

112TH CONGRESS
2D SESSION

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

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLES.**

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

5 **SEC. 2. DEFINITION OF STEM FIELD.**

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

9 “(36A) The term ‘STEM field’ means a field of
10 study or occupation included on the most recent
11 STEM-designated Degree Program List published
12 by the Department of Homeland Security referred to
13 in section 214.2(f)(11)(C)(2) of title 8, Code of Fed-
14 eral Regulations (or similar successor regulation).”.

15 **SEC. 3. VISAS FOR GRADUATE STUDENTS IN MATHE-**
16 **MATICS, ENGINEERING, TECHNOLOGY, OR**
17 **THE PHYSICAL SCIENCES.**

18 (a) NEW STEM NONIMMIGRANT VISA CATEGORY.—
19 Section 101(a)(15)(F) of the Immigration and Nationality
20 Act (8 U.S.C. 1101(a)(15)(F)) is amended—

21 (1) in clause (i)—

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

25 (B) by striking “214(l)” and inserting
26 “214(m)”; and

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

3 (2) in clause (ii)—

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

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

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

9 and

10 (4) by adding at the end the following:

11 “(iv) an alien described in clause (i) who
12 has been accepted and plans to attend an ac-
13 credited graduate program in a STEM field at
14 an institution of higher education (as defined in
15 section 101 of the Higher Education Act of
16 1965 (20 U.S.C. 1001)) for the purpose of ob-
17 taining an advanced degree;”.

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

19 Section 214(m) of the Immigration and Nationality Act
20 (8 U.S.C. 1184(m)) is amended—

21 (1) by striking the matter preceding paragraph

22 (1) and inserting the following:

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

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

1 “(3)(A) An alien who obtains the status of a non-
2 immigrant under section 101(a)(15)(F)(iv) shall dem-
3 onstrate an intent to—

4 “(i) return to the country of residence of such
5 alien immediately after the completion or termi-
6 nation of the graduate program qualifying such alien
7 for such status; or

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

13 “(B) A visa issued to an alien under section
14 101(a)(15)(F)(iv) shall be valid—

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

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

21 “(iii) for an additional period, not to exceed 6
22 months, while the alien’s application for adjustment
23 of status under section 245(i)(4) is pending.

1 “(C) An alien shall qualify for adjustment of status
2 to that of a person admitted for permanent residence if
3 the alien—

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

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

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

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

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

19 “(A) makes an application for such adjustment;

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

21 “(C) is admissible to the United States for per-
22 manent residence; and

23 “(D) remits a fee in an amount to be deter-
24 mined by the Secretary.”.

25 (d) USE OF FEES.—

1 (1) **JOB TRAINING; SCHOLARSHIPS.**—Section
 2 286(s)(1) of the Immigration and Nationality Act (8
 3 U.S.C. 1356(s)(1)) is amended by inserting “and 80
 4 percent of the fees collected under section 245(i)(4)”
 5 before the period at the end.

6 (2) **FRAUD PREVENTION AND DETECTION.**—
 7 Section 286(v)(1) of the Immigration and Nation-
 8 ality Act (8 U.S.C. 1356(v)(1)) is amended by in-
 9 serting “and 20 percent of the fees collected under
 10 section 245(i)(4)” before the period at the end.

11 **SEC. 4. ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS**

12 **ON EMPLOYMENT-BASED IMMIGRANTS.**

13 (a) **IN GENERAL.**—Section 201(b)(1) of the Immi-
 14 gration and Nationality Act (8 U.S.C. 1151(b)(1)) is
 15 amended by adding at the end the following:

16 “(F) Aliens who have earned an advanced de-
 17 gree in a STEM field and have been working in a
 18 STEM field in the United States under a non-
 19 immigrant visa during the 3-year period preceding
 20 their application for an immigrant visa under section
 21 203(b).”.

22 (b) **APPLICABILITY.**—The amendments made by sub-
 23 section (a) shall apply to any visa application—

24 (1) pending on the date of the enactment of
 25 this Act; or

1 (2) filed on or after such date of enactment.

2 **SEC. 5. ANNUAL REPORT ON STEM NONIMMIGRANT VISAS.**

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

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

11 (1) The number of nonimmigrant visas granted
12 during the previous year pursuant to clause (iv) of
13 section 101(a)(15)(F) of the Immigration and Na-
14 tionality Act, as added by section 3(a).

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

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

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

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