

118TH CONGRESS
2D SESSION

S. 4301

To grant States and Indian Tribes the authority to waive the 2-year foreign residence requirement for educators in rural and Tribal areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2024

Mr. THUNE (for himself, Mr. HEINRICH, Mr. ROUNDS, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To grant States and Indian Tribes the authority to waive the 2-year foreign residence requirement for educators in rural and Tribal areas, 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. MODIFICATION OF DEFINITIONS TO INCLUDE**
4 **INDIAN TRIBES.**

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

7 (1) in paragraph (36), by striking “and the
8 Commonwealth of the Northern Mariana Islands”

1 and inserting “the Commonwealth of the Northern
2 Mariana Islands, and each Indian Tribe”; and

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

4 “(53) The term ‘Indian Tribe’ has the meaning
5 given that term in section 4(e) of the Indian Self-
6 Determination and Education Assistance Act (25
7 U.S.C. 5304(e)).

8 “(54) The terms ‘Tribal government’ and ‘Trib-
9 al entity’ mean the recognized governing body of an
10 Indian Tribe.

11 “(55) The term ‘State educational agency’ has
12 the meaning given that term in section 8101(49) of
13 the Elementary and Secondary Education Act of
14 1965 (20 U.S.C. 7801(49))”.

15 **SEC. 2. EXCHANGE VISITOR VISA EXTENSION FOR EDU-
16 CATORS IN RURAL AND TRIBAL AREAS.**

17 Section 214 of the Immigration and Nationality Act
18 (8 U.S.C. 1184) is amended by adding at the end the fol-
19 lowing:

20 “(s)(1) If the Governor of a State or a Tribal govern-
21 ment requests a waiver of the 2-year foreign residence re-
22 quirement under section 212(e) on behalf of an alien de-
23 scribed in clause (i) or (ii) of that section who is a primary
24 or secondary school teacher or an education specialist in

1 that State, the Secretary of Homeland Security may not
2 grant such a waiver unless—

3 “(A) in the case of an alien who is otherwise
4 contractually obligated to return to a foreign coun-
5 try, the government of such country furnishes the
6 Director of the United States Information Agency
7 with a statement in writing that it has no objection
8 to such waiver;

9 “(B) the grant of such waiver would not cause
10 the number of waivers allotted for that State for
11 that fiscal year to exceed 30;

12 “(C) the alien demonstrates a bona fide offer of
13 full-time employment as a teacher or an education
14 specialist at a primary or secondary school in a rural
15 or Tribal area in that State; and

16 “(D)(i) in the case of a request made by a Gov-
17 ernor, the alien agrees to begin employment with
18 such a primary or secondary school not later than
19 90 days after receiving such waiver, and agrees to
20 continue to work for a total of not less than 3 years
21 (unless the Secretary of Homeland Security deter-
22 mines that extenuating circumstances exist, such as
23 closure of the school or hardship to the alien, which
24 would justify a lesser period of employment at the
25 school, in which case the alien must demonstrate an-

1 other bona fide offer of employment at a primary or
2 secondary school for the remainder of such 3-year
3 period), in rural and underserved area (as defined by
4 the State educational agency); or

5 “(ii) in the case of a request made by a Tribal
6 government, the alien—

7 “(I) agrees to begin employment with such
8 a primary or secondary school of an Indian
9 Tribe, including any Bureau of Indian Edu-
10 cation funded school operated pursuant to a
11 grant under the Tribally Controlled Schools Act
12 of 1988 (25 U.S.C. 2501 et seq.) or a contract
13 under the Indian Self-Determination and Edu-
14 cation Assistance Act (25 U.S.C. 5301 et seq.),
15 not later than 90 days after receiving such
16 waiver; and

17 “(II) agrees to continue to work for a total
18 of not less than 3 years (unless the Secretary
19 of Homeland Security determines that extenu-
20 ating circumstances exist, such as closure of the
21 school or hardship to the alien, which would
22 justify a lesser period of employment at the
23 school, in which case the alien must dem-
24 onstrate another bona fide offer of employment

1 at a primary or secondary school for the re-
2 mainder of such 3-year period).

3 “(2)(A) Notwithstanding section 248(a)(2), the Sec-
4 retary of Homeland Security may change the status of an
5 alien who qualifies under this subsection and section
6 212(e) to that of an alien described in section
7 101(a)(15)(H)(i)(b). The numerical limitations contained
8 in subsection (g)(1)(A) shall not apply to any alien whose
9 status is changed pursuant to this subparagraph, if the
10 alien obtained a waiver of the 2-year foreign residence re-
11 quirement upon a request by an interested Federal agency
12 or an interested State agency.

13 “(B) No person who has obtained a change of status
14 under subparagraph (A) and who has failed to fulfill the
15 terms of the contract with the primary or secondary school
16 named in the waiver application shall be eligible to apply
17 for an immigrant visa, for permanent residence, or for any
18 other change of nonimmigrant status, until such person
19 has resided and been physically present in the country of
20 his or her nationality or his or her last residence for an
21 aggregate of at least 2 years following his or here depar-
22 ture from the United States.

23 “(3) Notwithstanding any other provision of this sub-
24 section, the 2-year foreign residence requirement under
25 section 212(e) shall apply with respect to an alien de-

1 scribed in clause (i) or (ii) of such section who has not
2 otherwise been accorded status under section
3 101(a)(27)(H), if at any time the alien ceases to comply
4 with any agreement entered into under pursuant to para-
5 graph (1)(C).

6 “(4) Any spouse or children of an alien granted a
7 waiver under this subsection shall be included in such
8 waiver.

9 “(5) In the case of a request submitted under para-
10 graph (1) by a Tribal entity, the Governor of the State
11 in which the Tribal entity is located may endorse such re-
12 quest.”.

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