

STUDENT VISA REFORM ACT

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JULY 12, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SMITH of Texas, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 3120]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3120) to amend the Immigration and Nationality Act to require accreditation of certain educational institutions for purposes of a nonimmigrant student visa, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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**The Amendment**

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Student Visa Reform Act”.

**SEC. 2. ACCREDITATION REQUIREMENT FOR COLLEGES AND UNIVERSITIES.**

Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(F)(i)—

(A) by striking “section 214(l) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States” and inserting “section 214(m) at an accredited college, university, or language training program, or at an established seminary, conservatory, academic high school, elementary school, or other academic institution in the United States”; and

(B) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(2) by amending paragraph (52) to read as follows:

“(52) Except as provided in section 214(m)(4), the term ‘accredited college, university, or language training program’ means a college, university, or language training program that is accredited by an accrediting agency recognized by the Secretary of Education.”

**SEC. 3. OTHER REQUIREMENTS FOR ACADEMIC INSTITUTIONS.**

Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184(m)) is amended by adding at the end the following:

“(3) The Secretary of Homeland Security, in the Secretary’s discretion, may require accreditation of an academic institution (except for seminaries or other religious institutions) for purposes of section 101(a)(15)(F) if—

“(A) that institution is not already required to be accredited under section 101(a)(15)(F)(i);

“(B) an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation; and

“(C) the institution has or will have 25 or more alien students accorded status as nonimmigrants under clause (i) or (iii) of section 101(a)(15)(F) pursuing a course of study at that institution.

“(4) The Secretary of Homeland Security, in the Secretary’s discretion, may waive the accreditation requirement in section 101(a)(15)(F)(i) with respect to an established college, university, or language training program if the academic institution—

“(A) is otherwise in compliance with the requirements of such section; and

“(B) is making a good faith effort to satisfy the accreditation requirement.

“(5)(A) No person convicted of an offense referred to in subparagraph (B) shall be permitted by any academic institution having authorization for attendance by nonimmigrant students under section 101(a)(15)(F)(i) to be involved with the institution as its principal, owner, officer, board member, general partner, or other similar position of substantive authority for the operations or management of the institution, including serving as an individual designated by the institution to maintain records required by the Student and Exchange Visitor Information System established under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

“(B) An offense referred to in this subparagraph includes a violation, punishable by a term of imprisonment of more than 1 year, of any of the following:

“(i) Chapter 77 of title 18, United States Code (relating to peonage, slavery and trafficking in persons).

“(ii) Chapter 117 of title 18, United States Code (relating to transportation for illegal sexual activity and related crimes).

“(iii) Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to unlawful bringing of aliens into the United States).

“(iv) Section 1546 of title 18, United States Code (relating to fraud and misuse of visas, permits, and other documents) relating to an academic institution’s participation in the Student and Exchange Visitor Program.”

**SEC. 4. CONFORMING AMENDMENT.**

Section 212(a)(6)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(G)) is amended by striking “section 214(l)” and inserting “section 214(m)”.

**SEC. 5. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by sections 2 and 3—

(1) shall take effect on the date that is 180 days after the date of the enactment of this Act; and

(2) shall apply with respect to applications for a nonimmigrant visa under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C.

1101(a)(15)(F)(i) that are filed on or after the effective date described in paragraph (1).

(b) TEMPORARY EXCEPTION.—

(1) IN GENERAL.—During the 3-year period beginning on the date of enactment of this Act, an alien seeking to enter the United States to pursue a course of study at a college or university that has been certified by the Secretary of Homeland Security may be granted a nonimmigrant visa under clause (i) or clause (iii) of section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) without regard to whether or not that college or university has been accredited or been denied accreditation by an entity described in section 101(a)(52) of such Act (8 U.S.C. 1101(a)(52)), as amended by section 2(2) of this Act.

(2) ADDITIONAL REQUIREMENT.—An alien may not be granted a nonimmigrant visa under paragraph (1) if the college or university to which the alien seeks to enroll does not—

(A) submit an application for the accreditation of such institution to a regional or national accrediting agency recognized by the Secretary of Education on or before the date that is 1 year after the effective date described in subsection (a)(1); and

(B) comply with the applicable accrediting requirements of such agency.

### Purpose and Summary

H.R. 3120 requires U.S. colleges and universities that admit foreign nationals as students on F visas to be accredited by an accrediting agency that is recognized by the Secretary of Education. The bill also prohibits a person convicted of certain felony offenses, such as visa fraud relating to an academic institution's participation in the Student and Exchange Visitor Program (SEVP), from having subsequent ownership or substantial authority at an academic institution participating in SEVP.

### Background and Need for the Legislation

Under 8 U.S.C 1101(a)(15)(F) a foreign national can come to the United States temporarily as a

bona fide student qualified to pursue a full course of study . . . solely for the purpose of pursuing such a course of study consistent . . . at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn. . . .”<sup>1</sup>

Such F visaholders were admitted to the U.S. over 1.5 million times during FY 2010.<sup>2</sup>

The F visa program offers foreign nationals the chance to study at American colleges and universities and immerse themselves in American culture. Unfortunately, some colleges and universities are undermining the laudable mission of this visa program by operating in order to engage in visa fraud.

<sup>1</sup>8 U.S.C. § 1101(a)(15)(F).

<sup>2</sup>2010 *Yearbook of Immigration Statistics*, United States Department of Homeland Security, Office of Immigration Statistics, Aug. 2011, at 65.

To curb such fraud, H.R. 3120 amends the Immigration and Nationality Act to require that colleges and universities be accredited in order to admit foreign students seeking to study in the U.S. on F visas. The bill also provides the Secretary of Homeland Security the discretion to require that academic institutions (except for seminaries or other religious institutions) similarly be accredited before any such institution can host more than 25 foreign students on F visas.

The process to obtain an F visa is as follows: The foreign national applies and is accepted to a U.S. college or university that is certified by the SEVP. SEVP tracks and monitors the schools and the F visa holders while they are in the U.S. educational system, through the Student and Exchange Visitor Information System (SEVIS).<sup>3</sup> The school then provides the student with a Form I-20, the student pays the required SEVIS fee, and the student applies for the F visa at the U.S. embassy or consulate in their home country by submitting the Form I-20 and the other requisite paperwork and information.<sup>4</sup>

H.R. 3120 builds on Public Law 111-306, which required the accreditation of English-language training programs before such programs can admit foreign students on F visas. Enacted on December 14, 2010, the law was intended to prevent fraudulent or fly-by-night English-language training programs from exploiting foreign students in the United States.

As with Public Law 111-306, H.R. 3120 prevents fraudulent or fly-by-night colleges and universities from being able to exploit U.S. immigration policy and/or foreign students who are seeking bona fide educations in the United States.

The bill was introduced after revelations concerning two institutions—the International Technological University in San Jose, California and Tri-Valley University in Pleasanton, California—that were found to be “visa mills.”

The term “visa mill” refers to a distinctly illegitimate “school” that 1) recruits foreign nationals to come on student visas and charge substantial fees for the F visas and/or 2) is established for the purpose of providing questionable education and essentially worthless degrees. In many cases the foreign “students” are complicit in the fraud, but in some cases they truly believe they are in the U.S. to attend a legitimate school.

Regarding Tri-Valley University, according to the *San Jose Mercury News*,<sup>5</sup>

Tri-Valley demonstrates the riches that can be made from turning a school into a visa mill. When Federal agents finally caught on, they discovered that the unaccredited school had been paid millions of dollars by foreigners to obtain student visas that authorize them to remain in the U.S.—a scheme whose growth was fueled by a profit-sharing system that gave students who referred newcomers from abroad a 20 percent cut of the tuition, according to court records.

<sup>3</sup>United States Immigration and Customs Enforcement, <<http://www.ice.gov/sevis/>>, Jul 3, 2012.

<sup>4</sup>United States Immigration and Customs Enforcement, <<http://www.ice.gov/sevis/students/>> Jul.3, 2012.

<sup>5</sup>Lisa Krieger, *Universities or Visa Mills*, San Jose Mercury News, July 16, 2011.

Something else authorities found suspicious: More than 550 students enrolled in the Alameda County university were registered as living at the same address: a two-bedroom apartment on El Camino Real in Sunnyvale.

Visa mills compromise the integrity of the secondary education system in the United States as well as the integrity of U.S. immigration policy.

By requiring that visas for foreign students seeking to attend colleges and universities in the U.S. only be granted when the student attends an accredited school, H.R. 3120 will prevent illegitimate institutions from cheating foreign nationals who seek a bona fide education in the United States. In addition, the bill's requirement will prevent colleges and universities from violating immigration law and potentially threatening our national security.

H.R. 3120 also prohibits certain individuals who have been previously convicted of felony offenses, such as human smuggling and visa fraud, from owning or otherwise having a position of leadership in a new college or university that admits F visaholders. Some individuals who have previously been convicted of such crimes in connection with running a visa mill, simply open new "schools." H.R. 3120 will prevent that from occurring in the future.

H.R. 3120 also allows the Secretary of Homeland Security to waive the accreditation requirement for a school that is otherwise in compliance with the requirements for a school that admits F visaholders and that is making a good faith effort to satisfy the accreditation requirement. Such waiver is intended to be granted narrowly and on a case-by-case basis where there is no indication of fraudulent activity on the part of the school.

### **Hearings**

The Committee on the Judiciary held no hearings on H.R. 3120.

### **Committee Consideration**

On June 28, 2012, the Committee met in open session and ordered the bill H.R. 3120 favorably reported with an amendment, by voice vote, a quorum being present.

### **Committee Votes**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 3120.

### **Committee Oversight Findings**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

### **New Budget Authority and Tax Expenditures**

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

### **Congressional Budget Office Cost Estimate**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3120, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 11, 2012.*

Hon. LAMAR SMITH, CHAIRMAN,  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3120, the "Student Visa Reform Act."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DOUGLAS W. ELMENDORF,  
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

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#### **H.R. 3120—Student Visa Reform Act.**

As ordered reported by the House Committee on the Judiciary  
on June 28, 2012.

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CBO estimates that implementing H.R. 3120 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects would be insignificant for each year.

Under current law, foreign students may enter the United States temporarily to study at universities and other educational institutions. Under H.R. 3120, such students could only attend accredited institutions.

The Department of Homeland Security (DHS) collects fees from educational institutions and students and spends those fees (without further appropriation actions) to cover the costs of administering the international student program. The Department of State collects application fees for nonimmigrant visas issued to students and spends those fees on border security programs. Enacting H.R. 3120 could reduce the number of institutions available to

international students and decrease the amount of fees collected by DHS. However, we expect that any reduction in collections would be offset by lower spending, so CBO estimates that the bill would not affect net direct spending. Students from certain countries are required to pay additional visa fees based on reciprocity agreements between the United States and their home country; those fees are deposited in the Treasury as revenues. CBO estimates that enacting the bill would affect few students and result in an insignificant reduction in revenues.

H.R. 3120 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill contains private-sector mandates as defined in UMRA, but CBO estimates that the aggregate cost of the mandates would fall below the annual threshold established in that act (\$146 million in 2012, adjusted annually for inflation).

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

### **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3120, requires U.S. colleges and universities that admit foreign nationals as students on F visas to be accredited by an accrediting agency that is recognized by the Secretary of Education.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3120 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

### **Section-by-Section Analysis**

The following discussion describes the bill as reported by the Committee.

*Sec. 1. Short title.* Section 1 sets forth the short title of the bill as the Student visa Reform Act.

*Sec. 2. Accreditation Requirement for Colleges and Universities.* Section (2) amends the definition of the “F” visa for foreign students to require that colleges and universities be accredited in order to host foreign students seeking to study in the U.S. on such visas. It also expands the current definition of “accredited language training program” to include colleges and universities, thus requiring that all such institutions be accredited by an accrediting agency recognized by the Secretary of Education. And finally, it makes two technical and conforming changes to the Immigration and Nationality Act.

*Sec. 3 Other Requirements for Academic Institutions.* First, section (3) gives the Secretary of Homeland Security the discretion to require accreditation of other academic institutions (except for seminaries or other religious institutions) if: 1) the institution is not already required to be accredited; 2) an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation; and 3) the institution admits or will admit 25 or

more F visaholders. Next, section (3) allows the Secretary of Homeland Security to waive the accreditation requirement if a college, university or language training program is otherwise in compliance with the requirements of the 8 U.S.C. § 1101(15)(F)(i) and is making a good faith effort to satisfy the accreditation requirement. Finally, Section 3 prohibits a person convicted of certain felony offenses, such as human trafficking or visa fraud relating to an academic institution's participation in the Student and Exchange Visitor Program (SEVP), from having subsequent ownership or substantial authority at an academic institution participating in SEVP.

*Sec. 4. Conforming Amendment.* Section (4) makes a technical correction to the Immigration and Nationality Act.

*Sec. 5. Effective Date.* Section 5(a) sets the effective date for the amendments made by the Act at 180 days after enactment and clarifies that such requirements will apply to applications filed after such date. Section 5(b) provides that during the 3-year period beginning on the date of enactment, foreign students can continue to receive F visas to attend an unaccredited college or university so long as such institution: (1) submits an application for accreditation within 1 year after the date of enactment; and (2) continues to comply with the applicable accrediting requirements of the accrediting agency.

### Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## IMMIGRATION AND NATIONALITY ACT

\* \* \* \* \*

### TITLE I—GENERAL

#### DEFINITIONS

SECTION 101. (a) As used in this Act—

(1) \* \* \*

\* \* \* \* \*

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A) \* \* \*

\* \* \* \* \*

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with [section 214(l) at an established college, university, seminary, conservatory, academic high school, elementary school, or other



academic institution or in an accredited language training program in the United States] *section 214(m) at an accredited college, university, or language training program, or at an established seminary, conservatory, academic high school, elementary school, or other academic institution in the United States, particularly designated by him and approved by the [Attorney General] Secretary of Homeland Security* after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the [Attorney General] Secretary of Homeland Security the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, (ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien’s qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;

\* \* \* \* \*  
 [(52) The term “accredited language training program” means a language training program that is accredited by an accrediting agency recognized by the Secretary of Education.]

(52) *Except as provided in section 214(m)(4), the term “accredited college, university, or language training program” means a college, university, or language training program that is accredited by an accrediting agency recognized by the Secretary of Education.*

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TITLE II—IMMIGRATION

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CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

\* \* \* \* \*

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) \* \* \*

\* \* \* \* \*

(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

(A) \* \* \*

\* \* \* \* \*

(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under

**[section 214(l)]** *section 214(m)* is inadmissible until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.

\* \* \* \* \*

ADMISSION OF NONIMMIGRANTS

SEC. 214. (a) \* \* \*

\* \* \* \* \*

(m)(1) \* \* \*

\* \* \* \* \*

(3) *The Secretary of Homeland Security, in the Secretary's discretion, may require accreditation of an academic institution (except for seminaries or other religious institutions) for purposes of section 101(a)(15)(F) if—*

(A) *that institution is not already required to be accredited under section 101(a)(15)(F)(i);*

(B) *an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation; and*

(C) *the institution has or will have 25 or more alien students accorded status as nonimmigrants under clause (i) or (iii) of section 101(a)(15)(F) pursuing a course of study at that institution.*

(4) *The Secretary of Homeland Security, in the Secretary's discretion, may waive the accreditation requirement in section 101(a)(15)(F)(i) with respect to an established college, university, or language training program if the academic institution—*

(A) *is otherwise in compliance with the requirements of such section; and*

(B) *is making a good faith effort to satisfy the accreditation requirement.*

(5)(A) *No person convicted of an offense referred to in subparagraph (B) shall be permitted by any academic institution having authorization for attendance by nonimmigrant students under section 101(a)(15)(F)(i) to be involved with the institution as its principal, owner, officer, board member, general partner, or other similar position of substantive authority for the operations or management of the institution, including serving as an individual designated by the institution to maintain records required by the Student and Exchange Visitor Information System established under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).*

(B) *An offense referred to in this subparagraph includes a violation, punishable by a term of imprisonment of more than 1 year, of any of the following:*

(i) *Chapter 77 of title 18, United States Code (relating to peonage, slavery and trafficking in persons).*

(ii) *Chapter 117 of title 18, United States Code (relating to transportation for illegal sexual activity and related crimes).*

(iii) *Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to unlawful bringing of aliens into the United States).*

*(iv) Section 1546 of title 18, United States Code (relating to fraud and misuse of visas, permits, and other documents) relating to an academic institution's participation in the Student and Exchange Visitor Program.*

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