

**AMENDMENT OFFERED BY MS. ZOE LOFGREN OF
CALIFORNIA
TO THE RULES COMMITTEE PRINT OF H.R. 6429**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Attracting the Best
3 and the Brightest Act of 2012”.

**4 SEC. 2. IMMIGRANT VISAS FOR CERTAIN ADVANCED STEM
5 GRADUATES.**

6 (a) ADVANCED STEM GRADUATES.—Section 203(b)
7 of the Immigration and Nationality Act (8 U.S.C.
8 1153(b)) is amended—

9 (1) by redesignating paragraph (6) as para-
10 graph (7); and

11 (2) by inserting after paragraph (5) the fol-
12 lowing:

13 “(6) ADVANCED GRADUATES IN SCIENCE,
14 TECHNOLOGY, ENGINEERING AND MATHEMATICS.—

15 “(A) IN GENERAL.—Notwithstanding sec-
16 tion 201, visas shall be made available, in a
17 number not to exceed 50,000, to qualified im-
18 migrants who—

1 “(i) possess a graduate degree at the
2 level of master’s or higher in a field of
3 science, technology, engineering, or mathe-
4 matics from a United States research insti-
5 tution of higher education;

6 “(ii) have an offer of employment
7 from a United States employer in a field
8 related to such degree;

9 “(iii) are the subject of an approved
10 labor certification as required under sec-
11 tion 212(a)(5)(A); and

12 “(iv) will receive a wage level from the
13 employer that is at least the actual wage
14 level paid by the employer to all other indi-
15 viduals with similar experience and quali-
16 fications for the specific employment in
17 question.

18 “(B) DEFINITIONS.—For purposes of this
19 paragraph:

20 “(i) The term ‘field of science, tech-
21 nology, engineering, or mathematics’
22 means a field included in the Department
23 of Education’s Classification of Instruc-
24 tional Programs taxonomy within the sum-
25 mary groups of computer and information

1 sciences and support services, engineering,
2 mathematics and statistics, and physical
3 sciences.

4 “(ii) The term ‘United States research
5 institution of higher education’ means an
6 institution in the United States that—

7 “(I) is described in section
8 101(a) of the Higher Education Act
9 of 1965 (20 U.S.C. 1001(a));

10 “(II) is classified by the Director
11 of the National Science Foundation as
12 a research institution or as otherwise
13 excelling at instruction in a field of
14 science, technology, engineering, or
15 mathematics;

16 “(III) has been in existence for
17 at least 10 years;

18 “(IV) does not provide any com-
19 mission, bonus, or other incentive pay-
20 ment based directly or indirectly on
21 success in securing enrollments or fi-
22 nancial aid to any persons or entities
23 engaged in any recruitment or admis-
24 sion activities for nonimmigrant stu-
25 dents or in making decisions regard-

1 ing the award of student financial as-
2 sistance to nonimmigrant students;
3 and

4 “(V) is accredited by an accred-
5 iting agency recognized by the Sec-
6 retary of Education.”.

7 (b) UNUSED VISAS; LIMITATION TO FOREIGN
8 STATES.—

9 (1) UNUSED VISAS.—Section 203(b)(1) of such
10 Act (8 U.S.C. 1153(b)(1)) is amended by striking
11 “(4) and (5)” and inserting “(4), (5) and (6)”.

12 (2) LIMITATION TO ANY SINGLE FOREIGN
13 STATE.—Section 202(a)(5)(A) of such Act (8 U.S.C.
14 1152(a)(5)(A)) is amended by striking “or (5)” and
15 inserting “(5), or (6)”.

16 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
17 TUS.—Section 204(a)(1)(F) of such Act (8 U.S.C.
18 1154(a)(1)(F)) is amended—

19 (1) by striking “or 203(b)(3)” and inserting
20 “203(b)(3), or 203(b)(6)”; and

21 (2) by striking “Attorney General” and insert-
22 ing “Secretary of Homeland Security”.

23 (d) LABOR CERTIFICATION AND QUALIFICATION FOR
24 CERTAIN IMMIGRANTS.—Section 212(a)(5) of such Act (8
25 U.S.C. 1182(a)(5)) is amended—

1 (1) in subparagraph (A)—

2 (A) in clause (ii)—

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

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

7 (iii) by adding at the end the fol-
8 lowing:

9 “(III) holds a doctorate degree in
10 a field of science, technology, engi-
11 neering, or mathematics (as defined in
12 section 203(b)(6)(B)(i)) from a
13 United States research institution of
14 higher education (as defined in section
15 203(b)(6)(B)(ii)).”;

16 (B) by redesignating clauses (iii) and (iv)
17 as clauses (iv) and (v), respectively; and

18 (C) by inserting after clause (ii) the fol-
19 lowing:

20 “(iii) JOB ORDER.—

21 “(I) IN GENERAL.—An employer
22 who files an application under clause
23 (i) shall submit a job order for the
24 labor the alien seeks to perform to the
25 State workforce agency in the State in

1 which the alien seeks to perform the
2 labor. The State workforce agency
3 shall post the job order on its official
4 agency website for a minimum of 30
5 days and not later than 3 days after
6 receipt using the employment statis-
7 tics system authorized under section
8 15 of the Wagner-Peyser Act (29
9 U.S.C. 49 et seq.).

10 “(II) LINKS.—The Secretary of
11 Labor shall include links to the offi-
12 cial websites of all State workforce
13 agencies on a single webpage of the
14 official website of the Department of
15 Labor.”; and

16 (2) in subparagraph (D), by striking “(2) or
17 (3)” and inserting “(2), (3), or (6)”.

18 (e) FURTHER PROTECTING AMERICAN WORKERS.—
19 Section 212(p) of such Act (8 U.S.C. 1182(p)) is amended
20 by adding at the end the following:

21 “(5) To satisfy the requirement under section
22 203(b)(6)(A)(iv), an employer must demonstrate
23 that the total amount of compensation to be paid to
24 the alien (including health insurance, stock options,
25 and other benefits provided by the employer) must

1 meet or exceed the total amount of compensation
2 paid by the employer to all other employees with
3 similar experience and qualifications working in the
4 same occupational classification.”.

5 (f) GAO STUDY.—Not later than June 30, 2018, the
6 Comptroller General of the United States shall provide to
7 the Congress the results of a study on the use by the Na-
8 tional Science Foundation of the classification authority
9 provided under section 203(b)(6)(B)(ii)(II) of the Immi-
10 gration and Nationality Act (8 U.S.C.
11 1153(b)(6)(B)(ii)(II)), as added by this section.

12 (g) PUBLIC INFORMATION.—The Secretary of Home-
13 land Security shall make available to the public on the
14 official website of the Department of Homeland Security,
15 and shall update not less than monthly, the following in-
16 formation (which shall be organized according to month
17 and fiscal year) with respect to aliens granted status
18 under section 203(b)(6) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1153(b)(6)), as added by this section:

20 (1) The name, city, and State of each employer
21 who petitioned pursuant to either of such para-
22 graphs on behalf of one or more aliens who were
23 granted status in the month and fiscal year to date.

24 (2) The number of aliens granted status under
25 either of such paragraphs in the month and fiscal

1 year to date based upon a petition filed by such em-
2 ployer.

3 (3) The occupations for which such alien or
4 aliens were sought by such employer and the job ti-
5 tles listed by such employer on the petition.

6 (h) EFFECTIVE DATE; SUNSET.—

7 (1) EFFECTIVE DATE.—The amendments made
8 by this section shall take effect on October 1, 2013,
9 and shall apply with respect to fiscal years beginning
10 on or after such date.

11 (2) SUNSET.—The amendments made by sub-
12 sections (a) through (e) shall be repealed after the
13 2-year period beginning on the date of the enact-
14 ment of this Act.

15 **SEC. 3. STUDENT VISA REFORM.**

16 (a) IN GENERAL.—Section 101(a)(15)(F)(i) of the
17 Immigration and Nationality Act (8 U.S.C.
18 1101(a)(15)(F)(i)) is amended by striking “an alien hav-
19 ing a residence in a foreign country which he has no inten-
20 tion of abandoning, who is a bona fide student qualified
21 to pursue a full course of study and who” and inserting
22 “an alien who is a bona fide student qualified to pursue
23 a full course of study, who (except for a student qualified
24 to pursue a full course of study in a field of science, tech-
25 nology, engineering, or mathematics (as defined in section

1 203(b)(6)(B)(i)) at an institution of higher education) has
2 a residence in a foreign country which the alien has no
3 intention of abandoning, and who”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 214(b) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1184(b)) is amended by
7 striking “(other than a nonimmigrant” and inserting
8 “(other than a nonimmigrant described in section
9 101(a)(15)(F) if the alien is qualified to pursue a
10 full course of study in a field of science, technology,
11 engineering, or mathematics (as defined in section
12 203(b)(6)(B)(i)) at an institution of higher edu-
13 cation, other than a nonimmigrant”.

14 (2) Section 214(h) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1184(h)) is amended by in-
16 serting “(F) (if the alien is qualified to pursue a full
17 course of study in a field of science, technology, en-
18 gineering, or mathematics (as defined in section
19 203(b)(6)(B)(i)) at an institution of higher edu-
20 cation),” before “H(i)(b)”.

21 **SEC. 4. AGE-OUT PROTECTIONS FOR CHILDREN.**

22 Section 101(b)(1) of the Immigration and Nationality
23 Act (8 U.S.C. 1101(b)) is amended by adding at the end
24 the following—

1 “(H) RULES FOR DETERMINING AGE OF A
2 CHILD.—

3 “(i) IMMIGRANT PETITIONS.—Not-
4 withstanding any other provision of the
5 Act, a determination of whether an alien is
6 a child for the purposes of a petition under
7 sections 204 and 209 shall be made using
8 the age of the alien on the date on which
9 the petition is filed with the Secretary of
10 Homeland Security.

11 “(ii) CHILD OF U.S. CITIZEN
12 FIANCÉ.—A determination of whether an
13 alien is a child for the purposes of a peti-
14 tion under section 214 or an application
15 for adjustment of status under section
16 245(d) shall be made using the age of the
17 alien on the date on which the petition is
18 filed with the Secretary of Homeland Secu-
19 rity to classify the alien’s parent as the
20 fiancé or fiancée of a United States citi-
21 zen.”.

22 **SEC. 5. PERMANENT PRIORITY DATES.**

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

1 “(i) PERMANENT PRIORITY DATES.—

2 “(2) IN GENERAL.—Subject to subsection
3 (h)(3) and paragraph (2), the priority date for any
4 family- or employment-based petition shall be the
5 date of filing of the petition with the Secretary of
6 Homeland Security (or the Secretary of State, if ap-
7 plicable), unless the filing of the petition was pre-
8 ceded by the filing of a labor certification with the
9 Secretary of Labor, in which case that date shall
10 constitute the priority date.

11 “(3) SUBSEQUENT FAMILY- AND EMPLOYMENT-
12 BASED PETITIONS.—Subject to subsection (h)(3), an
13 alien who—

14 “(A) is the beneficiary of any family-based
15 petition that was approvable when filed (includ-
16 ing self-petitioners) shall retain the priority
17 date assigned with respect to that petition in
18 the consideration of any subsequently filed fam-
19 ily-based petition (including self-petitions); or

20 “(B) is the beneficiary of any employment-
21 based petition that was approvable when filed
22 (including self-petitioners) shall retain the pri-
23 ority date assigned with respect to that petition
24 in the consideration of any subsequently filed

1 employment-based petition (including self-peti-
2 tions).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to aliens who are a bene-
6 ficiary of a classification petition pending on or after such
7 date.

