



Legislative Bulletin.....November 29, 2012

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H.R. 6429 – STEM Jobs Act of 2012

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

Order of Business: H.R. 6429 will be considered on Friday, November 30, 2012, under a closed rule ([H.Res. 821](#)). The Rule provides 90 minutes of debate equally divided and controlled by the Chair and Ranking Member of the Committee of Judiciary with no further amendments for consideration. It also provides for one motion to recommit with or without instructions while providing Suspension of the Rules authority for any bill through December 6, 2012.

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. The bill also repeals 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 Diversity Visas to the new green card programs established and described below.

A similar version of H.R. 6429 received floor consideration and failed under the suspension of the rules two-thirds majority passage requirement on September 20, 2012 by a vote of [257-158](#). Changes to this original version are **bolded** and *italicized*.

- ***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. This requirement has been removed.*~~

- ***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. This requirement has been removed.*~~

- ***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. This requirement has been removed.*~~

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;
 - *amending the [V nonimmigrant Visa Program](#) to allow the spouses and minor children of permanent residents to remain in the US without work authorization after one year of waiting on the green card waiting list (current law requires a three year waiting time and other criteria). According to the Judiciary Committee, approximately 90,000 of these green cards for these spouses and minor children are made available each year with over 322,000 currently waiting;*
 - *Permitting unused STEM visas in any one year to be carried over into the next year through FY2017. The original bill allowed STEM visa carryover through the first two years until FY2014;*
 - *Extends the effective date of the legislation from FY2013 to FY2014;*
 - *GSE Guarantee Fees: Amends the Temporary Payroll Tax Cut Continuation Act of 2011 by extending the increased mortgage guarantee fees on government backed loans by one year, from October 1, 2021 to October 1, 2022. In December 2011, Congress passed [Senate Amendment to H.R. 3630—Middle Class Tax Relief and Job Creation Act of 2011](#) which required the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to increase their fees for guaranteeing mortgage loans by at least 10 basis points to appropriately reflect the cost of capital and the risk of loss allocated to similar assets held by other private financial institutions. In addition, the Senate amended the bill to include provisions that require the Federal Housing Agency (FHA) to establish and collect annual premium payments for any mortgage for which the agency collects an annual premium. The bill requires that the amount of the FHA premium be 10 basis points of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected and without taking into account delinquent payments or prepayments) with the number of basis points increasing incrementally over a two-year period. Some conservatives are concerned that any increase in the guarantee fee should not be used to offset cost to other entities and that any increase in revenue to the GSE should be used to pay off the GSE debt in order to protect the taxpayers. Also, the Nation Association of Realtors [opposes](#) this pay for.*

Additional Background: According to the bill sponsor’s original 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.”

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 109th 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. The Rules Committee is planning on reporting out a modified version of the bill that failed under suspension of the rules on September 20, 2012.

Administration Position: The Obama Administration released a Statement of Administration Policy (SAP) on November 28, 2012 opposing 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 original bill. Additionally, the American Conservative Union expressed its support of the original bill.

➤ *Some Immigration Group Positions on the original bill:*

- 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) [opposes](#) the revised bill.

- Mark Krikorian of the Center for Immigration Studies – National Review [Article](#) – informative on the politics of the original bill.
- Competitive Enterprise Institute Immigration Analyst David Bier [opposes](#) the revised bill.
- The [Immigration Reform Caucus](#) (IRC, Chairman Brian Bilbray) issued an Action Alert today asking Members to support the revised bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) released [cost estimate budgetary tables](#) for the bill on November 28, 2012. The estimates show that the amended bill decreases direct spending by approximately \$2.3 billion and revenues by \$128 million for a net deficit reduction effect of approximately \$2.2 billion during the FY2013-FY2022 period.¹

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 expanding the V nonimmigrant visa program for spouses and minor children of legal permanent residents. The Managers Amendment to the bill also extends the increased mortgage guarantee fees on government backed loans by one year from October 1, 2021 to October 1, 2022 as a pay for in the bill. It also eliminates the Diversity Visa Lottery Program and reduces direct spending by approximately \$2.3 billion and revenue by \$128 million over the ten-year budget window.

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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¹ Over the first five years of implementation (FY2013-FY2017), the bill increases direct spending by approximately \$1.2 billion while reducing revenues by \$58 million for an increase in the deficit of approximately \$1.2 billion.