

113TH CONGRESS
1ST SESSION

H. R. 459

To amend the Immigration and Nationality Act to promote innovation, investment, and research in the United States, to eliminate the diversity immigrant program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2013

Mr. ISSA introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to promote innovation, investment, and research in the United States, to eliminate the diversity immigrant program, 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 “STEM Visa Act of
5 2013”.

1 **SEC. 2. IMMIGRANT VISAS FOR CERTAIN ADVANCED STEM**
2 **GRADUATES.**

3 (a) WORLDWIDE LEVEL OF IMMIGRATION.—Section
4 201(d)(2) of the Immigration and Nationality Act (8
5 U.S.C. 1151(d)(2)) is amended by adding at the end the
6 following:

7 “(D)(i) In addition to the increase provided under
8 subparagraph (C), the number computed under this para-
9 graph for fiscal year 2015 and subsequent fiscal years
10 shall be further increased by the number specified in
11 clause (ii), to be used in accordance with paragraphs (6)
12 and (7) of section 203(b), except that—

13 “(I) immigrant visa numbers made available
14 under this subparagraph but not required for the
15 classes specified in paragraphs (6) and (7) of section
16 203(b) shall not be counted for purposes of sub-
17 section (c)(3)(C); and

18 “(II) for purposes of paragraphs (1) through
19 (5) of section 203(b), the increase under this sub-
20 paragraph shall not be counted for purposes of com-
21 puting any percentage of the worldwide level under
22 this subsection.

23 “(ii) The number specified in this clause is 55,000,
24 reduced for any fiscal year by the number by which the
25 number of visas under section 201(e) would have been re-
26 duced in that year pursuant to section 203(d) of the Nica-

1 ragan Adjustment and Central American Relief Act (8
2 U.S.C. 1151 note) if section 201(e) had not been repealed
3 by section 3 of the STEM Visa Act of 2013.

4 “(iii) Immigrant visa numbers made available under
5 this subparagraph for fiscal year 2015, but not used for
6 the classes specified in paragraphs (6) and (7) of section
7 203(b) in such year, may be made available in subsequent
8 years as if they were included in the number specified in
9 clause (ii) only to the extent of the cumulative number
10 of petitions under section 204(a)(1)(F), and applications
11 for a labor certification under section 212(a)(5)(A), filed
12 in fiscal year 2015 with respect to aliens seeking a visa
13 under paragraph (6) or (7) of section 203(b) up to, but
14 not exceeding, the number specified in clause (ii) for such
15 year. Such immigrant visa numbers may only be made
16 available in fiscal years after fiscal year 2015 in connec-
17 tion with a petition under section 204(a)(1)(F), or an ap-
18 plication for a labor certification under section
19 212(a)(5)(A), that was filed in fiscal year 2015.

20 “(iv) Immigrant visa numbers made available under
21 this subparagraph for fiscal year 2016, but not used for
22 the classes specified in paragraphs (6) and (7) of section
23 203(b) during such year, may be made available in subse-
24 quent years as if they were included in the number speci-
25 fied in clause (ii) only to the extent of the cumulative num-

1 ber of petitions under section 204(a)(1)(F), and applica-
2 tions for a labor certification under section 212(a)(5)(A),
3 filed in fiscal year 2015 with respect to aliens seeking a
4 visa under paragraph (6) or (7) of section 203(b) up to,
5 but not exceeding, the number specified in clause (ii) for
6 such year. Such immigrant visa numbers may only be
7 made available in fiscal years after fiscal year 2016 in con-
8 nection with a petition under section 204(a)(1)(F), or an
9 application for a labor certification under section
10 212(a)(5)(A), that was filed in fiscal year 2016.

11 “(v) Immigrant visa numbers made available under
12 this subparagraph for fiscal year 2017, but not used for
13 the classes specified in paragraphs (6) and (7) of section
14 203(b) in such year, may be made available in subsequent
15 years as if they were included in the number specified in
16 clause (ii), but only—

17 “(I) to the extent of the cumulative number of
18 petitions under section 204(a)(1)(F), and applica-
19 tions for a labor certification under section
20 212(a)(5)(A), filed in fiscal year 2017 with respect
21 to aliens seeking a visa under paragraph (6) or (7)
22 of section 203(b) up to, but not exceeding, the num-
23 ber specified in clause (ii) for such year;

24 “(II) if the immigrant visa numbers used under
25 this subparagraph for fiscal year 2016 with respect

1 to aliens seeking a visa under paragraph (6) or (7)
2 of section 203(b) were less than the number speci-
3 fied in clause (ii) for such year; and

4 “(III) if the processing standards set forth in
5 sections 204(a)(1)(F)(ii) and 212(a)(5)(A)(vi) were
6 not met in fiscal year 2017.

7 Such immigrant visa numbers may only be made available
8 in fiscal years after fiscal year 2017 in connection with
9 a petition under section 204(a)(1)(F), or an application
10 for a labor certification under section 212(a)(5)(A), that
11 was filed in fiscal year 2016.

12 “(vi) Immigrant visa numbers made available under
13 this subparagraph for fiscal year 2017, but not used for
14 the classes specified in paragraphs (6) and (7) of section
15 203(b) in such year, may be made available in subsequent
16 years as if they were included in the number specified in
17 clause (ii), but only—

18 “(I) to the extent of the cumulative number of
19 petitions under section 204(a)(1)(F), and applica-
20 tions for a labor certification under section
21 212(a)(5)(A), filed in fiscal year 2017 with respect
22 to aliens seeking a visa under paragraph (6) or (7)
23 of section 203(b) up to, but not exceeding, the num-
24 ber specified in clause (ii) for such year;

1 “(II) if the immigrant visa numbers used under
2 this subparagraph for fiscal year 2016 with respect
3 to aliens seeking a visa under paragraph (6) or (7)
4 of section 203(b) were less than the number speci-
5 fied in clause (ii) for such year; and

6 “(III) if the processing standards set forth in
7 sections 204(a)(1)(F)(ii) and 212(a)(5)(A)(vi) were
8 not met in fiscal year 2018.

9 Such immigrant visa numbers may only be made available
10 in fiscal years after fiscal year 2017 in connection with
11 a petition under section 204(a)(1)(F), or an application
12 for a labor certification under section 212(a)(5)(A), that
13 was filed in fiscal year 2018.”.

14 (b) NUMERICAL LIMITATION TO ANY SINGLE FOR-
15 EIGN STATE.—Section 202(a)(5)(A) of such Act (8 U.S.C.
16 1152(a)(5)(A)) is amended by striking “or (5)” and in-
17 serting “(5), (6), or (7)”.

18 (c) PREFERENCE ALLOCATION FOR EMPLOYMENT-
19 BASED IMMIGRANTS.—Section 203(b) of such Act (8
20 U.S.C. 1153(b)) is amended—

21 (1) by redesignating paragraph (6) as para-
22 graph (8); and

23 (2) by inserting after paragraph (5) the fol-
24 lowing:

1 “(6) ALIENS HOLDING DOCTORATE DEGREES
2 FROM U.S. DOCTORAL INSTITUTIONS OF HIGHER
3 EDUCATION IN SCIENCE, TECHNOLOGY, ENGINEER-
4 ING, OR MATHEMATICS.—

5 “(A) IN GENERAL.—Visas shall be made
6 available, in a number not to exceed the number
7 specified in section 201(d)(2)(D)(ii), to quali-
8 fied immigrants who—

9 “(i) hold a doctorate degree in a field
10 of science, technology, engineering, or
11 mathematics from a United States doctoral
12 institution of higher education; and

13 “(ii) have taken all doctoral courses in
14 a field of science, technology, engineering,
15 or mathematics, including all courses taken
16 by correspondence (including courses of-
17 fered by telecommunications) or by dis-
18 tance education, while physically present in
19 the United States.

20 “(B) DEFINITIONS.—For purposes of this
21 paragraph, paragraph (7), and sections
22 101(a)(15)(F)(i)(I) and 212(a)(5)(A)(iii)(III):

23 “(i) The term ‘distance education’ has
24 the meaning given such term in section

103 of the Higher Education Act of 1965
(20 U.S.C. 1003).

“(ii) The term ‘field of science, technology, engineering, or mathematics’ means a field included in the Department of Education’s Classification of Instructional Programs taxonomy within the summary groups of computer and information sciences and support services, engineering, mathematics and statistics, and physical sciences.

“(iii) The term ‘United States doctoral institution of higher education’ means an institution that—

“(I) is described in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or is a proprietary institution of higher education (as defined in section 102(b) of such Act (20 U.S.C. 1002(b)));

“(II) was classified by the Carnegie Foundation for the Advancement of Teaching on January 1, 2012, as a doctorate-granting university with a very high or high level of

1 research activity or classified by the
2 National Science Foundation after the
3 date of enactment of this paragraph,
4 pursuant to an application by the in-
5 stitution, as having equivalent re-
6 search activity to those institutions
7 that had been classified by the Car-
8 negie Foundation as being doctorate-
9 granting universities with a very high
10 or high level of research activity;

11 “(III) is accredited by an accred-
12 iting body that is itself accredited ei-
13 ther by the Department of Education
14 or by the Council for Higher Edu-
15 cation Accreditation.

16 “(C) LABOR CERTIFICATION REQUIRED.—

17 “(i) IN GENERAL.—Subject to clause
18 (ii), the Secretary of Homeland Security
19 may not approve a petition filed for classi-
20 fication of an alien under subparagraph
21 (A) unless the Secretary of Homeland Se-
22 curity is in receipt of a determination
23 made by the Secretary of Labor pursuant
24 to the provisions of section 212(a)(5)(A),
25 except that the Secretary of Homeland Se-

1 curity may, when the Secretary deems it to
2 be in the national interest, waive this re-
3 quirement.

4 “(ii) REQUIREMENT DEEMED SATIS-
5 FIED.—The requirement of clause (i) shall
6 be deemed satisfied with respect to an em-
7 ployer and an alien in a case in which a
8 certification made under section
9 212(a)(5)(A)(i) has already been obtained
10 with respect to the alien by that employer.

11 “(7) ALIENS HOLDING MASTER’S DEGREES
12 FROM U.S. DOCTORAL INSTITUTIONS OF HIGHER
13 EDUCATION IN SCIENCE, TECHNOLOGY, ENGINEER-
14 ING, OR MATHEMATICS.—

15 “(A) IN GENERAL.—Any visas not required
16 for the class specified in paragraph (6) shall be
17 made available to the class of aliens who—

18 “(i) hold a master’s degree in a field
19 of science, technology, engineering, or
20 mathematics from a United States doctoral
21 institution of higher education that was ei-
22 ther part of a master’s program that re-
23 quired at least 2 years of enrollment or
24 part of a 5-year combined baccalaureate-
25 master’s degree program in such field;

1 “(ii) have taken all master’s degree
2 courses in a field of science, technology,
3 engineering, or mathematics, including all
4 courses taken by correspondence (including
5 courses offered by telecommunications) or
6 by distance education, while physically
7 present in the United States.

8 “(B) LABOR CERTIFICATION REQUIRED.—

9 “(i) IN GENERAL.—Subject to clause
10 (ii), the Secretary of Homeland Security
11 may not approve a petition filed for classi-
12 fication of an alien under subparagraph
13 (A) unless the Secretary of Homeland Se-
14 curity is in receipt of a determination
15 made by the Secretary of Labor pursuant
16 to the provisions of section 212(a)(5)(A),
17 except that the Secretary of Homeland Se-
18 curity may, when the Secretary deems it to
19 be in the national interest, waive this re-
20 quirement.

21 “(ii) REQUIREMENT DEEMED SATIS-
22 FIED.—The requirement of clause (i) shall
23 be deemed satisfied with respect to an em-
24 ployer and an alien in a case in which a
25 certification made under section

1 212(a)(5)(A)(i) has already been obtained
2 with respect to the alien by that employer.

3 “(C) DEFINITIONS.—The definitions in
4 paragraph (6)(B) shall apply for purposes of
5 this paragraph.”.

6 (d) PROCEDURE FOR GRANTING IMMIGRANT STA-
7 TUS.—Section 204(a)(1)(F) of such Act (8 U.S.C.
8 1154(a)(1)(F)) is amended—

9 (1) by striking “(F)” and inserting “(F)(i)”;

10 (2) by striking “or 203(b)(3)” and inserting
11 “203(b)(3), 203(b)(6), or 203(b)(7)”;

12 (3) by striking “Attorney General” and insert-
13 ing “Secretary of Homeland Security”; and

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

15 “(ii) The following processing standards
16 shall apply with respect to petitions under
17 clause (i) relating to alien beneficiaries quali-
18 fying under paragraph (6) or (7) of section
19 203(b):

20 “(I) The Secretary of Homeland Secu-
21 rity shall adjudicate such petitions not
22 later than 60 days after the date on which
23 the petition is filed. In the event that addi-
24 tional information or documentation is re-
25 quested by the Secretary during such 60-

1 day period, the Secretary shall adjudicate
2 the petition not later than 30 days after
3 the date on which such information or doc-
4 umentation is received.

5 “(II) The petitioner shall be notified
6 in writing within 30 days of the date of fil-
7 ing if the petition does not meet the stand-
8 ards for approval. If the petition does not
9 meet such standards, the notice shall in-
10 clude the reasons therefore and the Sec-
11 retary shall provide an opportunity for the
12 prompt resubmission of a modified peti-
13 tion.”.

14 (e) LABOR CERTIFICATION AND QUALIFICATION FOR
15 CERTAIN IMMIGRANTS.—Section 212(a)(5) of such Act (8
16 U.S.C. 1182(a)(5)) is amended—

17 (1) in subparagraph (A)—

18 (A) in clause (ii)—

19 (i) in subclause (I), by striking “, or”
20 at the end and inserting a semicolon;

21 (ii) in subclause (II), by striking the
22 period at the end and inserting “; or”; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(III) holds a doctorate degree in
2 a field of science, technology, engi-
3 neering, or mathematics from a
4 United States doctoral institution of
5 higher education (as defined in section
6 203(b)(6)(B)(iii)).”;

7 (B) by redesignating clauses (ii) through
8 (iv) as clauses (iii) through (v), respectively;

9 (C) by inserting after clause (i) the fol-
10 lowing:

11 “(ii) JOB ORDER.—

12 “(I) IN GENERAL.—An employer
13 who files an application under clause
14 (i) shall submit a job order for the
15 labor the alien seeks to perform to the
16 State workforce agency in the State in
17 which the alien seeks to perform the
18 labor. The State workforce agency
19 shall post the job order on its official
20 agency website for a minimum of 30
21 days and not later than 3 days after
22 receipt using the employment statis-
23 tics system authorized under section
24 15 of the Wagner-Peyser Act (29
25 U.S.C. 49 et seq.).

1 “(II) LINKS.—The Secretary of
2 Labor shall include links to the offi-
3 cial websites of all State workforce
4 agencies on a single webpage of the
5 official website of the Department of
6 Labor.”; and

7 (D) by adding at the end the following:

8 “(vi) PROCESSING STANDARDS FOR
9 ALIEN BENEFICIARIES QUALIFYING UNDER
10 PARAGRAPHS (6) AND (7) OF SECTION
11 203(b).—The following processing stand-
12 ards shall apply with respect to applica-
13 tions under clause (i) relating to alien
14 beneficiaries qualifying under paragraph
15 (6) or (7) of section 203(b):

16 “(I) The Secretary of Labor shall
17 adjudicate such applications not later
18 than 180 days after the date on which
19 the application is filed. In the event
20 that additional information or docu-
21 mentation is requested by the Sec-
22 retary during such 180-day period,
23 the Secretary shall adjudicate the ap-
24 plication not later than 60 days after

1 the date on which such information or
2 documentation is received.

3 “(II) The applicant shall be noti-
4 fied in writing within 60 days of the
5 date of filing if the application does
6 not meet the standards for approval.
7 If the application does not meet such
8 standards, the notice shall include the
9 reasons therefore and the Secretary
10 shall provide an opportunity for the
11 prompt resubmission of a modified ap-
12 plication.”; and

13 (2) in subparagraph (D), by striking “(2) or
14 (3)” and inserting “(2), (3), (6), or (7)”.

15 (f) GAO STUDY.—Not later than June 30, 2018, the
16 Comptroller General of the United States shall provide to
17 the Congress the results of a study on the use by the Na-
18 tional Science Foundation of the classification authority
19 provided under section 203(b)(6)(B)(iii)(II) of the Immi-
20 gration and Nationality Act (8 U.S.C.
21 1153(b)(6)(B)(iii)(II)), as added by this section.

22 (g) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on October 1, 2014, and shall
24 apply with respect to fiscal years beginning on or after
25 such date. Nothing in the preceding sentence shall be con-

1 strued to prohibit the Secretary of Homeland Security
 2 from accepting before such date petitions under section
 3 204(a)(1)(F) of the Immigration and Nationality Act (8
 4 U.S.C. 1154(a)(1)(F)) relating to alien beneficiaries quali-
 5 fying under paragraph (6) or (7) of section 203(b) of such
 6 Act (8 U.S.C. 1153(b)) (as added by this section).

7 **SEC. 3. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
 8 **GRAM.**

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

12 (1) in subsection (a)—

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

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

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

18 (2) by striking subsection (e).

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

21 (1) by striking subsection (c);

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

24 (3) in subsection (e), by striking paragraph (2)
 25 and redesignating paragraph (3) as paragraph (2);

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

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

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

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

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

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on October 1, 2014, and shall
13 apply with respect to fiscal years beginning on or after
14 such date.

15 **SEC. 4. PERMANENT PRIORITY DATES.**

16 (a) IN GENERAL.—Section 203 of the Immigration
17 and Nationality Act (8 U.S.C. 1153) is amended by add-
18 ing at the end the following:

19 “(i) PERMANENT PRIORITY DATES.—

20 “(1) IN GENERAL.—Subject to subsection
21 (h)(3) and paragraph (2), the priority date for any
22 employment-based petition shall be the date of filing
23 of the petition with the Secretary of Homeland Secu-
24 rity (or the Secretary of State, if applicable), unless
25 the filing of the petition was preceded by the filing

1 of a labor certification with the Secretary of Labor,
 2 in which case that date shall constitute the priority
 3 date.

4 “(2) SUBSEQUENT EMPLOYMENT-BASED PETI-
 5 TIONS.—Subject to subsection (h)(3), an alien who
 6 is the beneficiary of any employment-based petition
 7 that was approvable when filed (including self-peti-
 8 tioners) shall retain the priority date assigned with
 9 respect to that petition in the consideration of any
 10 subsequently filed employment-based petition (in-
 11 cluding self-petitions).”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall take effect on October 1, 2014, and
 14 shall apply to aliens who are a beneficiary of a classifica-
 15 tion petition pending on or after such date.

16 **SEC. 5. STUDENT VISA REFORM.**

17 (a) IN GENERAL.—Section 101(a)(15)(F) of the Im-
 18 migration and Nationality Act (8 U.S.C. 1101(a)(15)(F))
 19 is amended to read as follows:

20 “(F) an alien—

21 “(i) who—

22 “(I) is a bona fide student qualified to
 23 pursue a full course of study in a field of
 24 science, technology, engineering, or mathe-
 25 matics (as defined in section

203(b)(6)(B)(ii)) leading to a bachelors or
graduate degree and who seeks to enter
the United States for the purpose of pur-
suing such a course of study consistent
with section 214(m) at an institution of
higher education (as described in section
101(a) of the Higher Education Act of
1965 (20 U.S.C. 1001(a))) or a propri-
etary institution of higher education (as
defined in section 102(b) of such Act (20
U.S.C. 1002(b))) in the United States,
particularly designated by the alien and
approved by the Secretary of Homeland
Security, after consultation with the Sec-
retary of Education, which institution shall
have agreed to report to the Secretary of
Homeland Security the termination of at-
tendance of each nonimmigrant student,
and if any such institution fails to make
reports promptly the approval shall be
withdrawn; or

“(II) is engaged in temporary employ-
ment for optional practical training related
to such alien’s area of study following com-

1 pletion of the course of study described in
2 subclause (I);

3 “(ii) who has a residence in a foreign coun-
4 try which the alien has no intention of aban-
5 doning, who is a bona fide student qualified to
6 pursue a full course of study, and who seeks to
7 enter the United States temporarily and solely
8 for the purpose of pursuing such a course of
9 study consistent with section 214(m) at an es-
10 tablished college, university, seminary, conserv-
11 atory, academic high school, elementary school,
12 or other academic institution or in a language
13 training program in the United States, particu-
14 larly designated by the alien and approved by
15 the Secretary of Homeland Security, after con-
16 sultation with the Secretary of Education,
17 which institution of learning or place of study
18 shall have agreed to report to the Secretary of
19 Homeland Security the termination of attend-
20 ance of each nonimmigrant student, and if any
21 such institution of learning or place of study
22 fails to make reports promptly the approval
23 shall be withdrawn;

1 “(iii) who is the spouse or minor child of
2 an alien described in clause (i) or (ii) if accom-
3 panying or following to join such an alien; or

4 “(iv) who is a national of Canada or Mex-
5 ico, who maintains actual residence and place of
6 abode in the country of nationality, who is de-
7 scribed in clause (i) or (ii) except that the
8 alien’s qualifications for and actual course of
9 study may be full or part-time, and who com-
10 mutes to the United States institution or place
11 of study from Canada or Mexico.”.

12 (b) ADMISSION.—Section 214(b) of the Immigration
13 and Nationality Act (8 U.S.C. 1184(b)) is amended by in-
14 serting “(F)(i),” before “(L) or (V)”.

15 (c) CONFORMING AMENDMENT.—Section 214(m)(1)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1184(m)(1)) is amended, in the matter preceding subpara-
18 graph (A), by striking “(i) or (iii)” and inserting “(i), (ii),
19 or (iv)”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on October 1, 2014, and shall
22 apply to nonimmigrants who possess or are granted status
23 under section 101(a)(15)(F) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1101(a)(15)(F)) on or after such
2 date.

○