

112TH CONGRESS
2D SESSION

S. 3185

To amend the Immigration and Nationality Act to provide certain immigration benefits for aliens with advanced degrees in science, technology, engineering, or mathematics and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2012

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide certain immigration benefits for aliens with advanced degrees in science, technology, engineering, or mathematics 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 “Securing the Talent
5 America Requires for the 21st Century Act of 2012” or
6 the “STAR Act of 2012”.

1 **SEC. 2. DEFINITIONS.**

2 (a) STEM FIELD.—Section 101(a) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1101(a)) is amended
4 by inserting after paragraph (52) the following new para-
5 graph:

6 “(53) STEM FIELD.—The term ‘STEM field’
7 means a field of study or occupation included on the
8 2012 STEM Designated Degree Program List pub-
9 lished by the Department of Homeland Security and
10 referred to in section 214.2(f)(11)(C)(2) of title 8,
11 Code of Federal Regulations, (or any similar suc-
12 cessor regulation) or any field of study or occupation
13 added to such list by the Secretary of Homeland Se-
14 curity.”.

15 (b) UNITED STATES RESEARCH INSTITUTION.—Sec-
16 tion 101(a) of the Immigration and Nationality Act (8
17 U.S.C. 1101(a)), as amended by subsection (a), is further
18 amended by adding at the end, the following new para-
19 graph:

20 “(54) UNITED STATES RESEARCH INSTITU-
21 TION.—The term ‘United States research institution’
22 means an institution of higher education that—

23 “(A) is described in section 101(a) of the
24 Higher Education Act of 1965 (20 U.S.C.
25 1001(a));

1 “(B) received, or is part of a system of in-
2 stitutions of higher education that received, at
3 least \$5,000,000 in direct Federal science and
4 engineering funding for research and develop-
5 ment in the preceding fiscal year; or

6 “(C) has been in existence for at least 10
7 years.”.

8 **SEC. 3. LABOR MARKET PROVISIONS.**

9 (a) LABOR CERTIFICATION AND QUALIFICATION FOR
10 CERTAIN IMMIGRANTS.—Section 212(a)(5)(A)(ii) of such
11 Act (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

12 (1) in subclause (I), by striking “, or” at the
13 end and inserting a semicolon;

14 (2) in subclause (II), by striking the period at
15 the end and inserting “; or”; and

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

17 “(III) holds a Master’s degree in
18 a STEM field from a United States
19 research institution if the alien will be
20 employed by an employer who engages
21 in a competitive recruitment and se-
22 lection process and determines that
23 the alien was found to be more quali-
24 fied than any willing and able United

1 States worker who applied for the
2 job.”.

3 (b) DESIGNATION AS SHORTAGE OCCUPATIONS.—A
4 job described in an immigrant petition under paragraph
5 (1) or (2) of section 203(b) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1153(b)) that is filed on behalf
7 of an alien who holds a doctorate degree from a United
8 States research institution in a STEM field (as that term
9 is defined in paragraph (53) of section 101(a) of the Im-
10 migration and Nationality Act, as added by section 2(a))
11 shall be deemed a Schedule A shortage occupation and the
12 petitioner may apply for a certification directly with the
13 appropriate office of the Department of Homeland Secu-
14 rity.

15 (c) LABOR CERTIFICATION.—Section 212(a)(5)(A) of
16 the Immigration and Nationality Act (8 U.S.C.
17 1182(a)(5)(A)) is amended by adding at the end the fol-
18 lowing:

19 “(v) CONTINUED VALIDITY OF LABOR
20 MARKET TEST.—A certification made
21 under clause (i) with respect to an indi-
22 vidual who seeks to immigrate under sec-
23 tion 203(b)(2)(A)(i) shall remain valid if
24 the individual files an immigrant petition
25 under section 204(a)(1)(F) of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1154(a)(1)(F)). Recruitment conducted to
3 satisfy clause (i) shall remain valid for an
4 application submitted under clause
5 (ii)(III).”.

6 **SEC. 4. ALLOCATION OF VISAS.**

7 (a) **WORLDWIDE LEVEL OF IMMIGRATION.**—Section
8 201(d)(2) of the Immigration and Nationality Act (8
9 U.S.C. 1151(d)(2)) is amended by adding at the end the
10 following:

11 “(D) In addition to the increase provided
12 under subparagraph (C), the number computed
13 under this paragraph for fiscal year 2013 and
14 subsequent fiscal years shall be increased by
15 55,000, to be used in accordance with section
16 203(b)(2)(A)(i).”.

17 (b) **PREFERENCE ALLOCATION FOR EMPLOYMENT-**
18 **BASED IMMIGRANTS.**—Section 203(b)(2)(A) of such Act
19 is amended—

20 (1) by striking “Visas shall be”; and inserting
21 the following:

22 “(i) **ADVANCED DEGREE HOLDERS**
23 **AND ALIENS OF EXCEPTIONAL ABILITY.**—
24 Visas shall be”; and

25 (2) by adding at the end the following:

1 “(ii) STEM VISA HOLDER.—Visas al-
 2 located under section 203(b)(2) shall be
 3 made available first to aliens who graduate
 4 from a United States research institution
 5 with a doctorate or master’s degree in a
 6 STEM field and who intend to work in a
 7 related field. Visas made available under
 8 this clause shall not be counted for pur-
 9 poses of computing any percentage of the
 10 worldwide level under this subsection.”.

11 (c) UTILIZING VISAS.—Section 202(a)(5) of the Im-
 12 migration and Nationality Act (8 U.S.C. 1152(a)(5)) is
 13 amended by adding at the end the following:

14 “(C) CARRY OVER VISAS.—The total num-
 15 ber of visas available under paragraph (1), (2),
 16 (3), (4) or (5) of section 203(b) shall be in-
 17 creased by the difference between the number
 18 of visas available under section 203(b) in the
 19 prior fiscal year and the amount used during
 20 that fiscal year.”.

21 **SEC. 5. RETAINING STUDENTS IN STEM FIELDS.**

22 (a) DUAL INTENT.—Section 101(a)(15)(F)(i) of the
 23 Immigration and Nationality Act (8 U.S.C.
 24 1101(a)(15)(F)(i)) is amended by striking “an alien hav-
 25 ing a residence in a foreign country which he has no inten-

1 tion of abandoning, who is a bona fide student qualified
2 to pursue a full course of study and who” and inserting
3 “an alien who is a bona fide student qualified to pursue
4 a full course of study, who (except for a student who in-
5 tends to pursue a Master’s or higher degree in a STEM
6 field from a United States research institution) has a resi-
7 dence in a foreign country which the alien has no intention
8 of abandoning, and who”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) PRESUMPTION OF STATUS.—Section 214(b)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1184(b)) is amended by striking “(other than a non-
13 immigrant” and inserting “(other than a non-
14 immigrant described in section 101(a)(15)(F) if the
15 student intends to pursue a Master’s or higher de-
16 gree in a STEM field from a United States research
17 institution)”.

18 (2) INTENTION TO ABANDON FOREIGN RESI-
19 DENCE.—Section 214(h) of the Immigration and
20 Nationality Act (8 U.S.C. 1184(h)) is amended by
21 inserting “(F) (if the student intends to pursue a
22 Master’s or higher degree in a field of science, tech-
23 nology, engineering or mathematics from a quali-
24 fying research institution)” before “(H)(i)(b)”.

1 **SEC. 6. RETAINING SKILLED WORKERS SUBJECT TO VISA**
2 **BACKLOG.**

3 (a) IN GENERAL.—Section 245(a) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1255(a)) is amended—

5 (1) by redesignating paragraphs (1), (2), and
6 (3) as subparagraphs (A), (B), and (C), respectively;

7 (2) by striking “(a) The status of” and insert-
8 ing the following:

9 “(a) IN GENERAL.—

10 “(1) ADJUSTMENT OF STATUS.—The status
11 of”; and

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

13 “(2) SUPPLEMENTAL FEE.—An application
14 that is based on a petition approved or approvable
15 under subparagraph (E) or (F) of section 204(a)(1)
16 may be filed without regard to the limitation set
17 forth in paragraph (1)(C) if a supplemental fee of
18 \$500 is paid by the principal alien at the time the
19 application is filed. A supplemental fee may not be
20 required for any dependent alien accompanying or
21 following to join the principal alien.

22 “(3) VISA AVAILABILITY.—An application for
23 adjustment filed under this paragraph may not be
24 approved until such time as an immigrant visa be-
25 comes available.”.

1 (b) USE OF FEES.—Section 286(v)(1) (8 U.S.C.
2 1356(v)(1)) is amended by inserting before the period at
3 the end “and the fees collected under section 245(a)(2).”.

4 **SEC. 7. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
5 **GRAM.**

6 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-
7 GRANTS.—Section 201 of the Immigration and Nation-
8 ality Act (8 U.S.C. 1151) is amended—

9 (1) in subsection (a)—

10 (A) by inserting “and” at the end of para-
11 graph (1);

12 (B) by striking “; and” at the end of para-
13 graph (2) and inserting a period; and

14 (C) by striking paragraph (3); and

15 (2) by striking subsection (e).

16 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—
17 Section 203 of such Act (8 U.S.C. 1153) is amended—

18 (1) by striking subsection (e);

19 (2) in subsection (d), by striking “(a), (b), or
20 (c),” and inserting “(a) or (b),”;

21 (3) in subsection (e), by striking paragraph (2)
22 and redesignating paragraph (3) as paragraph (2);

23 (4) in subsection (f), by striking “(a), (b), or
24 (c)” and inserting “(a) or (b)”; and

1 (5) in subsection (g), by striking “(a), (b), and
2 (c)” and inserting “(a) and (b)”.

3 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
4 TUS.—Section 204 of such Act (8 U.S.C. 1154) is amend-
5 ed—

6 (1) by striking subsection (a)(1)(I); and

7 (2) in subsection (e), by striking “(a), (b), or
8 (c)” and inserting “(a) or (b)”.

9 (d) USE OF VISAS.—There shall be 55,000 immi-
10 grant visas available for the aliens described in clause (ii)
11 of section 203(b)(2)(A) of such Act (8 U.S.C.
12 1182(a)(5)(A)), as added by section 4.

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