, pooling allotted visas for a larger program.
 - The visas would be up to three years in length, with the specific length and procedure for renewability to be determined by the state legislature. Recipients would not be tied to a single employer and could move from position to position.
 - For nonimmigrants applying for green cards, those whose applications have been approved but not yet processed would be allowed access to employment and travel authorization.

- **Provide numerical limitations for each state.**

- Each state (as well as the District of Columbia) would be allotted a base of 5,000 W visas, with an additional pool of 245,000 visas distributed based on the state's percentage of the total population of states participating. This would amount to a total cap of 500,000 visas.
- States would not be required to participate in the program, and for each non-participating state 5,000 visas would be added - along with other unused visas from the previous year - to the pool of visas distributed among participating states.
- For each succeeding fiscal year, the numerical limitations would track increases or decreases in percent national gross domestic product (GDP). Over the last decade, U.S. GDP has grown at an average of 2.3% a year.
- Spouses and minor children would not be included under the W visa cap. The state legislature would be given freedom to opt out of granting dependents status under the "W-2" category along with primary recipients.

- **Establish processing fees and penalties for noncompliance.**

- The bill would require states and applicants to pay processing fees to the Secretary of Homeland Security. State legislatures would be able to design processing or other fees as part of their individual visa programs. Unauthorized workers seeking to access W visa status would be required to pay an additional \$1,000 penalty.
- If a W visa holder was found to be in noncompliance (such as by no longer working or residing in the pertinent state), his or her employment authorization would be revoked and the nonimmigrant would be subject to expedited removal procedures. Applicants who knowingly file fraudulent petitions would be subject to fines and/or a prison sentence of not more than five years. States would be reimbursed for apprehending and detaining noncomplying visa holders. Reimbursement would be paid by the sponsor state upon request.
- States would be able to require a bond to incentivize compliance with the terms and conditions of the visa program. Bonds would be reimbursed upon application to the Secretary of State, or after the recipient either receives lawful permanent residence status or leaves the country.
- If over 3% of W visa holders in a state were found to be in noncompliance in a given year, visa applicants would be required to pay a mandatory \$4,000 bond to participate. For each additional year in which noncompliance is over 3%, the mandatory bond would rise \$1,000.
- States with over 3% noncompliance over one year would also trigger a 50% decrease in the total number of visas allocated to that state for the following year, and states would receive a five year suspension for four consecutive years of over 3% noncompliance. In circumstances in which the noncompliance rate is under 3%, the numerical cap in W visas for the given state would rise 10% in the subsequent year.