

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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.

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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

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## 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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