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S. 2653

To further United States security by restoring and enhancing the competitiveness of the United States for international students, scholars, scientists, and exchange visitors and by facilitating business travel to the United States.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

Mr. COLEMAN (for himself and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To further United States security by restoring and enhancing the competitiveness of the United States for international students, scholars, scientists, and exchange visitors and by facilitating business travel to the United States.

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 “American Competitive-
5 ness Through International Openness Now Act of 2008”
6 or as the “ACTION Act of 2008”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

1 (1) Although the United States is engaged in a
2 global competition for international students and
3 scholars, the United States lacks a comprehensive
4 strategy for conducting and succeeding in this com-
5 petition.

6 (2) In January 2008, the Secure Borders and
7 Open Doors Advisory Committee of the Homeland
8 Security Advisory Council issued a report that spe-
9 cifically cites international education as a key com-
10 ponent of public diplomacy, stating: “America is los-
11 ing competitiveness for international students for
12 one primary reason ... because our competitors
13 have—and America lacks—a proactive national
14 strategy that enables us to mobilize all the tools and
15 assets at our disposal, and that enables the federal
16 bureaucracy to work together in a coherent fashion,
17 to attract international students.”

18 (3) Attracting the world’s most talented stu-
19 dents and scholars to campuses and research insti-
20 tutes in the United States will contribute signifi-
21 cantly to the leadership, competitiveness, and secu-
22 rity of this Nation.

23 (4) The international student market has been
24 transformed in the 21st century. Traditional com-
25 petitor countries have adopted and implemented

1 strategies for capturing a greater share of the mar-
2 ket. New competitors, primarily the European High-
3 er Education Area, have entered the market. Tradi-
4 tional sending countries, such as China and India,
5 are expanding their indigenous higher education ca-
6 pacity, both to retain their own students and to at-
7 tract international students. All of these changes are
8 giving international students many more options for
9 pursuing higher education outside their home coun-
10 tries.

11 (5) The number of international students en-
12 rolled in United States higher education institutions
13 declined in the academic years 2003–04 and 2004–
14 05, and remained constant in academic year 2005–
15 06. In academic year 2006–07, international student
16 enrollments increased 3 percent, yet remained below
17 the peak level, achieved in the 2002–03 academic
18 year.

19 (6) From 2003 to 2006, international student
20 enrollments increased—

21 (A) by more than 80,000 in the United
22 Kingdom;

23 (B) by more than 50,000 in Australia and
24 France; and

1 (C) by more than 20,000 in Germany and
2 Japan.

3 (7) Anecdotal evidence indicates that inter-
4 national students, scholars, and scientists continue
5 to find the process of gaining entry to the United
6 States to be demeaning and unnecessarily cum-
7 bersome.

8 (8) While intensive English programs in the
9 United States are a gateway to degree programs,
10 international student enrollments in such programs
11 have declined by almost 50 percent since 2000, and
12 many schools offering such programs have closed.
13 This is due primarily to the difficulty of obtaining
14 a United States visa for the purpose of studying
15 English.

16 (9) At a time when talent is both scarce and
17 mobile and attracting talent is essential to the lead-
18 ership, competitiveness, and security of the United
19 States, it is as important for our Nation's visa sys-
20 tem to be a gateway for international talent as it is
21 for it to be a barrier to international criminals. Al-
22 though the Department of State has made signifi-
23 cant progress in improving the United States visa
24 system, the system still does not effectively serve
25 this dual purpose.

1 **SEC. 3. SENSE OF CONGRESS.**

2 It is the sense of Congress that it should be the policy
3 of the United States—

4 (1) to make international educational exchange
5 a priority in order to promote United States leader-
6 ship, competitiveness, and security;

7 (2) to restore United States competitiveness for
8 international students, scholars, scientists, and ex-
9 change visitors;

10 (3) to ensure that all agencies of the United
11 States Government work together to create a wel-
12 coming environment for legitimate international stu-
13 dents, scholars, scientists, and exchange visitors,
14 without sacrificing safety;

15 (4) to pursue a visa policy that keeps the
16 United States safe, prosperous, and free, by—

17 (A) addressing legitimate security con-
18 cerns; and

19 (B) keeping the United States a welcoming
20 Nation; and

21 (5) to ensure that United States consulates
22 have adequate resources to perform their required
23 duties.

1 **SEC. 4. ENHANCING UNITED STATES COMPETITIVENESS**
2 **FOR INTERNATIONAL STUDENTS, SCHOLARS,**
3 **SCIENTISTS, AND EXCHANGE VISITORS.**

4 (a) STRATEGIC PLAN.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, the
7 President shall submit to the Committee on Foreign
8 Relations of the Senate and the Committee on For-
9 eign Affairs of the House of Representatives a stra-
10 tegic plan for increasing the competitiveness of the
11 United States for international students, scholars,
12 scientists, and exchange visitors.

13 (2) CONTENT.—The strategic plan submitted
14 under this subsection shall include—

15 (A) a clear directive to the Department of
16 State, the Department of Homeland Security,
17 the Department of Education, the Department
18 of Commerce, the Department of Energy, and
19 other Federal departments that impact—

20 (i) the propensity of international stu-
21 dents, scholars, scientists, and exchange
22 visitors to visit the United States;

23 (ii) the ability of such individuals to
24 gain entry into the United States; and

25 (iii) the ability of such individuals to
26 obtain a driver's license, Social Security

1 card, and other documents essential to
2 daily life in the United States;

3 (B) a marketing plan, including continued
4 improvements in the use of the Internet and
5 other media resources, to promote and facilitate
6 study in the United States by international stu-
7 dents;

8 (C) a clear division of labor among the de-
9 partments referred to in subparagraph (A);

10 (D) a plan to enhance the role of the edu-
11 cational advising centers of the Department of
12 State that are located in foreign countries to
13 promote study in the United States and to
14 prescreen visa applicants;

15 (E) a clarification of the lines of authority
16 and responsibility for international students in
17 the Department of Commerce;

18 (F) a clear role for the Department of
19 Education in increasing the competitiveness of
20 the United States for international students;
21 and

22 (G) a clear delineation of the lines of au-
23 thority and streamlined procedures within the
24 Department of Homeland Security related to

1 international students, scholars, scientists, and
2 exchange visitors.

3 (b) INTERNATIONAL EDUCATION COORDINATION
4 COUNCIL.—

5 (1) ESTABLISHMENT.—There is established in
6 the Executive Office of the President a council to be
7 known as the International Education Coordination
8 Council (referred to in this subsection as the “Coun-
9 cil”).

10 (2) PURPOSE.—The Council shall coordinate
11 the activities of the Federal Government in order to
12 further the purposes of this Act.

13 (3) CHAIR.—The President shall designate an
14 official of the Executive Office of the President to
15 preside over the Council.

16 (4) COMPOSITION.—The Council shall be com-
17 posed of the following positions, or their designees:

18 (A) The Secretary of State.

19 (B) The Secretary of Homeland Security.

20 (C) The Secretary of Education.

21 (D) The Secretary of Commerce.

22 (E) The Secretary of Energy.

23 (F) The Secretary of Labor.

24 (G) The Director of the Federal Bureau of
25 Investigation.

1 (H) The Commissioner of Social Security.

2 (I) The head of any other agency des-
3 ignated by the President.

4 (c) ELIMINATION OF NONIMMIGRANT INTENT CRI-
5 TERION FOR STUDENTS.—

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

9 (A) by striking “having a residence in a
10 foreign country which he has no intention of
11 abandoning,” and inserting “having the inten-
12 tion, capability, and sufficient financial re-
13 sources to complete a course of study in the
14 United States,”; and

15 (B) by striking “and solely”.

16 (2) PRESUMPTION OF STATUS.—Section 214(b)
17 of the Immigration and Nationality Act is amended
18 by striking “subparagraph (L) or” and inserting
19 “subparagraph (F), (L), or”.

20 (d) COUNTERING VISA FRAUD.—The Secretary of
21 State shall—

22 (1) require United States consular offices, with
23 particular emphasis on consular offices in countries
24 that send large numbers of international students
25 and exchange visitors to the United States, to sub-

1 mit to the Secretary plans for countering visa fraud
2 that respond to the particular fraud-related prob-
3 lems in the countries where such offices are located;
4 and

5 (2) not later than 180 days after enactment of
6 this Act, report to the Committee on Foreign Rela-
7 tions of the Senate and the Committee on Foreign
8 Affairs of the House of Representatives on the
9 measures taken to counter visa fraud under the
10 plans submitted under paragraph (1).

11 (e) IMPROVING THE SECURITY CLEARANCE PROCESS
12 FOR SCIENTISTS.—

13 (1) DURATION OF SECURITY CLEARANCES.—
14 The Secretary shall extend the duration of security
15 clearances for scientists admitted under section
16 101(a)(15)(J) of the Immigration and Nationality
17 Act (8 U.S.C. 1101(a)(15)(J)) until sooner of—

18 (A) the expiration of the program for
19 which the scientist was admitted; or

20 (B) the date that is 5 years after the be-
21 ginning of such extension.

22 (2) PORTABILITY OF SECURITY CLEARANCES.—

23 (A) VALIDITY ACROSS NONIMMIGRANT
24 CLASSIFICATIONS.—Except as provided under
25 subparagraph (B), a security clearance issued

1 with respect to an individual classified within a
2 nonimmigrant classification shall remain valid
3 with respect to a change of the individual to an-
4 other nonimmigrant classification if the security
5 clearance approved in connection with the first
6 classification is in substantially the same field
7 as the field involved in the subsequent classi-
8 fication.

9 (B) NATIONAL INTEREST WAIVER.—Sub-
10 paragraph (A) shall not apply with respect to
11 an applicant for a security clearance if the Sec-
12 retary determines that the application of such
13 subparagraph with respect to such applicant is
14 not in the national security interests of the
15 United States.

16 (3) VISA PROCESSING TIME.—The Secretary
17 shall issue appropriate guidance to—

18 (A) reduce the length of time required to
19 issue visas to scientists to a maximum of 30
20 days; and

21 (B) provide for a special review process to
22 resolve instances in which the length of time re-
23 quired to issue visas to scientists exceeds 45
24 days.

25 (4) REVIEW OF TECHNOLOGY ALERT LIST.—

1 (A) INTERAGENCY PROCESS.—The Sec-
2 retary shall establish an interagency group to
3 review the technology alert list not less fre-
4 quently than once every 2 years.

5 (B) CHAIR.—The interagency review group
6 established pursuant to subparagraph (A) shall
7 be chaired by an appropriate official of the De-
8 partment of State.

9 (C) CONSULTATION.—As part of its as-
10 sessment of the current state of technology, the
11 interagency review group shall consult with aca-
12 demic experts and with companies that manu-
13 facture and distribute the items on the tech-
14 nology alert list.

15 (D) IMPLEMENTATION.—The Secretary
16 shall—

17 (i) promptly revise the technology
18 alert list in accordance with the rec-
19 ommendations of the group; and

20 (ii) promptly notify consular officials
21 of the Department of State of the revi-
22 sions.

23 (5) ANNUAL REPORT.—

1 (A) SUBMISSION.—The Secretary shall
2 submit an annual report on the implementation
3 of this subsection to—

4 (i) the Committee on Banking, Hous-
5 ing, and Urban Affairs of the Senate;

6 (ii) the Committee on Foreign Rela-
7 tions of the Senate;

8 (iii) the Committee on Armed Services
9 of the Senate;

10 (iv) the Committee on Energy and
11 Commerce of the House of Representa-
12 tives;

13 (v) the Committee on Science and
14 Technology of the House of Representa-
15 tives; and

16 (vi) the Committee on Armed Services
17 of the House of Representatives.

18 (B) CONTENTS.—The report submitted
19 under subparagraph (A) shall include such in-
20 formation as the Secretary determines appro-
21 priate, including—

22 (i) progress made to reduce the length
23 of time required to process visas to sci-
24 entists, including the average processing
25 time to complete security clearances for

1 visa applicants in each nonimmigrant visa
2 classification under section 101(a)(15) of
3 the Immigration and Nationality Act;

4 (ii) any revisions made to the tech-
5 nology alert list under paragraph (4);

6 (iii) the number of individuals in each
7 nonimmigrant visa classification who
8 have—

9 (I) received a security clearance
10 in the preceding year;

11 (II) been approved for a visa
12 after receiving such clearance; or

13 (III) been denied such clearance;

14 and

15 (iv) the distribution of such individ-
16 uals by country of nationality.

17 (6) DEFINITIONS.—In this subsection:

18 (A) SCIENTISTS.—The term “scientists”
19 means individuals subject to clearance under
20 section 212(a)(3)(A)(i)(II) of the Immigration
21 and Nationality Act (8 U.S.C.
22 1182(a)(3)(A)(i)(II)).

23 (B) SECRETARY.—The term “Secretary”
24 means the Secretary of State.

1 (C) TECHNOLOGY ALERT LIST.—The term
2 “technology alert list” means the list of goods,
3 technology, and sensitive information that is
4 maintained by the Department of State.

5 (f) SHORT-TERM STUDY ON TOURIST VISA.—Section
6 101(a)(15)(B) of the Immigration and Nationality Act (8
7 U.S.C. 1101(a)(15)(B)) is amended by inserting “for a
8 period longer than 90 days” after “study”.

9 (g) DRIVERS’ LICENSES FOR INTERNATIONAL STU-
10 DENTS AND EXCHANGE VISITORS.—Section 202(c)(2)(C)
11 of the Real ID Act of 2005 (49 U.S.C. 30301 note) is
12 amended by adding at the end the following:

13 “(v) PROVISIONS FOR NON-
14 IMMIGRANTS MONITORED UNDER THE STU-
15 DENT AND EXCHANGE VISITOR INFORMA-
16 TION SYSTEM.—With respect to a non-
17 immigrant subject to the monitoring sys-
18 tem required under section 641 of the Ille-
19 gal Immigration Reform and Immigrant
20 Responsibility Act of 1996 (8 U.S.C.
21 1372)—

22 “(I) notwithstanding clause (ii),
23 a temporary driver’s license or tem-
24 porary identification card issued to
25 such nonimmigrant pursuant to this

1 subparagraph shall be valid for the
2 shorter of—

3 “(aa) the period of time of
4 the nonimmigrant’s authorized
5 stay in the United States; or

6 “(bb) the standard issuance
7 period for drivers’ licenses pro-
8 vided by the State; and

9 “(II) valid status under that
10 monitoring system shall be deemed to
11 be valid documentary evidence that
12 the nonimmigrant maintains status
13 for purposes of clause (iv).”.

14 (h) CHANGE OF STATUS FOR CERTAIN F-VISA
15 HOLDERS SEEKING ADJUSTMENT OF STATUS.—An indi-
16 vidual who has been in valid status under section
17 101(a)(15)(F) of the Immigration and Nationality Act (8
18 U.S.C. 1101(a)(15)(F)) shall be considered to have re-
19 mained in such status until the beginning of a fiscal year
20 if—

21 (1) a petition under section 101(a)(15)(H)(i)(b)
22 of such Act has been filed on behalf of such indi-
23 vidual and has been approved for such fiscal year;

24 (2) the cap with respect to such petitions pro-
25 vided in paragraph (1)(A) or (5)(C) of section

1 214(g) of such Act was reached before such fiscal
2 year; and

3 (3) such individual's valid status under section
4 101(a)(15)(F) of such Act would otherwise termi-
5 nate not more than 6 months before such fiscal year.

6 (i) SOCIAL SECURITY ENUMERATION AT PORTS OF
7 ENTRY.—

8 (1) FINDING.—Congress finds that section
9 205(c)(2)(B)(i)(I) of the Social Security Act (42
10 U.S.C. 405(c)(2)(B)(i)(I)) requires the Commis-
11 sioner of Social Security to assign Social Security
12 numbers, to the maximum extent practicable, to
13 aliens at the time of their lawful admission to the
14 United States—

15 (A) for permanent residence; or

16 (B) under any other status which permits
17 such aliens to engage in employment in the
18 United States.

19 (2) MEMORANDUM OF UNDERSTANDING.—Pur-
20 suant to such section, not later than 180 days after
21 the date of the enactment of this Act, the Commis-
22 sioner of Social Security, the Secretary of State, and
23 the Secretary of Homeland Security shall reach
24 agreement on a memorandum of understanding to
25 expand the enumeration-at-entry program to include

1 all eligible individuals seeking admission to the
2 United States under section 101(a)(15)(J) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1101(a)(15)(J)).

5 (3) IMPLEMENTATION.—Not later than 1 year
6 after the date of the enactment of this Act, the ex-
7 panded enumeration-at-entry program described in
8 paragraph (2) shall become effective at all United
9 States ports of entry.

10 **SEC. 5. FACILITATING BUSINESS AND ACADEMIC TRAVEL.**

11 (a) EXPEDITED VISA REVIEWS FOR TRUSTED TRAV-
12 ELERS.—

13 (1) REQUIREMENT.—Not later than 180 days
14 after the date of the enactment of this Act, the Sec-
15 retary of State shall establish a trusted traveler pro-
16 gram for international students, researchers, schol-
17 ars, and individuals engaged in business, which shall
18 operate in accordance with such guidance and proce-
19 dures as the Secretary may determine.

20 (2) TRUSTED TRAVELER DESCRIBED.—The
21 trusted traveler program shall provide for expedited
22 visa review for—

23 (A) frequent low-risk visitors to the United
24 States, who—

25 (i) have a history of visa approvals;

1 (ii) have not violated their immigra-
2 tion status;

3 (iii) have provided biometric data; and

4 (iv) have agreed to provide the con-
5 sulate with such information as the Sec-
6 retary may require; and

7 (B) aliens admitted under subparagraph
8 (F) or (J) of section 101(a)(15) of the Immi-
9 gration and Nationality Act (8 U.S.C.
10 1101(a)(15), who—

11 (i) are pursuing a program in the
12 United States;

13 (ii) have not violated their immigra-
14 tion status;

15 (iii) have left the United States tem-
16 porarily; and

17 (iv) require a new visa to return to
18 the same program.

19 (3) AUTHORITY TO WAIVE PERSONAL APPEAR-
20 ANCE.—Notwithstanding section 222(h) of the Im-
21 migration and Nationality Act (8 U.S.C. 1202(h)),
22 the Secretary may waive the requirement for an in-
23 person interview by a consular officer with respect to
24 trusted travelers described in paragraph (2).

1 (b) ENHANCING CONSULAR RESOURCES AND PER-
2 FORMANCE.—

3 (1) REQUIREMENT.—The Secretary of State
4 shall—

5 (A) issue instructions providing for—

6 (i) enhanced staffing of United States
7 consulates with high demand for visas and
8 long visa-processing backlogs; and

9 (ii) enhanced training, in partnership
10 with institutions of higher education, lead-
11 ers in educational exchange, and the busi-
12 ness community, for consular officers with
13 respect to processing visas for inter-
14 national students and scholars and individ-
15 uals traveling for business;

16 (B) issue strong operational guidance to all
17 United States consular posts to eliminate incon-
18 sistencies in visa processing; and

19 (C) through regular reviews, hold such
20 posts accountable for removing such inconsis-
21 tencies.

22 (2) REPORT.—Not later than 1 year after the
23 date of enactment of this Act, the Secretary shall re-
24 port to the Committee on Foreign Relations of the
25 Senate and the Committee on Foreign Affairs of the

1 House of Representatives on the implementation of
2 this subsection.

3 (c) RESTORATION OF REVALIDATION PROCEDURES
4 FOR EMPLOYMENT-BASED VISAS.—

5 (1) IN GENERAL.—Section 222 of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1202) is amend-
7 ed by adding at the end the following:

8 “(i) The Secretary of State shall issue regulations to
9 permit an alien granted a nonimmigrant visa under sub-
10 paragraph (E), (H), (I), (L), (O), or (P) of section
11 101(a)(15) to apply for a renewal of such visa within the
12 United States if—

13 “(1) such visa is valid or did not expire more
14 than 12 months before the date of such application;

15 “(2) the alien is seeking a nonimmigrant visa
16 under the same subparagraph under which the alien
17 had previously received a visa; and

18 “(3) the alien has complied with the immigra-
19 tion laws of the United States.”.

20 (2) CONFORMING AMENDMENT.—Section
21 222(h) of such Act is amended, in the matter pre-
22 ceding subparagraph (1), by striking “Notwith-
23 standing” and inserting “Except as provided under
24 subsection (i), and notwithstanding”.

1 (d) COMPREHENSIVE HUMAN CAPITAL WORKFORCE
2 PLAN.—The Secretary of State and the Secretary of
3 Homeland Security shall jointly—

4 (1) develop a plan for the appropriate selection,
5 training, and supervision of Federal Government of-
6 ficials whose contact with foreign citizens impacts
7 the international image of the United States, includ-
8 ing consular and customs and border protection offi-
9 cials; and

10 (2) submit an annual report on the implementa-
11 tion of the plan described in paragraph (1) to—

12 (A) the Committee on Homeland Security
13 and Governmental Affairs of the Senate;

14 (B) the Committee on Foreign Relations of
15 the Senate;

16 (C) the Committee on Homeland Security
17 of the House of Representatives; and

18 (D) the Committee on Foreign Affairs of
19 the House of Representatives.

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