

108TH CONGRESS
2D SESSION

S. 2715

To improve access to graduate schools in the United States for international students and scholars.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2004

Mr. COLEMAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve access to graduate schools in the United States for international students and scholars.

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 “International Student
5 and Scholar Access Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The United States has a strategic need to
9 improve its student visa screening process to protect

1 against terrorists who would abuse the system to
2 harm the United States.

3 (2) At the same time, openness to international
4 students and exchange visitors serves longstanding
5 and important United States foreign policy, edu-
6 cational, and economic interests, and the erosion of
7 such exchanges is contrary to United States national
8 security interests.

9 (3) Educating successive generations of future
10 world leaders in the United States has long been an
11 important underpinning of United States inter-
12 national influence and leadership.

13 (4) Open scientific exchange, which enables the
14 United States to benefit from the knowledge of the
15 world's top scientists, has long been an important
16 underpinning of United States scientific leadership.

17 (5) The United States has seen a dramatic in-
18 crease in requests for Visa Mantis checks designed
19 to protect against illegal transfers of sensitive tech-
20 nology, from 1,000 in fiscal year 2000 to 20,000 in
21 fiscal year 2003.

22 (6) Delays in issuing Visa Mantis security
23 clearances have discouraged some international
24 scholars from coming to the United States.

1 (7) International students and their families
2 studying in the United States contribute close to
3 \$12,000,000,000 to the United States economy each
4 year, making higher education a major service sector
5 export.

6 (8) Delays in obtaining student visas have dis-
7 couraged many international students from studying
8 in the United States.

9 (9) Total international applications to graduate
10 schools in the United States for fall 2004 declined
11 32 percent from fall 2003.

12 (10) The number of international students en-
13 rolled in the United States, which in raw numbers
14 consistently increased over time and grew by 6 per-
15 cent during both the 2000–2001 and 2001–2002
16 school years, leveled off dramatically during the
17 2002–2003 school year to an increase of only .6 per-
18 cent.

19 (11) Concerns related to the anticipated inter-
20 national student monitoring system known as
21 “SEVIS” have contributed to the decline in the
22 number of foreign applicants to educational institu-
23 tions in the United States.

1 (12) The United States requires a visa system
2 for exchange programs that maximizes United
3 States national security.

4 (13) The United States requires a comprehen-
5 sive strategy for recruiting international students as
6 well as enhancing the access of international stu-
7 dents to higher education in the United States.

8 **TITLE I—NATIONAL STRATEGY**
9 **FOR ENHANCING INTER-**
10 **NATIONAL STUDENT ACCESS**
11 **TO THE UNITED STATES**

12 **SEC. 101. STRATEGIC PLAN.**

13 Not later than 180 days after the date of enactment
14 of this Act, the President, in consultation with United
15 States higher education institutions, organizations that
16 participate in international exchange programs, and other
17 appropriate groups, shall submit to the Committee on For-
18 eign Relations of the Senate and the Committee on Inter-
19 national Relations of the House of Representatives a stra-
20 tegic plan for enhancing international student access to
21 the United States for study and exchange activities that
22 includes:

23 (1) A marketing plan to makes use of Internet
24 and other media resources to promote and facilitate
25 study in the United States by international students.

1 (2) A clear division of responsibility that elimi-
2 nates duplication and promotes inter-agency co-
3 operation with regard to the roles of the Depart-
4 ments of State, Commerce, Education, and Home-
5 land Security in promoting and facilitating access to
6 the United States for international student and ex-
7 change visitors.

8 (3) A mechanism for institutionalized coordina-
9 tion of the efforts of Departments of State, Com-
10 merce, Education, and Homeland Security in facili-
11 tating access to the United States for international
12 student and exchange visitors.

13 (4) An effective mandate and strategic plan for
14 use of the overseas educational advising centers of
15 the Department of State to promote study in the
16 United States and to prescreen visa applicants.

17 (5) Well-defined lines of authority and responsi-
18 bility for international students in the Department
19 of Commerce.

20 (6) A clear mandate related to international
21 student access for the Department of Education.

22 (7) Streamlined procedures within the Depart-
23 ment of Homeland Security related to international
24 student and exchange visitors.

1 **SEC. 102. ANNUAL REPORTS TO CONGRESS.**

2 (a) IN GENERAL.—The President, acting through the
3 Secretary of State and in consultation with the Secretary
4 of Education, Secretary of Commerce, and Secretary of
5 Homeland Security shall submit an annual report on the
6 implementation of the national strategy developed in ac-
7 cordance with section 101 to Congress that would describe
8 the following:

9 (1) Measures undertaken to enhance inter-
10 national student access to the United States and im-
11 prove inter-agency coordination with regard to inter-
12 national students and exchange visitors as provided
13 in section 101.

14 (2) Measures taken to implement section 202.

15 (3) The number of student and exchange visi-
16 tors who apply for visas from the United States, and
17 the number whose visas are approved.

18 (4) The average processing time for student
19 and international visitor visas.

20 (5) The number of student and international
21 visitor visas requiring inter-agency review.

22 (6) The number of student and international
23 visitor visas approved after submission of the visa
24 applications during each of the following durations:

25 (A) Less than 15 days.

26 (B) 15–30 days.

1 (C) 31–45 days.

2 (D) 46–60 days.

3 (E) 61–90 days.

4 (F) More than 90 days.

5 (b) SUBMISSION OF REPORT.—Not later than May
6 30 of 2005, and annually thereafter through 2008, the
7 President shall submit to Congress the report described
8 in subsection (a).

9 **SEC. 103. REFORMING SEVIS FEE PROCESS.**

10 (a) REDUCED FEE FOR SHORT-TERM STUDY.—Sec-
11 tion 641(e)(4)(A) of the Illegal Immigration Reform and
12 Immigrant Responsibility Act of 1996 (8 U.S.C.
13 1372(e)(4)(A)) is amended in the second sentence, by in-
14 serting before the period the following: “or the admission
15 of an alien under section 101(a)(15)(F) of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1101(a)(15)(F)) for
17 a program that does not exceed 90 days”.

18 (b) IMPROVING FEE COLLECTION.—Not later than
19 60 days after the date of enactment of this Act, the Sec-
20 retary of Homeland Security and the Secretary of State
21 shall jointly submit to the Committee on Foreign Rela-
22 tions and the Committee on the Judiciary of the Senate
23 and the Committee on International Relations and the
24 Committee on the Judiciary of the House of Representa-
25 tives a report on the feasibility of collecting the fee re-

1 quired by section 641(e) of the Illegal Immigration Re-
2 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
3 1372(e))—

4 (1) in local currency at local financial institu-
5 tions under procedures established by the Secretary
6 of State; and

7 (2) by universities as part of a student’s tuition
8 and fees.

9 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to the De-
11 partment of State, Department of Education, Department
12 of Homeland Security, and Department of Commerce such
13 sums as may be necessary to carry out the activities de-
14 scribed in section 101.

15 **TITLE II—IMPROVING THE VISA**
16 **PROCESS**

17 **SEC. 201. SENSE OF CONGRESS; PURPOSE.**

18 (a) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that—

20 (1) improvements in visa processing would en-
21 hance the national security of the United States
22 by—

23 (A) permitting closer scrutiny of visa appli-
24 cants who might pose risks; and

1 (B) permitting the timely adjudication of
2 visa applications of those whose presence in the
3 United States serves important national inter-
4 ests; and

5 (2) improvements must include—

6 (A) an operational visa policy that articu-
7 lates the national interest of the United States
8 in denying entry to visitors who seek to harm
9 the United States and in opening entry to le-
10 gitimate visitors, to guide consular officers in
11 achieving the appropriate balance;

12 (B) a greater focus by the visa system on
13 visitors who require special screening, while
14 minimizing delays for legitimate visitors;

15 (C) a timely, transparent, and predictable
16 visa process, through appropriate guidelines for
17 inter-agency review of visa applications; and

18 (D) a provision of the necessary resources
19 to fund a visa processing system that meets the
20 requirements of this title.

21 (b) PURPOSE.—It is the purpose of this title to speci-
22 fy the improvements described in subsection (a).

23 **SEC. 202. VISA PROCESSING GUIDANCE.**

24 (a) IN GENERAL.—Not later than 60 days after the
25 date of enactment of this Act, the Secretary of State—

1 (1) shall issue appropriate guidance to consular
2 officers in order to—

3 (A) give consulates appropriate discretion
4 to grant waivers of personal appearance in
5 order to minimize delays for legitimate travelers
6 while permitting more thorough interviews of
7 visa applicants in appropriate cases;

8 (B) give consulates appropriate discretion
9 to allow security clearances under the Visas
10 Mantis system to be valid for the duration of
11 status or program, in order to avoid repetitive
12 reviews of those visitors who leave the United
13 States temporarily; and

14 (C) establish a presumption of visa ap-
15 proval for frequent visitors who have previously
16 been granted visas for the same purpose and
17 who have no status violations; and

18 (2) in consultation with the Director of the Of-
19 fice of Science and Technology Policy and appro-
20 priate representatives of the United States scientific
21 community, shall issue appropriate guidance to con-
22 sular officers in order to refine controls on the entry
23 of visitors who propose to engage in study or re-
24 search in advanced science and technology in order

1 to ensure that only cases of concern, and not non-
2 sensitive cases, are subjected to special review.

3 (b) TIMELINESS STANDARDS.—Not later than 60
4 days after the date of enactment of this Act, the President
5 shall institute guidelines for inter-agency review of visa ap-
6 plications requiring security clearances which establish the
7 following standards for timeliness in international student
8 and visitor visas:

9 (1) Establish a 15-day standard for responses
10 to the Department of State by other agencies in-
11 volved in the clearance process.

12 (2) Establish a 30-day standard for completing
13 the entire inter-agency review and advising the con-
14 sulate of the result of the review.

15 (3) Provide for expedited processing of any visa
16 application with respect to which a review is not
17 completed within 30 days, and for advising the con-
18 sulate of the delay and the estimated processing
19 time remaining.

20 (4) Require the establishment of a process by
21 which the applicant, or the program to which the ap-
22 plicant seeks access, can inquire about the applica-
23 tion's status and the estimated processing time re-
24 maining.

1 (5) Establish a special review process to resolve
2 any cases whose resolution is still pending after 60
3 days.

4 **SEC. 203. INTEROPERABLE DATA SYSTEMS AT THE FBI.**

5 (a) RESPONSIBILITIES OF THE FBI DIRECTOR.—

6 The Director of the Federal Bureau of Investigation shall
7 take the steps necessary to ensure that—

8 (1) the Federal Bureau of Investigation’s data-
9 bases and systems used in the National Name Check
10 Program are interoperable with the requisite data-
11 bases and systems at the Department of State;

12 (2) the files of the Federal Bureau of Investiga-
13 tion are automated and a common database is set up
14 between the field offices and headquarters of the
15 Federal Bureau of Investigation; and

16 (3) the Federal Bureau of Investigation has full
17 connectivity to the Consular Consolidated Database
18 through the Open Source Information System.

19 (b) REPORT.—Not later than 180 days after the date
20 of enactment of this Act, the Director of the Federal Bu-
21 reau of Investigation shall report to the Committees on
22 the Judiciary of the Senate and the House of Representa-
23 tives on progress in implementing subsection (a).

1 **SEC. 204. SETTING REALISTIC STANDARDS FOR VISA EVAL-**
2 **UATIONS.**

3 (a) IN GENERAL.—Section 101(a)(15)(F)(i) of the
4 Immigration and Nationality Act (8 U.S.C.
5 1101(a)(15)(F)(i)) is amended—

6 (1) by striking “having a residence in a foreign
7 country which he has no intention of abandoning”
8 and inserting “having the intention, capability, and
9 sufficient financial resources to complete a course of
10 study in the United States”; and

11 (2) by striking “and solely” after “tempo-
12 rarily”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 Section 214(b) of the Immigration and Nationality Act (8
15 U.S.C. 1184(b)) is amended by striking “subparagraph
16 (L) or” and inserting “subparagraph (F), (J), (L), or”.

17 **SEC. 205. REPORT.**

18 Not later than 180 days after the date of enactment
19 of this Act, the Secretary of State shall report to the Com-
20 mittee on Foreign Relations of the Senate and the Com-
21 mittee on International Relations of the House of Rep-
22 resentatives on—

23 (1) the feasibility of expediting visa processing
24 for participants in official exchange programs, and
25 for students, scholars, and exchange visitors through
26 prescreening of applicants by sending countries,

1 sending universities, State Department overseas edu-
2 cational advising centers, or other appropriate enti-
3 ties;

4 (2) the feasibility of developing abilities to col-
5 lect biometric data without requiring a visit to the
6 Embassy by the visa applicant; and

7 (3) the implementation of the guidance de-
8 scribed in subsections (a) and (b) of section 202, in-
9 cluding the training of consular officers, and the ef-
10 fect of this guidance and training on visa processing
11 volume and timeliness.

12 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out to carry out this Act
15 for the consular affairs function of the Department of
16 State, the visa application review function of the Depart-
17 ment of Homeland Security, and for database improve-
18 ments in the Federal Bureau of Investigations as specified
19 in section 203.

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