

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve student and exchange visitor visa programs.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. GRASSLEY

Viz:

1 On page 742, strike lines 17 through 22 and insert
2 the following:

3 (a) AUTHORIZATION OF DUAL INTENT FOR F NON-
4 IMMIGRANTS SEEKING BACHELOR'S OR GRADUATE DE-
5 GREE.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F))
6 is amended to read as follows:

7 On page 744, strike lines 9 through 11 and insert
8 the following:

9 (b) PRESUMPTION OF STATUS; INTENTION TO ABAN-
10 DON FOREIGN RESIDENCE.—Section 214 (8 U.S.C. 1184)
11 is amended—

1 On page 744, strike line 18 and all that follows
2 through page 749, line 2.

3 At the end of title IV, add the following:

4 **Subtitle I—Student and Exchange**
5 **Visitor Programs**

6 **SEC. 4901. SHORT TITLE.**

7 This subtitle may be cited as the “Student Visa In-
8 tegrity Act”.

9 **SEC. 4902. SEVIS AND SEVP DEFINED.**

10 In this subtitle:

11 (1) SEVIS.—The term “SEVIS” means the
12 Student and Exchange Visitor Information System
13 of the Department of Homeland Security.

14 (2) SEVP.—The term “SEVP” means the Stu-
15 dent and Exchange Visitor Program of the Depart-
16 ment of Homeland Security.

17 **SEC. 4903. INCREASED CRIMINAL PENALTIES.**

18 Section 1546(a) of title 18, United States Code, is
19 amended by striking “10 years” and inserting “15 years
20 (if the offense was committed by an owner, official, em-
21 ployee, or agent of an educational institution with respect
22 to such institution’s participation in the Student and Ex-
23 change Visitor Program), 10 years”.

1 **SEC. 4904. ACCREDITATION REQUIREMENT.**

2 (a) COLLEGES, UNIVERSITIES, AND LANGUAGE
3 TRAINING PROGRAMS.—Section 101(a) (8 U.S.C.
4 1101(a)) is amended—

5 (1) in paragraph (15)(F)(i)—

6 (A) by striking “section 214(l) at an estab-
7 lished college, university, seminary, conserv-
8 atory, academic high school, elementary school,
9 or other academic institution or in an accred-
10 ited language training program in the United
11 States” and inserting “section 214(m) at an ac-
12 credited college, university, or language training
13 program, or at an established seminary, con-
14 servatory, academic high school, elementary
15 school, or other academic institution in the
16 United States”; and

17 (B) by striking “Attorney General” each
18 place such term appears and inserting “Sec-
19 retary of Homeland Security”; and

20 (2) by amending paragraph (52) to read as fol-
21 lows:

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

1 **SEC. 4905. OTHER ACADEMIC INSTITUTIONS.**

2 Section 214(m) (8 U.S.C. 1184(m)) is amended by
3 adding at the end the following:

4 “(3) The Secretary of Homeland Security shall re-
5 quire accreditation of an academic institution (except for
6 seminaries or other religious institutions) for purposes of
7 section 101(a)(15)(F) if—

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

10 “(B) an appropriate accrediting agency recog-
11 nized by the Secretary of Education is able to pro-
12 vide such accreditation.

13 “(4) The Secretary of Homeland Security, in the Sec-
14 retary’s discretion, may waive the accreditation require-
15 ment in section 101(a)(15)(F)(i) with respect to an ac-
16 credited college, university, or language training program
17 if the academic institution—

18 “(A) is otherwise in compliance with the re-
19 quirements of such section; and

20 “(B) is, on the date of the enactment of the
21 Border Security, Economic Opportunity, and Immig-
22 ration Modernization Act, a candidate for accredi-
23 tation or, after such date, has been a candidate for
24 accreditation for at least 1 year and continues to
25 progress toward accreditation by an accreditation
26 agency recognized by the Secretary of Education.”.

1 **SEC. 4906. PENALTIES FOR FAILURE TO COMPLY WITH**
2 **SEVIS REPORTING REQUIREMENTS.**

3 (a) IN GENERAL.—Section 641 of the Illegal Immi-
4 gration Reform and Immigrant Responsibility Act of 1996
5 (8 U.S.C. 1372) is amended—

6 (1) in subsection (c)(1)—

7 (A) by striking “institution,” each place it
8 appears and inserting “institution,”; and

9 (B) in subparagraph (D), by striking
10 “and” at the end;

11 (2) in subsection (d)(2), by striking “fails to
12 provide the specified information” and all that fol-
13 lows and inserting “does not comply with the report-
14 ing requirements set forth in this section, the Sec-
15 retary of Homeland Security may—

16 “(A) impose a monetary fine on such insti-
17 tution in an amount to be determined by the
18 Secretary; and

19 “(B) suspend the authority of such institu-
20 tion to issue a Form I-20 to any alien.”.

21 **SEC. 4907. VISA FRAUD.**

22 (a) IMMEDIATE WITHDRAWAL OF SEVP CERTIFI-
23 CATION.—Section 641(d) of the Illegal Immigration Re-
24 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
25 1372(d)) is amended—

1 (1) in paragraph (1)(A), by striking “institu-
2 tion,” and inserting “institution,”; and

3 (2) by adding at the end the following:

4 “(3) EFFECT OF REASONABLE SUSPICION OF
5 FRAUD.—If the Secretary of Homeland Security has
6 reasonable suspicion that an owner of, or a des-
7 ignated school official at, an approved institution of
8 higher education, an other approved educational in-
9 stitution, or a designated exchange visitor program
10 has committed fraud or attempted to commit fraud
11 relating to any aspect of the Student and Exchange
12 Visitor Program, the Secretary may immediately—

13 “(A) suspend such certification without
14 prior notification; and

15 “(B) suspend such official’s or such
16 school’s access to the Student and Exchange
17 Visitor Information System (SEVIS).

18 “(4) EFFECT OF INDICTMENT FOR FRAUD.—If
19 an owner of, or a designated school official at, an
20 approved institution of higher education, an other
21 approved educational institution, or a designated ex-
22 change visitor program is indicted for fraud relating
23 to any aspect of the Student and Exchange Visitor
24 Program, the Secretary of Homeland Security shall
25 immediately—

1 “(A) withdraw such certification without
2 prior notification during the pendency of the
3 criminal prosecution; and

4 “(B) terminate such official’s or such
5 school’s access to SEVIS, including the ability
6 to issue Form I–20s, during such time.”.

7 (b) EFFECT OF CONVICTION FOR VISA FRAUD.—Sec-
8 tion 641(d) of the Illegal Immigration Reform and Immi-
9 grant Responsibility Act of 1996, as amended by sub-
10 section (a), is further amended by adding at the end the
11 following:

12 “(5) PERMANENT DISQUALIFICATION FOR
13 FRAUD.—A designated school official at, or an owner
14 of, an approved institution of higher education, an
15 other approved educational institution, or a des-
16 ignated exchange visitor program who is convicted
17 for fraud relating to any aspect of the Student and
18 Exchange Visitor Program shall be permanently dis-
19 qualified from filing future petitions and from hav-
20 ing an ownership interest or a management role (in-
21 cluding serving as a principal, owner, officer, board
22 member, general partner, designated school official,
23 or any other position of substantive authority for the
24 operations or management of the institution) in any
25 United States educational institution that enrolls

1 nonimmigrant alien students described in subpara-
2 graph (F) or (M) of section 101(a)(15) the Immi-
3 gration and Nationality Act (8 U.S.C.
4 1101(a)(15)).”.

5 **SEC. 4908. BACKGROUND CHECKS.**

6 (a) IN GENERAL.—Section 641(d) of the Illegal Im-
7 migration Reform and Immigrant Responsibility Act of
8 1996 (8 U.S.C. 1372(d)), as amended by section 4907 of
9 this Act, is further amended by adding at the end the fol-
10 lowing:

11 “(6) BACKGROUND CHECK REQUIREMENT.—

12 “(A) IN GENERAL.—An individual may not
13 serve as a designated school official or be grant-
14 ed access to SEVIS unless the individual is a
15 national of the United States or an alien law-
16 fully admitted for permanent residence and dur-
17 ing the most recent 3-year period—

18 “(i) the Secretary of Homeland Secu-
19 rity has—

20 “(I) conducted a thorough back-
21 ground check on the individual, in-
22 cluding a review of the individual’s
23 criminal and sex offender history and
24 the verification of the individual’s im-
25 migration status; and

1 “(II) determined that the indi-
2 vidual—

3 “(aa) has not been convicted
4 of any violation of United States
5 immigration law; and

6 “(bb) is not a risk to the na-
7 tional security of the United
8 States; and

9 “(ii) the individual has successfully
10 completed an on-line training course on
11 SEVP and SEVIS, which has been devel-
12 oped by the Secretary.

13 “(B) INTERIM DESIGNATED SCHOOL OFFI-
14 CIAL.—

15 “(i) IN GENERAL.—An individual may
16 serve as an interim designated school offi-
17 cial during the period that the Secretary is
18 conducting the background check required
19 by subparagraph (A)(i)(I).

20 “(ii) REVIEWS BY THE SECRETARY.—
21 If an individual serving as an interim des-
22 ignated school official under clause (i) does
23 not successfully complete the background
24 check required by subparagraph (A)(i)(I),
25 the Secretary shall review each Form I-20

1 issued by such interim designated school
2 official.

3 “(7) FEE.—The Secretary is authorized to col-
4 lect a fee from an approved school for each back-
5 ground check conducted under paragraph (6)(A)(i).
6 The amount of such fee shall be equal to the average
7 amount expended by the Secretary to conducted
8 such background checks.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date that is 1 year
11 after the date of the enactment of this Act.

12 **SEC. 4909. REVOCATION OF AUTHORITY TO ISSUE FORM I-**
13 **20 OF FLIGHT SCHOOLS NOT CERTIFIED BY**
14 **THE FEDERAL AVIATION ADMINISTRATION.**

15 Immediately upon the enactment of this Act, the Sec-
16 retary shall prohibit any flight school in the United States
17 from accessing SEVIS or issuing a Form I-20 to an alien
18 seeking a student visa pursuant to subparagraph (F)(i)
19 or (M)(i) of section 101(a)(15) of the Immigration and
20 Nationality Act (8 U.S.C. 1101(a)(15)) if the flight school
21 has not been certified to the satisfaction of the Secretary
22 and by the Federal Aviation Administration pursuant to
23 part 141 or part 142 of title 14, Code of Federal Regula-
24 tions (or similar successor regulations).

1 **SEC. 4910. REVOCATION OF ACCREDITATION.**

2 At the time an accrediting agency or association is
3 required to notify the Secretary of Education and the ap-
4 propriate State licensing or authorizing agency of the final
5 denial, withdrawal, suspension, or termination of accredi-
6 tation of an institution pursuant to section 496 of the
7 Higher Education Act of 1965 (20 U.S.C. 1099b), such
8 accrediting agency or association shall notify the Secretary
9 of Homeland Security of such determination and the Sec-
10 retary of Homeland Security shall immediately withdraw
11 the school from the SEVP and prohibit the school from
12 accessing SEVIS.

13 **SEC. 4911. REPORT ON RISK ASSESSMENT.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Secretary shall submit to the Com-
16 mittee on the Judiciary of the Senate and the Committee
17 on the Judiciary of the House of Representatives a report
18 that contains the risk assessment strategy that will be em-
19 ployed by the Secretary to identify, investigate, and take
20 appropriate action against schools and school officials that
21 are facilitating the issuance of Form I-20 and the mainte-
22 nance of student visa status in violation of the immigra-
23 tion laws of the United States.

24 **SEC. 4912. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

25 Not later than 180 days after the date of the enact-
26 ment of this Act, the Secretary shall submit to the Com-

1 mittee on the Judiciary of the Senate and the Committee
2 on the Judiciary of the House of Representatives a report
3 that describes—

4 (1) the process in place to identify and assess
5 risks in the SEVP;

6 (2) a risk assessment process to allocate
7 SEVP's resources based on risk;

8 (3) the procedures in place for consistently en-
9 suring a school's eligibility, including consistently
10 verifying in lieu of letters;

11 (4) how SEVP identified and addressed missing
12 school case files;

13 (5) a plan to develop and implement a process
14 to monitor state licensing and accreditation status of
15 all SEVP-certified schools;

16 (6) whether all flight schools that have not been
17 certified to the satisfaction of the Secretary and by
18 the Federal Aviation Administration have been re-
19 moved from the program and have been restricted
20 from accessing SEVIS;

21 (7) the standard operating procedures that gov-
22 ern coordination among SEVP, Counterterrorism
23 and Criminal Exploitation Unit, and U.S. Immigra-
24 tion and Customs Enforcement field offices; and

1 (8) the established criteria for referring cases of
2 a potentially criminal nature from SEVP to the
3 counterterrorism and intelligence community.

4 **SEC. 4913. IMPLEMENTATION OF SEVIS II.**

5 Not later than 2 years after the date of the enact-
6 ment of this Act, the Secretary shall complete the deploy-
7 ment of both phases of the 2nd generation Student and
8 Exchange Visitor Information System (commonly known
9 as “SEVIS II”).