S. 3192

To amend the Immigration and Nationality Act by establishing an F–4 nonimmigrant visa for aliens pursuing an advanced degree in mathematics, engineering, technology, or the physical sciences in the United States, to authorize such aliens to become permanent residents if they obtain employment in the United States related to their field of study, and for other purposes.

IN THE SENATE OF THE UNITED STATES
MAY 16, 2012
Mr. ALEXANDER (for himself, Mr. COONS, Mr. LUGAR, and Mr. ISAKSON) 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 by establishing an F–4 nonimmigrant visa for aliens pursuing an advanced degree in mathematics, engineering, technology, or the physical sciences in the United States, to authorize such aliens to become permanent residents if they obtain employment in the United States related to their field of study, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLES.

This Act may be cited as the “Sustaining our Most Advanced Researchers and Technology Jobs Act of 2012” or the “SMART Jobs Act”.

SEC. 2. DEFINITION OF STEM FIELD.

Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by inserting after paragraph (36) the following new paragraph:

“(36A) The term ‘STEM field’ means a field of study or occupation included on the most recent STEM-designated Degree Program List published by the Department of Homeland Security referred to in section 214.2(f)(11)(C)(2) of title 8, Code of Federal Regulations (or similar successor regulation).”.

SEC. 3. VISAS FOR GRADUATE STUDENTS IN MATHEMATICS, ENGINEERING, TECHNOLOGY, OR THE PHYSICAL SCIENCES.

(a) NEW STEM NONIMMIGRANT VISA CATEGORY.—

Section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by inserting “(except for a graduate program described in clause (iv))” after “full course of study”;

(B) by striking “214(l)” and inserting “214(m)”;

and
(C) by striking the comma at the end and inserting a semicolon;

(2) in clause (ii)—

(A) by inserting “or clause (iv)” after “clause (i)”; and

(B) by striking “, and” and inserting a semicolon;

(3) in clause (iii), by adding “and” at the end; and

(4) by adding at the end the following:

“(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in a STEM field at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) for the purpose of obtaining an advanced degree;”.

(b) REQUIREMENTS FOR OBTAINING AN F–4 VISA.—

Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184(m)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

“(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—”; and

(2) by adding at the end the following:
“(3)(A) An alien who obtains the status of a non-immigrant under section 101(a)(15)(F)(iv) shall demonstrate an intent to—

“(i) return to the country of residence of such alien immediately after the completion or termination of the graduate program qualifying such alien for such status; or

“(ii) obtain employment in the United States in a STEM field and become a permanent resident of the United States upon the completion of the graduate program, which was the basis for such non-immigrant status.

“(B) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

“(i) during the intended period of study in a graduate program described in such section;

“(ii) for an additional period, not to exceed 1 year beyond the completion of the graduate program, if the alien is actively pursuing an offer of employment in a STEM field; and

“(iii) for an additional period, not to exceed 6 months, while the alien’s application for adjustment of status under section 245(i)(4) is pending.
“(C) An alien shall qualify for adjustment of status to that of a person admitted for permanent residence if the alien—

“(i) has the status of a nonimmigrant under section 101(a)(15)(F)(iv);

“(ii) has successfully earned an advanced degree in a STEM field at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

“(iii) is employed full-time in the United States in a position in a STEM field.”.

(c) ADJUSTMENT OF STATUS.—Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended by adding at the end the following:

“(4) The Secretary of Homeland Security may adjust the status of an alien who meets the requirements under section 214(m)(3) to that of an alien lawfully admitted for permanent residence if the alien—

“(A) makes an application for such adjustment;

“(B) is eligible to receive an immigrant visa;

“(C) is admissible to the United States for permanent residence; and

“(D) remits a fee in an amount to be determined by the Secretary.”.

(d) USE OF FEES.—
(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(1)) is amended by inserting “and 80 percent of the fees collected under section 245(i)(4)” before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(1)) is amended by inserting “and 20 percent of the fees collected under section 245(i)(4)” before the period at the end.

SEC. 4. ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT-BASED IMMIGRANTS.

(a) IN GENERAL.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

“(F) Aliens who have earned an advanced degree in a STEM field and have been working in a STEM field in the United States under a non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or
SEC. 5. ANNUAL REPORT ON STEM NONIMMIGRANT VISAS.

(a) REQUIREMENT FOR REPORT.—The Secretary of Homeland Security shall submit to Congress an annual report on the nonimmigrant visas granted pursuant to clause (iv) of section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)), as added by section 3(a).

(b) CONTENT.—Each report required by subsection (a) shall include the following:

(1) The number of nonimmigrant visas granted during the previous year pursuant to clause (iv) of section 101(a)(15)(F) of the Immigration and Nationality Act, as added by section 3(a).

(2) The countries of origin of the aliens granted nonimmigrant visas pursuant to such clause (iv).

(3) The number of degrees granted to such aliens and the fields of such degrees.

(4) A description of the employers of such aliens.