

108TH CONGRESS  
2D SESSION

# H. R. 4373

To preserve the preeminence of the United States in scientific research by improving the Visas Mantis security check program through a reduction of processing times and improvement in efficiency under such program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2004

Mr. CAPUANO introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To preserve the preeminence of the United States in scientific research by improving the Visas Mantis security check program through a reduction of processing times and improvement in efficiency under such program.

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. SHORT TITLE.**

4       This Act may be cited as the “Furthering Education  
5       and Research through Mantis Improvements Act” or the  
6       “FERMI Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds the following:

1           (1) One-third of the Nobel Prizes awarded to  
2           citizens of the United States have been won by for-  
3           eign-born individuals who became naturalized citi-  
4           zens before or after winning the award, including  
5           Enrico Fermi, who won the Nobel Prize in Physics  
6           in 1938, and Albert Einstein, who won the Nobel  
7           Prize in Physics in 1921.

8           (2) Individuals wishing to come to the United  
9           States as nonimmigrants to study or work tempo-  
10          rarily in the life sciences, physical sciences, or engi-  
11          neering are required to undergo and pass a security  
12          check known as a Visas Mantis, which is designed  
13          to protect against illegal transfers of sensitive tech-  
14          nology. Many of these foreign-born individuals sub-  
15          sequently become permanent residents and citizens  
16          of the United States.

17          (3) Nonimmigrant alien students earn a high  
18          percentage of doctoral degrees conferred in the  
19          sciences. A National Science Foundation report in  
20          2002 noted that nonimmigrant aliens account for 30  
21          percent of doctoral degrees conferred in the life  
22          sciences, 37 percent conferred in the physical  
23          sciences, and 52 percent conferred in engineering.

24          (4) The United States relies heavily upon non-  
25          immigrant alien post-doctoral fellows for university

1 teaching and research. Fifty-six percent of post-doc-  
2 toral fellows in the life sciences are nonimmigrant  
3 aliens, 67 percent in the physical sciences are non-  
4 immigrant aliens, 69 percent in engineering are non-  
5 immigrant aliens.

6 (5) The Council of Graduate Schools reported  
7 in March 2004 that 90 percent of United States  
8 graduate schools suffered a serious decline in appli-  
9 cations from nonimmigrant aliens for the academic  
10 year beginning in September 2004. Applications de-  
11 clined across all fields, but most precipitously in the  
12 fields subject to Visas Mantis security checks.

13 **SEC. 3. IMPROVEMENTS IN THE VISAS MANTIS SECURITY**  
14 **CHECK PROGRAM.**

15 (a) IMPROVED GUIDANCE, REFINEMENT OF TECH-  
16 NOLOGY ALERT LIST, AND DATA SYSTEM INTEROPER-  
17 ABILITY.—

18 (1) IMPROVED GUIDANCE.—The Secretary of  
19 State, in cooperation with the Secretary of Home-  
20 land Security, the Director of the Federal Bureau of  
21 Investigation, and the Director of the Office of  
22 Science and Technology Policy within the Executive  
23 Office of the President, shall provide consular offi-  
24 cers with improved guidance regarding the oper-  
25 ational structure and requirements of the Visas

1 Mantis security check program, including informa-  
2 tion regarding—

3 (A) the specific conditions under which a  
4 security check should be provided;

5 (B) the specific information required to be  
6 submitted by the consular officer to the Depart-  
7 ment of State to ensure a timely response to a  
8 request for a security check; and

9 (C) a method for estimating the approxi-  
10 mate processing time for a security check asso-  
11 ciated with a particular applicant.

12 (2) REFINEMENT OF TECHNOLOGY ALERT  
13 LIST.—The Secretary of State, in consultation with  
14 the Director of the Office of Science and Technology  
15 Policy, shall provide greater specificity in the Tech-  
16 nology Alert List used under the Program.

17 (3) DATA SYSTEM INTEROPERABILITY.—The  
18 Secretary of State and the Director of the Federal  
19 Bureau of Investigation shall make fully interoper-  
20 able the data systems used under the Program in  
21 order to facilitate the transmission of data between  
22 the Department of State and the Federal Bureau of  
23 Investigation in conducting the Program.

24 (4) PROGRESS REPORT.—Not later than six  
25 months after the date of the enactment of this Act,

1 the Secretary of State shall submit to Congress a re-  
2 port that describes progress made in implementing  
3 this subsection.

4 (b) PERIOD AND REVALIDATION OF SECURITY  
5 CHECKS; MULTIPLE ENTRIES UNDER SECURITY  
6 CHECKS.—

7 (1) THREE-YEAR VALIDITY PERIOD.—Except as  
8 provided in paragraph (5), the validity period of a  
9 security check (including a revalidation of a security  
10 check) shall be three years.

11 (2) REVALIDATION PERMITTED IN THE UNITED  
12 STATES.—Except as provided in paragraph (5), a se-  
13 curity check may be revalidated in the United States  
14 on or before the date of the expiration of the pre-  
15 vious check.

16 (3) MULTIPLE ENTRIES PERMITTED.—Except  
17 as provided in paragraph (5), a nonimmigrant visa  
18 for which a security check is required shall be valid  
19 for multiple entries in the same manner in which  
20 multiple entries are permitted under such a visa for  
21 which a security check is not required.

22 (4) PORTABILITY OF SECURITY CHECK ACROSS  
23 CHANGES IN NONIMMIGRANT CLASSIFICATION.—Ex-  
24 cept as provided in paragraph (5), a security check  
25 issued with respect to an individual classified within

1 a nonimmigrant classification shall remain valid with  
2 respect to a change of the individual to another non-  
3 immigrant classification so long as the security  
4 check approved in connection with the first classi-  
5 fication is in substantially the same field as the field  
6 involved in the subsequent classification.

7 (5) EXCEPTION.—Paragraphs (1), (2), (3), and  
8 (4) shall not apply with respect to an applicant for  
9 a security check insofar as the Secretary of State de-  
10 termines that the application of such paragraph with  
11 respect to such applicant is not in the national secu-  
12 rity interests of the United States.

13 (6) EFFECTIVE DATES.—

14 (A) VALIDITY PERIOD AND REVALIDA-  
15 TION.—Paragraphs (1) and (2), and paragraph  
16 (5) insofar as it relates to such paragraphs,  
17 shall apply to security checks granted or revali-  
18 dated on or after such date (not later than 90  
19 days after the date of the enactment of this  
20 Act) as the Secretary of State shall specify.

21 (B) MULTIPLE ENTRIES.—Paragraph (3),  
22 and paragraph (5) insofar as it relates to such  
23 paragraph, shall apply to visas issued on or  
24 after such date (not later than 90 days after

1 the date of the enactment of this Act) as the  
2 Secretary of State shall specify.

3 (C) CHANGES IN NONIMMIGRANT CLASSI-  
4 FICATION.—Paragraph (4), and paragraph (5)  
5 insofar as it relates to such paragraph, shall  
6 apply to changes in nonimmigrant classification  
7 occurring on or after such date (not later than  
8 90 days after the date of the enactment of this  
9 Act) as the Secretary of State shall specify.

10 (c) ANNUAL REPORTS ON THE OPERATION OF THE  
11 PROGRAM.—The Secretary of State shall submit to Con-  
12 gress an annual report on the Program. Each annual re-  
13 port shall include information on—

14 (1) further progress in implementing subsection  
15 (a);

16 (2) the number of individuals in each non-  
17 immigrant visa classification (under section  
18 101(a)(15) of the Immigration and Nationality Act  
19 (8 U.S.C. 1101(a)(15))) for whom a security check  
20 has been provided, the number of such individuals  
21 who have been approved for a visa after such a  
22 check, and the distribution of such individuals by  
23 country of nationality; and

1           (3) average processing time to complete security  
2       checks for applicants in each such nonimmigrant  
3       visa classification for each country of nationality.

4       (d) VISAS MANTIS SECURITY CHECK PROGRAM AND  
5 CHECK DEFINED.—For purposes of this section:

6           (1) The terms “Visas Mantis security check  
7       program” and “Program” mean the program that  
8       implements the requirements of section  
9       212(a)(3)(A)(i)(II) of the Immigration and Nation-  
10      ality Act (8 U.S.C. 1182(a)(3)(A)(i)(II)) (relating to  
11      the exclusion of nonimmigrants who may unlawfully  
12      export goods, technology, or sensitive information).

13          (2) The term “security check” means a security  
14      clearance under the Program.

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