



STEM GREEN CARD V. GREEN CARD LOTTERY

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By [Cyrus D. Mehta](#)

There is a raging debate presently in the halls of Congress. Almost all of our elected representatives, no matter whether they are Democrat or Republican, are in favor of providing an easier pathway for foreign students who have graduated with an advanced degree from a US university in a STEM (Science, Technology, Engineering or Math) field. In an age of polarization and gridlock in Congress - added by controversy over the expansion of immigration benefits to foreign nationals when unemployment is high - there is amazing bipartisan support for STEM foreign students. Indeed, [150 university presidents and chancellors have also appealed for green cards for STEM graduates](#).

Still, a Republican sponsored [STEM Jobs Act, HR 6429, failed to pass the House](#) on Thursday, September 20, 2012 with a two third majority. It was sponsored by Lamar Smith (R-TX), who otherwise generally favors bills that restrict immigration. It was rejected 257-158 mainly on party lines that would have provided 55,000 green cards to foreign students graduating in STEM fields. First dibs would have gone to foreign students with doctorates in STEM fields from a US university, and the remaining would have gone to foreign students who have graduated with master's degrees. These students would still need an employer to sponsor them, and they would need to agree to work for 5 years for that employer. The employer would also need to obtain a labor certification to demonstrate that there are insufficient American workers available for the job.

So why did it fail? The catch was that the STEM Jobs Act would have eliminated the diversity green card lottery, which provides 55,000 green cards for people born in countries with low sending immigration rates to the US. 5,000 of these 55,000 can be deducted for cancellation of removal grantees under the

Nicaraguan Adjustment and Central American Relief Act (NACARA). The elimination of the green card lottery was opposed mainly by Democrats, and Zoe Lofgren (D-CA), the ranking member of the House Judiciary Subcommittee on Immigration Policy, proposed a similar bill, but preserving the green card lottery.

The reason why the STEM Jobs Act needed a 2/3 super majority is because it was being considered while the normal rules were under suspension. The rules are suspended generally for non-controversial bills but this bill was hardly that. It was [a clever political ploy by the Republicans](#) to force this bill without consideration of the Lofgren alternative under the normal House rules, which preserved the green card lottery, so that they could go back to their constituents and claim that they did favor an important immigration bill, which the Democrats did not pass.

In my opinion, I like STEM green cards to co-exist with the green card lottery, which provides an option for anyone anywhere in the world to come to America to make it. While most other immigration benefits require a family member or employer as a sponsor, unless you are a rich investor under the EB-5, the green card lottery is not tethered to any sponsor. While it is important for the US to attract STEM students to innovate and pioneer new technologies here, it is equally important to attract others who can also become successful and contribute to the US with their optimism and industry. Today's halal vendor serving delicious falafel from his street cart, who came through the green card lottery, can tomorrow own a chain of restaurants employing others, and still delighting Americans with a unique ethnic cuisine. We need innovators with STEM degrees as well as folks who can enrich the fabric of America with their cuisine and other endeavors. Moreover, not all lottery winners are unskilled or uneducated. The green card lottery could also attract educated people and those who have already succeeded in business.

Indeed, the green card lottery is reminiscent of what America used to be without a formal immigration program. Immigrants who came to America through the centuries were like the plucky green card lottery winners of today. They took a chance and came to the shores of America. They were not scientists or the equivalent of STEM graduates of their day. Yet, America's greatness was built on the hard work and boundless optimism of these ordinary people.

Even though the STEM Jobs Act failed, it shows that there can be bi-partisan consensus. The bill was not perfect, and would not have improved the broken

immigration system. For example, unused STEM green cards would not have been re-allocated to the backlogged employment-based or family immigration preferences, where some are waiting endlessly for decades before they can get a green card. Perhaps, in the future, if Republicans do not like the green card lottery, they can settle for an increase in the employment and family-based categories instead as a compromise with the Democrats. But despite its failure to get passed, at least the STEM Jobs Act is a down payment for future bipartisan efforts on immigration. This effort also shows that immigration can be reformed in increments rather than comprehensively, although the latter would be more desirable in a perfect world. For example, Senator Schumer (D-NY) [has offered his own BRAINS Act](#), which would similarly grant green cards to 55,000 STEM students and preserve the green card lottery, and he has also invited Lamar Smith back to the negotiating table!