

**Legislative Bulletin.....September 20, 2012**

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**H.R. 6429 – STEM Jobs Act of 2012**

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**H.R. 6429 —STEM Jobs Act of 2012  
(Smith, R-TX)**

**Order of Business:** The bill is scheduled to be considered on Thursday, September 20, 2012, under a motion to suspend the rules requiring two thirds majority vote for passage.

**Summary:** H.R. 6429 makes reforms to federal immigration law principally by assisting foreign-born, PhD and Masters degree graduates of American universities in the Science, Technology, Engineering, and Math (STEM) fields obtain legal work status while repealing a visa program that provides up to 55,000 visas annually and randomly to foreign citizens from countries with low rates of immigration to the United States (known as the [Diversity Visa Program](#)). The bill maintains current levels of legal immigration by allocating the 55,000 green cards to the new green card programs established and described below.

- **STEM PhDs** – the bill creates a new green card category for foreign-born doctoral graduates of certain U.S. universities who fulfill the criteria below:
  - graduated with a doctorate degree in computer science, engineering, mathematics, or the physical sciences (other than biological sciences);
  - all academic coursework has been taken while physically present in the United States—including any online coursework;
  - an employer must petition the potential worker for employment and *certify that there are not sufficient number of Americans able, willing, equally qualified and available for the job, and the employment of such an alien would not adversely affect the wages and working conditions of STEM workers in the United States subject to an exception in the national interest determined by the Department of Homeland Security*; and
  - the foreign-born doctorate must agree to work for at least five years for the petitioning employer or in the STEM field in the United States.
  
- **STEM Masters Graduates** – the bill creates a new green card category for foreign-born Masters graduates of certain universities who fulfill the below

criteria for any green cards *not* used by the STEM doctoral program described above:

- graduated from a STEM two-year Masters degree program in computer science, engineering, mathematics, or the physical sciences (other than biological sciences);
- majored in an undergraduate STEM field;
- all academic coursework has been taken while physically present in the United States—including any online coursework;
- an employer must petition the potential worker for employment and *certify that there are not sufficient number of Americans able, willing, equally qualified and available for the job, and the employment of such an alien would not adversely affect the wages and working conditions of STEM workers in the United States subject to an exception in the national interest determined by the Department of Homeland Security*; and
- the foreign-born doctorate must agree to work for at least five years for the petitioning employer or in the STEM field in the United States.

➤ **University eligibility requirements include:**

- eligibility for federal student financial aid programs;
- have accreditation;
- have classification as a doctorate-granting university with very high or high level of research activity as determined by the Carnegie Foundation for the Advancement of Teaching or have an equivalent determination by the National Science Foundation (after enactment of the bill and by application);
- be at least ten years old; and
- not provide incentive payments to persons based on securing foreign students for the university.

Other provisions of the bill include:

- requiring a petitioning employer to submit to the appropriate state workforce agency a job order on the agency’s official website in an effort to publicize available jobs for Americans;
- requiring the Department of Homeland Security (DHS) to post information on its official agency website about STEM-sponsoring graduates for these green cards, including the number of STEM-sponsored graduates they hire and the occupations of their STEM-sponsored graduates;
- allowing foreign college students on student visas to study in a STEM field without having to express that they have no desire to stay permanently in the United States.

**Additional Background:** According to the bill sponsor’s Dear Colleague:

“...Talented students from around the world receive nearly four out of every 10 STEM master’s degrees and doctorates...Under the current system, we educate

scientists and engineers only to send them home to work for our competitors abroad. The STEM Jobs Act allows us to keep these students here – making available 55,000 green cards a year to graduates of American universities with advanced degrees in STEM fields who are recruited by American employers.”

A Politico [story](#) echoes Chairman’s Smiths viewpoints stated above.

The Diversity Visa Program has been the subject of GOP (and some bipartisan) criticism in recent Congresses for its illogical and random process for awarding permanent legal residency status of foreigners with no existing family or employment connection to the United States. In the 109<sup>th</sup> Congress, an amendment offered by Rep. Bob Goodlatte (R-VA) to an immigration reform bill (H.R. 4437) to eliminate the program passed the House by a [273-148](#) vote, which ultimately failed in the Senate. Former Rep. Stephanie Herseth Sandlin (*D, SD*) and Rep. Goodlatte sponsored a successful amendment to the FY2008 State and Foreign Operations Appropriations Act ([H.R. 2764](#)), which eliminated funding for the program. Again, the amendment did not make it through passage in the Senate. In this Congress, the House Committee on Judiciary reported out a bill ([H.R. 704](#)) to eliminate the program in July 2011 by a party-line vote of [19-11](#).

H.R. 704, authored by Representative Goodlatte, highlighted this Congress as an RSC Sunset Caucus [Waste Action Alert bill](#).

**Committee Action:** Judiciary Committee Chairman Lamar Smith (R-TX) introduced H.R. 6429 on September 18, 2012. No further committee action has occurred on the bill.

**Administration Position:** The Obama Administration has not released a Statement of Administration Policy (SAP) regarding the bill, but RSC staff believes the Administration opposes the bill.

**Outside Group Support:** The following [letter](#) posted on the Judiciary Committee’s website lists a group of over 100 national associations, U.S. employers, and state and local associations in support of the bill. Additionally, the American Conservative Union expressed its support of the bill.

➤ *Some Immigration Group Positions:*

- From [NumbersUSA](#):

“NumbersUSA has long supported the elimination of the visa lottery, which this bill accomplishes, and will grade this bill positively in our lottery category. NumbersUSA has long-standing concerns about importation of unnecessary foreign workers and has a grade category to reflect that. However, because of Chairman Smith’s willingness to work with us to require on-line posting of jobs for 30 days so all Americans can access them and to require

transparency by the employers using the program, NumbersUSA will not grade this bill as adding unnecessary foreign workers.”

- Federation for American Immigration Reform ([FAIR](#)) – appears [neutral](#) on the bill.
- Mark Krikorian of the Center for Immigration Studies – National Review [Article](#) – informative on the politics of the bill.
- The [Immigration Reform Caucus](#) (Chairman, Brian Bilbray) issued an Action Alert on Monday asking Members to support the bill.

**Cost to Taxpayers:** The Congressional Budget Office (CBO) has not released a cost estimate for the bill. It did, however, release a [cost estimate](#) for H.R. 704 last July 2011 indicating that eliminating the Diversity Visa Program would decrease direct spending by \$1.3 billion, decrease revenues by about \$100 million, and reduce discretionary spending by almost \$30 million—assuming reduction in authorization of appropriations—over the FY2012-FY2022 time period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** The bill creates two new green card programs for advanced-degree STEM graduates of qualified U.S. universities while also eliminating the Diversity Visa Lottery Program. It maintains current levels of legal immigration by allocating the repealed 55,000 green cards to the new green card programs.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** The Constitutional Authority Statements accompanying each introduced bill states, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 4 of the Constitution.”

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