

# INTRO 9-7

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**A PROCLAMATION TO BE SUBMITTED  
BY LEGISLATORS MAZUR, MILLS, MARINELLI, GRANT,  
HOGUES, HARDWICK, LOUGHRAN, McCracken & LORIGO**

**RE: Conveying Support for the Federal JOLT Act (Jobs Originated Through Launching Travel) and Poland's Eligibility for the Visa Waiver Program**

WHEREAS, Poland is the only member of the 25-nation Euro-zone whose citizens are not allowed to travel to the United States without a visa; and

WHEREAS, the global travel market is expected to double over the next decade, yet the United States continues to experience a decline in its market share of that industry; and

WHEREAS, the people of Poland have made substantial contributions to the security of the United States – from the vital roles played by Pulaski and Kosciuszko during America's War for Independence to present day NATO operations in Afghanistan; and

WHEREAS, the liberation of the nations held captive by the former Soviet Union, including Poland – birthplace of the Solidarity labor union movement -- has resulted in a huge influx of immigrants from Eastern Europe who have emigrated to the United States; and

WHEREAS, these new American citizens still have relatives and friends in their native countries wishing to visit family members who have made a new life in the United States of America; and

WHEREAS, Niagara Falls and New York City are "bookend" destinations that enjoy a favorable international brand and are key to attracting visitors from around the world to New York State and Western New York; and

WHEREAS, over the last decade, the tourist destination development of festivals and sites in and around Polonia positions Buffalo and Erie County well in the competition for market share of the growing demographic of citizens from Poland engaging in international travel; and

WHEREAS, the exclusion of Poland from the visa waiver program makes no strategic or economic sense, and unfairly discriminates against an enduring ally of the United States; and

WHEREAS, United States Senate Bill S.2233, known as the JOLT Act – sponsored by U.S. Senator Charles Schumer -- would amend the Immigration and Nationality act by (1) authorizing the Secretary of Homeland Security, in consultation with the Secretary of State, to designate program countries; (2) adjusting the criteria for visa refusal rates to permit entry into the program if a country has a low visa overstay rate; (3) setting a maximum 3% visa overstay rate for program countries; and, (4) revising probationary status and program termination provisions; and

WHEREAS, in addition, the JOLT Act calls for the Comptroller General to review the Department of Homeland Security's methods for tracking aliens entering and exiting the United States and for detecting visa overstays – thereby enhancing the security of the United States.

NOW, THEREFORE, BE IT

RESOLVED, that this Honorable Body convey its support for the JOLT Act – in particular the provisions that would tighten the tracking system for aliens, would better detect visa overstays and would allow Poland to enter the visa waiver program; and be it further

RESOLVED, that certified copies of this resolution be conveyed to President Barack Obama, Senator Charles Schumer, Senate Majority Leader Harry Reid and Speaker of the House John Boehner.

FISCAL IMPACT: None for resolution.

112th CONGRESS

2d Session

S. 2233

To amend the Immigration and Nationality Act to stimulate international tourism to the United States.

IN THE SENATE OF THE UNITED STATES

**March 26, 2012**

Mr. SCHUMER (for himself, Mr. LEE, Ms. MIKULSKI, Mr. BLUNT, Ms. KLOBUCHAR, Mr. KIRK, Mr. RUBIO, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend the Immigration and Nationality Act to stimulate international tourism to the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ‘Jobs Originated through Launching Travel Act’ or the ‘JOLT Act’.

**SEC. 2. VISA VALIDITY PERIOD.**

If the Secretary of State demonstrates that the United States would not be adversely affected, the Secretary may modify or enter into agreements with certain countries on a nonreciprocal basis to allow for longer visa validity periods than the periods with such countries that are in existence as of the date of the enactment of this Act.

**SEC. 3. EXPEDITING PRIORITY VISITORS.**

Section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)) is amended--

(1) by amending the subsection heading to read as follows:

‘(u) Premium Processing Fee-’;

(2) by striking ‘The Attorney General’ and inserting the following:

‘(1) EMPLOYMENT-BASED PETITIONS AND APPLICATIONS- The Secretary of Homeland Security’;

(3) by striking ‘This fee’ and inserting ‘The fee authorized under this paragraph’;

(4) by striking ‘The Attorney General may adjust this fee’ and inserting ‘The Secretary may adjust the fee authorized under this paragraph’; and

(5) by adding at the end the following:

‘(2) VISITOR VISAS- The Secretary of State shall offer premium processing for visitor visas issued to nonimmigrants described in section 101(a)(15)(B) and shall ensure that applicants requesting premium processing for such visas are interviewed and the visa application is adjudicated not later than 3 business days after the date of the applicant’s request for a visa appointment, absent compelling security concerns. The Secretary shall charge a fee for premium processing services under this paragraph in an amount sufficient to recover the costs incurred--

‘(A) to more quickly process such visas in India, China, and Brazil; and

‘(B) to create mobile interview units to process visa applications and conduct visa interviews in cities with more than 1,000,000 people that do not have a United States embassy or consulate.’

#### **SEC. 4. ENCOURAGING CANADIAN TOURISM TO THE UNITED STATES.**

Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended by adding at the end the following:

‘(d) Canadian Retirees- The Secretary of Homeland Security shall admit any alien, and the spouse and children of the alien, for a period of not less than 240 days, if the alien demonstrates, to the satisfaction of the Secretary, that the alien--

‘(1) is a citizen of Canada;

‘(2) is older than 50 years of age;

‘(3) owns a residence in the United States or has signed a rental agreement for accommodations in the United States for the duration of the alien’s stay in the United States;

‘(4) is not inadmissible under section 212;

‘(5) is not deportable under section 237;

‘(6) will not engage in employment in the United States; and

‘(7) will not seek any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).’

## **SEC. 5. INCENTIVES FOR FOREIGN VISITORS VISITING THE UNITED STATES DURING LOW PEAK SEASONS.**

(a) Application Fees- The Secretary of State shall give foreign visitors an incentive to apply for a visa when the demand is lower by decreasing the visa application and issuance fees charged to nonimmigrants described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) in selected countries during periods when there is low demand for visitor visas in such countries.

(b) Limitation- In decreasing visa application and issuance fees under subsection (a), the Secretary shall--

(1) subject to paragraph (2), maximize the demand for such visa applications; and

(2) maintain the total amount collected from such fees.

## **SEC. 6. VISA WAIVER PROGRAM ENHANCED SECURITY AND REFORM.**

(a) Definitions- Section 217(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(1)) is amended to read as follows:

‘(1) AUTHORITY TO DESIGNATE; DEFINITIONS-

‘(A) AUTHORITY TO DESIGNATE- The Secretary of Homeland Security, in consultation with the Secretary of State, may designate any country as a program country if that country meets the requirements under paragraph (2).

‘(B) DEFINITIONS- In this subsection:

‘(i) APPROPRIATE CONGRESSIONAL COMMITTEES- The term ‘appropriate congressional committees’ means--

‘(I) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate; and

‘(II) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives.

‘(ii) OVERSTAY RATE-

‘(I) INITIAL DESIGNATION- The term ‘overstay rate’ means, with respect to a country being considered for designation in the program, the ratio of--

‘(aa) the number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa under section 101(a)(15)(B) whose periods of authorized stay ended during a fiscal year but who remained unlawfully in the United States beyond such periods; to

‘(bb) the number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa under section 101(a)(15)(B) whose periods of authorized stay ended during that fiscal year.

‘(II) CONTINUING DESIGNATION- The term ‘overstay rate’ means, for each fiscal year after initial designation under this section with respect to a country, the ratio of--

‘(aa) the number of nationals of that country who were admitted to the United States under this section or on the basis of a nonimmigrant visa under section 101(a)(15)(B) whose periods of authorized stay ended during a fiscal year but who remained unlawfully in the United States beyond such periods; to

‘(bb) the number of nationals of that country who were admitted to the United States under this section or on the basis of a nonimmigrant visa under section 101(a)(15)(B) whose periods of authorized stay ended during that fiscal year.

‘(III) COMPUTATION OF OVERSTAY RATE- In determining the overstay rate for a country, the Secretary of Homeland Security may utilize information from any available databases to ensure the accuracy of such rate.

‘(iii) PROGRAM COUNTRY- The term ‘program country’ means a country designated as a program country under subparagraph (A).’.

(b) Technical and Conforming Amendments- Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended--

(1) by striking ‘Attorney General’ each place the term appears (except in subsection (c)(11)(B)) and inserting ‘Secretary of Homeland Security’; and

(2) in subsection (c)--

(A) in paragraph (2)(C)(iii), by striking ‘Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate’ and inserting ‘appropriate congressional committees’;

(B) in paragraph (5)(A)(i)(III), by striking ‘Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Homeland Security, of the House of Representatives and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs of the Senate’ and inserting ‘appropriate congressional committees’; and

(C) in paragraph (7), by striking subparagraph (E).

(c) Designation of Program Countries Based on Overstay Rates-

(1) IN GENERAL- Section 217(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(A)) is amended to read as follows:

‘(A) GENERAL NUMERICAL LIMITATIONS-

‘(i) LOW NONIMMIGRANT VISA REFUSAL RATE- The percentage of nationals of that country refused nonimmigrant visas under section 101(a)(15)(B) during the previous full fiscal year was not more than 3 percent of the total number of nationals of that country who were granted or refused nonimmigrant visas under such section during such year.

‘(ii) LOW NONIMMIGRANT OVERSTAY RATE- The overstay rate for that country was not more than 3 percent during the previous fiscal year.’.

(2) QUALIFICATION CRITERIA- Section 217(c)(3) of such Act (8 U.S.C. 1187(c)(3)) is amended to read as follows:

‘(3) QUALIFICATION CRITERIA- After the initial period, a country may not be designated as a program country unless the Secretary of Homeland Security, in consultation with the Secretary of State, determines, pursuant to the requirements under paragraph (5), that the designation will be continued.’.

(3) CONTINUING DESIGNATION- Section 217(c)(5)(A)(i)(II) of such Act (8 U.S.C. 1187(c)(5)(A)(i)(II)) is amended to read as follows:

‘(II) shall determine, based upon the evaluation in subclause (I), whether any such designation under subsection (d) or (f), or probation under subsection (f), ought to be continued or terminated;’.

(4) COMPUTATION OF VISA REFUSAL RATES; JUDICIAL REVIEW- Section 217(c)(6) of such Act (8 U.S.C. 1187(c)(6)) is amended to read as follows:

‘(6) COMPUTATION OF VISA REFUSAL RATES AND JUDICIAL REVIEW-

‘(A) COMPUTATION OF VISA REFUSAL RATES- For purposes of determining the eligibility of a country to be designated as a program country, the calculation of visa refusal rates shall not include any visa refusals which incorporate any procedures based on, or are otherwise based on, race, sex, or disability, unless otherwise specifically authorized by law or regulation.

‘(B) JUDICIAL REVIEW- No court shall have jurisdiction under this section to review any visa refusal, the Secretary of State’s computation of a visa refusal rate, the Secretary of Homeland Security’s computation of an overstay rate, or the designation or nondesignation of a country as a program country.’.

(5) VISA WAIVER INFORMATION- Section 217(c)(7) of such Act (8 U.S.C. 1187(c)(7)) is amended--

(A) by striking subparagraphs (B) through (E); and

(B) by striking ‘WAIVER INFORMATION--’ and all that follows through ‘In refusing’ and inserting ‘WAIVER INFORMATION--In refusing’.

(6) WAIVER AUTHORITY- Section 217(c)(8) of such Act (8 U.S.C. 1187(c)(8)) is amended to read as follows:

‘(8) WAIVER AUTHORITY- The Secretary of Homeland Security, in consultation with the Secretary of State, may waive the application of paragraph (2)(A)(i) for a country if--

‘(A) the country meets all other requirements of paragraph (2);

‘(B) the Secretary of Homeland Security determines that the totality of the country’s security risk mitigation measures provide assurance that the country’s participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States;

‘(C) there has been a general downward trend in the percentage of nationals of the country refused nonimmigrant visas under section 101(a)(15)(B);

‘(D) the country consistently cooperated with the Government of the United States on counterterrorism initiatives, information sharing, preventing terrorist travel, and extradition of the country’s nationals to the United States before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State assess that such cooperation is likely to continue; and



‘(E) the percentage of nationals of the country refused a nonimmigrant visa under section 101(a)(15)(B) during the previous full fiscal year was not more than 10 percent of the total number of nationals of that country who were granted or refused such nonimmigrant visas.’.

(d) Termination of Designation; Probation- Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended to read as follows:

‘(f) Termination of Designation; Probation-

‘(1) DEFINITIONS- In this subsection:

‘(A) PROBATIONARY PERIOD- The term ‘probationary period’ means the fiscal year in which a probationary country is placed in probationary status under this subsection.

‘(B) PROGRAM COUNTRY- The term ‘program country’ has the meaning given that term in subsection (c)(1)(B).

‘(2) DETERMINATION, NOTICE, AND INITIAL PROBATIONARY PERIOD-

‘(A) DETERMINATION OF PROBATIONARY STATUS AND NOTICE OF NONCOMPLIANCE- As part of each program country’s periodic evaluation required by subsection (c)(5)(A), the Secretary of Homeland Security shall determine whether a program country is in compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2).

‘(B) INITIAL PROBATIONARY PERIOD- If the Secretary of Homeland Security determines that a program country visa is not in compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2), the Secretary of Homeland Security shall place the program country in probationary status for the fiscal year following the fiscal year in which the periodic evaluation is completed.

‘(3) ACTIONS AT THE END OF THE INITIAL PROBATIONARY PERIOD- At the end of the initial probationary period of a country under paragraph (2)(B), the Secretary of Homeland Security shall take 1 of the following actions:

‘(A) COMPLIANCE DURING INITIAL PROBATIONARY PERIOD- If the Secretary determines that all instances of noncompliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2) that were identified in the latest periodic evaluation have been remedied by the end of the initial probationary period, the Secretary shall end the country’s probationary period.

‘(B) NONCOMPLIANCE DURING INITIAL PROBATIONARY PERIOD- If the Secretary determines that any instance of noncompliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2) that were identified in the latest periodic evaluation has not been remedied by the end of the initial probationary period--

‘(i) the Secretary may terminate the country’s participation in the program; or

‘(ii) on an annual basis, the Secretary may continue the country’s probationary status if the Secretary, in consultation with the Secretary of State, determines that the country’s continued participation in the program is in the national interest of the United States.

‘(4) ACTIONS AT THE END OF ADDITIONAL PROBATIONARY PERIODS- At the end of all probationary periods granted to a country pursuant to paragraph (3)(B)(ii), the Secretary shall take 1 of the following actions:

‘(A) COMPLIANCE DURING ADDITIONAL PERIOD- The Secretary shall end the country’s probationary status if the Secretary determines during the latest periodic evaluation required by subsection (c)(5)(A) that the country is in compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2).

‘(B) NONCOMPLIANCE DURING ADDITIONAL PERIODS- The Secretary shall terminate the country’s participation in the program if the Secretary determines during the latest periodic evaluation required by subsection (c)(5)(A) that the program country continues to be in non-compliance with the program requirements under subparagraphs (A)(ii) through (F) of subsection (c)(2).

‘(5) EFFECTIVE DATE- The termination of a country’s participation in the program under paragraph (3)(B) or (4)(B) shall take effect on the first day of the first fiscal year following the fiscal year in which the Secretary determines that such participation shall be terminated. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

‘(6) TREATMENT OF NATIONALS AFTER TERMINATION- For purposes of this subsection and subsection (d)--

‘(A) nationals of a country whose designation is terminated under paragraph (3) or (4) shall remain eligible for a waiver under subsection (a) until the effective date of such termination; and

‘(B) a waiver under this section that is provided to such a national for a period described in subsection (a)(1) shall not, by such termination, be deemed to have been rescinded or otherwise rendered invalid, if the waiver is granted prior to such termination.

‘(7) CONSULTATIVE ROLE OF THE SECRETARY OF STATE- In this subsection, references to subparagraphs (A)(ii) through (F) of subsection (c)(2) and subsection (c)(5)(A) carry with them the consultative role of the Secretary of State as provided in those provisions.’.

(e) Review of Overstay Tracking Methodology- Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the methods used by the Secretary of Homeland Security--

(1) to track aliens entering and exiting the United States; and

(2) to detect any such alien who stays longer than such alien’s period of authorized admission.

(f) Evaluation of Electronic System for Travel Authorization- Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress--

(1) an evaluation of the security risks of aliens who enter the United States without an approved Electronic System for Travel Authorization verification; and

(2) a description of any improvements needed to minimize the number of aliens who enter the United States without the verification described in paragraph (1).

(g) Sense of Congress on Priority for Review of Program Countries- It is the sense of Congress that the Secretary of Homeland Security, in the process of conducting evaluations of countries participating in the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), should prioritize the reviews of countries in which circumstances indicate that such a review is necessary or desirable.

## **SEC. 7. EXPEDITING ENTRY FOR PRIORITY VISITORS.**

Section 7208(k)(4) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(4)) is amended to read as follows:

‘(4) EXPEDITING ENTRY FOR PRIORITY VISITORS-

‘(A) IN GENERAL- The Secretary of Homeland Security shall expand the enrollment in the Global Entry Trusted Traveler Network (referred to in this paragraph as ‘Global

Entry’) to include individuals employed by international organizations, selected by the Secretary, which maintain strong working relationships with the United States.

‘(B) SPONSORS- An individual may not be enrolled in Global Entry unless the individual is sponsored by--

‘(i) an international organization selected by the Secretary under subparagraph (A); and

‘(ii) the government that issued the passport that the individual is using to participate in Global Entry.

‘(C) SECURITY REQUIREMENTS- An individual may not be enrolled in Global Entry unless the individual has successfully completed all applicable security requirements established by the Secretary, including cooperation from the applicable foreign government, to ensure that the individual does not pose a risk to the United States.

‘(D) DISCRETION- Except as provided in subparagraph (E), the Secretary shall retain unreviewable discretion to offer or revoke enrollment in Global Entry to any individual.

‘(E) INELIGIBLE TRAVELERS- An individual who is a citizen of a state sponsor of terrorism (as defined in section 301(13) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8541(13)) may not be enrolled in Global Entry.’.

## **SEC. 8. VISA PROCESSING.**

(a) In General- Notwithstanding any other provision of law, the Secretary of State shall--

(1) require United States diplomatic and consular missions--

(A) to conduct visa interviews for nonimmigrant visa applications determined to require a consular interview--

(i) not later than 15 days after the date on which the applicant requests a visa appointment; and

(ii) beginning 1 year after the date of the enactment of this Act, not later than 10 days after the date on which the applicant requests a visa appointment; and

(B) to adjudicate nonimmigrant visa applications determined not to require a consular interview not later than 10 days after the receipt of the completed application and passport; and

(2) not later than 90 days after the date of the enactment of this Act, submit a detailed strategic plan that describes the resources needed to carry out paragraph (1)(A)(ii) to--

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(b) Additional Officers- The Secretary shall use machine readable nonimmigrant visa fees to hire a sufficient number of Foreign Service officers and limited non-career appointment consular officers to continuously meet and maintain the standards set forth in subsection (a).

(c) Quarterly Report- Not later than 30 days after the end of the first full quarter after the implementation of subsection (a), and not later than 30 days after the end of each subsequent quarter, the Secretary shall submit a report to the congressional committees set forth in subsection (a)(2) that identifies--

(1) each consular post that failed to comply with the standards set forth in subsection (a) during such quarter;

(2) the cause for such noncompliance; and

(3) reforms that the Secretary will be implement to comply with such standards.

(d) Waiver-

(1) IN GENERAL- The provisions under subsection (a) shall be temporarily waived if a national security emergency requires the Secretary of State to redistribute personnel and resources to assist the affected and surrounding areas.

(2) REINSTATEMENT-

(A) IN GENERAL- Except as provided in subparagraph (B), the provisions under subsection (a) shall be reinstated not later than 1 year after the national security emergency ends.

(B) NONCOMPLIANCE REPORT- If the provisions under subsection (a) are not reinstated by the deadline described in subparagraph (A), the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that--

(i) describes the cause for noncompliance with the provisions under subsection (a); and

(ii) includes a detailed timeframe for compliance with such provisions.

(e) Savings Provision-

(1) IN GENERAL- Nothing in subsection (a) may be construed to affect the consular officer's authority--

(A) to deny a visa application under section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g)); or

(B) to initiate any necessary or appropriate security-related check or clearance.

(2) SECURITY CHECKS- The completion of a security-related check or clearance shall not be subject to the time limits set forth in subsection (a).

(f) Effective Date- Beginning not later than 90 days after the date of the enactment of this Act, the Secretary shall be in full compliance with the provisions under subsection (a)(1).