

May 8, 2013

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the American Council on Education and the undersigned higher education associations representing the nation's two- and four-year public and private non-profit colleges and universities, I am writing regarding the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744). As both educators and employers, we appreciate this effort at comprehensive immigration reform and believe it represents an important step toward creating an immigration system with bipartisan support that serves the needs of our country.

Approximately 65,000 undocumented students graduate from high school in the United States every year. These students are first-generation immigrants who were largely raised in this country and consider themselves Americans. As a matter of fairness to students who are in an untenable situation through no fault of their own, the higher education community has long supported legislative efforts to remove federal and state barriers to higher education for undocumented students who were raised and educated in the United States. An expedited path to citizenship should be the reward for accomplishing academic pursuits and/or serving in the United States military. In response, this legislation incorporates an expansive version of the DREAM Act, removes the age cap for eligibility, and repeals the current federal law which limits states' options to provide in-state tuition to undocumented students.

On one issue, however, we would encourage you to reconsider incorporating a provision from recent versions of the DREAM Act, which would have made DREAM students eligible for federal education loans and the work-study program. As we understand the bill, students in registered provisional immigrant status, even those who will qualify for the DREAM Act, are not eligible for federal educational assistance. At a minimum, we urge the committee to restore eligibility for "self-help" student aid programs (loan and work) found in recent versions of the DREAM Act. Without this access, we are concerned that undocumented students will be unable to finance the education that makes citizenship

possible. In general, unlike other federal benefit programs, student loans produce revenue for the federal government, as borrowers pay back more than they borrow.

As educators, we believe it is our role to inspire, teach, and train the next generation of domestic and international students who will help grow the U.S. economy. The higher education community has been a longtime advocate of legislative proposals that would allow some of the most talented international students to remain in the United States following the completion of their studies, especially those with science, technology, engineering, and mathematics (STEM) degrees. We are pleased that this legislation takes steps to streamline the green card process for those who graduate with an advanced STEM degree from a U.S. higher education institution. In particular, we applaud provisions in the bill that exempt international advanced STEM degree graduates from the employment-based green card limit as well as other provisions which would recapture unused employment-based green cards from prior fiscal years to help eliminate the green card backlog.

In addition, we support reforms in the bill addressing non-immigrant visas, particularly the H-1B visa, which we believe will enhance recruitment and retention of high-skilled international students and employees. We are pleased the bill allows for revalidation of H-1B visas in the United States rather than needlessly requiring these highly skilled immigrant employees to return to their home countries just to apply again for the same visa. This is a commonsense measure that simplifies the immigration process for these employees, many of whom are critical to the education and research missions of our institutions. We are also encouraged by provisions addressing so-called “dual intent” for certain non-immigrant visas, which will eliminate the need for international students to prove their intention to leave the country upon completion of their studies.

While we find much to like in this legislation, there are aspects of it which do cause us some concern. With regard to STEM degree graduates, we believe that the bill’s definition of STEM degrees is too narrow and request the use of the Department of Homeland Security’s STEM-Designated Degree Program list as the definition for STEM. We understand that the manager’s amendment to the bill makes a significant improvement by including biological sciences in the definition. However, we continue to believe that the DHS STEM list represents a better approach as it includes additional scientific fields that are critical to our economy. In addition, using the DHS STEM approach would maintain the flexibility necessary to include fields unknown today but which may become critical in the future. We are also worried that a proposed 25,000 visa H-1B carve-out for advanced STEM degree graduates is unnecessarily limited to certain fields of study and represents a step backwards from the current 20,000 carve-out for H-1B visas allocated to advanced degree graduates in any field of study.

Moreover, we are concerned about some of the new fees proposed in the bill, particularly the \$500 STEM labor certification fee and the \$500 J-1 Visa Exchange Visitor Program fee. We applaud the creation of a fee to fund programs to address the domestic pipeline of STEM students. However, by imposing this fee on universities, the bill is essentially giving to higher education with one hand and taking with the other. We support exempting

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higher education institutions from the STEM labor certification fee. The J-1 fee would impact universities in a negative way by creating a disincentive for hosting international scholars and imposing exorbitant fees at a time when many institutions are already struggling with strained budgets. For example, the fee would cost the University of Vermont approximately \$50,000 a year, the University of Florida more than \$500,000, and the State University of New York system more than \$1.5 million. As a result, we support efforts to address the J-1 fee issue at markup.

We believe there is much to like in this legislation. As the legislative process moves forward, we stand ready to work with you to refine it and help advance the goal of enacting sensible, comprehensive immigration reform that will better serve our nation.

Sincerely,



Molly Corbett Broad
President

MCB/lw

On behalf of:

American Association of Community Colleges

American Association of State Colleges and Universities

American Council on Education

Association of American Universities

Association of Community College Trustees

Association of Jesuit Colleges and Universities

Association of Public and Land-grant Universities

College and University Professional Association for Human Resources

Council of Graduate Schools

Hispanic Association of Colleges and Universities

NAFSA: Association of International Educators

National Association of Independent Colleges and Universities

National Association of Student Financial Aid Administrators